DELMONTE FOODS CO (DLM)

8-K
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K
CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): March 8, 2011

DEL MONTE FOODS COMPANY
(Exact Name of Registrant as Specified in Charter)

Delaware 001-14335 13-3542950
(State or Other Jurisdiction (Commission (IRS Employer
of Incorporation) File Number) Identification No.)

One Maritime Plaza, San Francisco, California 94111
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (415) 247-3000

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2.):

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

On March 8, 2011, Del Monte Foods Company, a Delaware corporation (the "Company"), completed its merger (the "Merger") with Blue Merger Sub Inc. ("Merger Sub"), a direct subsidiary of Blue Acquisition Group, Inc. ("Parent"), pursuant to the terms of the Agreement and Plan of Merger, dated as of November 24, 2010 (the "Merger Agreement"), by and among Parent, Merger Sub and the Company. As a result of the Merger, the Company is now wholly-owned by Parent. Parent is indirectly controlled by investment funds affiliated with Kohlberg Kravis Roberts & Co. L.P. ("KKR"), Vestar Capital Partners ("Vestar") and Centerview Partners ("Centerview" and with KKR and Vestar, collectively, the "Sponsors").

Section 1 – Registrant's Business and Operations

Item 1.01. Entry into a Material Definitive Agreement.

1. Senior Secured Term Loan Facility

Overview

On March 8, 2011, in connection with the Merger, the Company and Parent entered into a senior secured term loan credit agreement (the "Term Loan Credit Agreement"), and related security and other agreements, with the lenders party thereto, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, and the other agents named therein, that provides for a $2.7 billion senior secured term loan B facility with a term of seven years. The Company is the borrower of the loans under the senior secured term loan facility (the "Term Loans").

Interest Rate and Fees

The Term Loans bear interest at a rate equal to an applicable margin, plus, at the Company's option, either (i) a LIBOR rate (with a floor of 1.50%) or (ii) a base rate (with a floor of 2.50%) equal to the highest of (a) the federal funds rate plus 0.50%, (b) JPMorgan Chase Bank N.A.'s "prime rate" and (c) the one-month LIBOR rate plus 1%. The applicable margin with respect to LIBOR borrowings is 3.00% and with respect to base rate borrowings is 2.00%.

Prepayments

The Term Loan Credit Agreement requires the Company to prepay outstanding Term Loans, subject to certain exceptions, with, among other things:

- Commencing with the Company's fiscal year ending April 29, 2012, 50% (which percentage will be reduced to 25% if the Company's leverage ratio is 5.5x or less and to 0% if the Company's leverage ratio is 4.5x or less) of the Company's annual excess cash flow;
- 100% of the net cash proceeds of certain casualty events;
- 100% of the net cash proceeds of all nonordinary course asset sales or other dispositions of property of the Company, subject to the Company's right to reinvest the proceeds; and
• 100% of the net cash proceeds of any incurrence of debt, other than proceeds from the debt permitted under the Term Loan Credit Agreement.

The Company may voluntarily repay outstanding Term Loans at any time without premium or penalty, other than customary "breakage" costs with respect to LIBOR loans and in connection with repricing transactions on or prior to the first anniversary of the closing date. Voluntary prepayments will be applied to the class or classes of Term Loans as the Borrower may specify. In the event any Term Loans are repaid prior to the first anniversary of the closing date or any amendment is made to the Term Loan Credit Agreement, in each case in connection with certain repricing transactions, the Company must pay a prepayment premium equal to 1.00% of the amount of Term Loans being prepaid or 1.00% of the amount of Term Loans outstanding prior to such repricing amendment, as applicable.

Amortization

The Term Loans will amortize in equal quarterly installments commencing September 30, 2011 in aggregate annual amounts equal to 1% of the original funded principal amount of Term Loans, with the balance being payable on the final maturity date.

Guarantee and Security

Pursuant to a Guarantee, dated as of March 8, 2011, among Parent, the guarantors and JPMorgan Chase Bank, N.A., as collateral agent (the "Term Loan Guarantee"), all obligations under the Term Loan Credit Agreement are unconditionally guaranteed by substantially all existing and future, direct and indirect, wholly-owned material restricted domestic subsidiaries of the Company, subject to certain exceptions, including, any applicable legal, regulatory or contractual constraints and to the requirement that such guarantee will not cause adverse tax consequences and the costs of providing such a guarantee are not excessive in view of the benefits obtained therefrom. Del Monte Corporation is currently the only subsidiary guarantor of the Term Loans.

Pursuant to (a) a Security Agreement, dated as of March 8, 2011, among the Company, Parent, the subsidiary grantors and JPMorgan Chase Bank, N.A., as collateral agent (the "Term Loan Security Agreement") and (b) a Pledge Agreement, dated as of March 8, 2011, among the Company, Parent, the subsidiary pledgors and JPMorgan Chase Bank, N.A., as collateral agent (the "Term Loan Pledge Agreement"), all obligations under the Term Loan Credit Agreement, and the guarantees of such obligations, are secured, subject to permitted liens and other exceptions, by:

• a first-priority lien on (x) the capital stock owned by the Company or by any guarantor in each of their respective first tier subsidiaries (limited, in the case of foreign subsidiaries, to 65% of the voting stock of such subsidiaries) and (y) substantially all present and future assets of the Company and of each guarantor other than letter-of-credit rights, leaseholds, motor vehicles, and certain other excluded assets (the "Term Priority Collateral"); and

• a second-priority lien on substantially all accounts receivable, inventory and cash and deposit accounts of the Company and guarantors (and proceeds thereof) (the "ABL Priority Collateral").
**Certain Covenants and Events of Default**

The Term Loan Credit Agreement contains a number of covenants that, among other things, limit or restrict, subject to certain exceptions, the ability of the Company and certain of its subsidiaries to:

- incur additional indebtedness;
- create liens;
- engage in mergers or consolidations;
- sell or transfer assets;
- pay dividends and distributions or repurchase its own capital stock;
- make investments, loans or advances;
- prepay certain indebtedness;
- engage in certain transactions with affiliates;
- amend agreements governing certain subordinated indebtedness adverse to the lenders; and
- change its lines of business.

In addition, the Term Loan Credit Agreement contains a customary "holding company" covenant that restricts Parent's ability to take certain actions. The Term Loan Credit Agreement also contains certain customary additional affirmative covenants, representations and warranties, indemnification provisions and events of default, including upon a change of control.

**Certain Relationships**

Certain lenders under the Term Loan Credit Agreement and Senior Secured Asset Based Revolving Credit Agreement (as defined below) and their affiliates have in the past engaged, and may in the future engage, in transactions with and perform services, including commercial banking, financial advisory and investment banking services, for the Company and its affiliates in the ordinary course of business for which they have received or will receive customary fees and expenses. In particular, Barclays Capital served as the Company's financial advisor in connection with the Merger and received fees and expenses in connection therewith. Affiliates of one or more of such lenders act as lenders and/or agents under, and as a consideration therefor received customary fees and expenses in connection with, the Term Loan Credit Agreement and/or the Senior Secured Asset-Based Revolving Credit Agreement. Following the consummation of the Merger and the related transactions, certain affiliates of certain lenders indirectly own ownership interests of the Company. Those affiliates may assign all or a portion of their interests to other affiliates of the lenders.

*The foregoing summary of the Term Loan Credit Agreement, Term Loan Guarantee, Term Loan Security Agreement and Term Loan Pledge Agreement is not complete and is qualified in its entirety by reference to the Term Loan Credit Agreement, Term Loan Guarantee, Term Loan Security Agreement and Term Loan Pledge Agreement, copies of which are filed as Exhibits 10.1, 10.2, 10.3 and 10.4, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.*

2. **Senior Secured Asset-Based Revolving Facility**
Overview

On March 8, 2011, in connection with the Merger, the Company and Parent entered into a credit agreement (the "Senior Secured Asset-Based Revolving Credit Agreement") and related security and other agreements, with the lenders from time to time thereto, Bank of America, N.A., as administrative agent, and the other agents named therein, that provides for a $750 million senior secured asset-based revolving facility with a five-year term.

Availability under the senior secured asset-based revolving facility (the "ABL Facility") is subject to a borrowing base. The borrowing base at any time will be equal to (a) 85% of eligible accounts receivable and (b) the lesser of (1) 75% of the book value of eligible inventory and (2) 85% of the net orderly liquidation value of eligible inventory, of the borrowers under the facility at such time, less customary reserves. The ABL Facility includes a sub-limit for letters of credit and for borrowings on same-day notice, referred to as swingline loans. No new letters of credit were issued thereunder at closing but certain letters of credit outstanding under the existing credit agreement of Del Monte Corporation, the direct wholly-owned operating subsidiary of the Company, were deemed to be outstanding under the ABL Facility. The Company is the lead borrower under the ABL Facility and other domestic subsidiaries of the Company may be designated as borrowers on a joint and several basis. On March 9, 2011 Del Monte Corporation entered into a Joinder Agreement to the Senior Secured Asset-Based Revolving Credit Agreement, with Bank of America, N.A., as Administrative Agent, pursuant to which Del Monte Corporation became a borrower under the Senior Secured Asset-Based Revolving Credit Agreement.

The commitments under the ABL Facility may be increased, subject only to the consent of the new or existing lenders providing such increases, such that the aggregate principal amount of commitments does not exceed $1.0 billion. The lenders under this facility are under no obligation to provide any such additional commitments, and any increase in commitments will be subject to customary conditions precedent. Notwithstanding any such increase in the facility size, the Company's ability to borrow under the facility will remain limited at all times by the borrowing base (to the extent the borrowing base is less than the commitments).

Interest Rate and Fees

The loans under the ABL Facility (the "ABL Loans") bear interest at a rate equal to an applicable margin, plus, at the borrower's option, either (i) a LIBOR rate or (ii) a base rate equal to the highest of (a) the federal funds rate plus 0.50%, (b) Bank of America N.A.'s "prime rate" and (c) the one-month LIBOR rate plus 1%. The applicable margin with respect to LIBOR borrowings will initially be 2.25% (and may decrease to 2.00% or increase to 2.50% depending on average excess availability) and with respect to base rate borrowings will initially be 1.25% (and may decrease to 1.00% or increase to 1.50% depending on average excess availability).

In addition to paying interest on outstanding principal under the ABL Facility, the Company is required to pay a commitment fee at an initial rate of 0.500% per annum in respect of the unutilized commitments thereunder. The commitment fee rate may be reduced to 0.375% depending on the amount of excess availability under the ABL Facility. The Company must also pay customary letter of credit fees and fronting fees for each letter of credit issued.
Prepayments

If at any time the aggregate amount of outstanding loans, unreimbursed letter of credit drawings and undrawn letters of credit outstanding under the ABL Facility exceeds the lesser of (a) the total commitments under the ABL Facility and (b) the borrowing base, the Company will be required to prepay outstanding ABL Loans in an aggregate amount equal to the amount of such excess and, if after giving effect to the prepayment of all outstanding ABL Loans such excess has not been eliminated, cash collateralize outstanding letters of credit, without any reduction of the commitments. Under certain circumstances, if the aggregate amount available under the ABL Facility is less than the greater of (1) 12.5% of the lesser of (i) the total commitments under such facility and (ii) the borrowing base and (2) $50 million, or if a significant asset sale has occurred, $35 million, or if certain defaults occur, all collateral proceeds collected through the cash management system in favor of the collateral agent will be swept to a collection account and applied daily to repay outstanding loans and cash collateralize letters of credit under the ABL Facility.

The Company may voluntarily reduce the unutilized portion of the commitment amount and repay outstanding ABL Loans at any time without premium or penalty other than customary "breakage" costs with respect to LIBOR loans.

Amortization

There is no scheduled amortization under the ABL Facility. The entire outstanding principal amount of the ABL Loans (if any) under the ABL Facility are due and payable in full at maturity on March 8, 2016.

Guarantee and Security

Pursuant to a Guarantee, dated as of March 8, 2011, among Parent, the guarantors and Bank of America, N.A., as collateral agent (the "ABL Guarantee"), all obligations under the Senior Secured Asset-Based Revolving Credit Agreement are unconditionally guaranteed by substantially all existing and future, direct and indirect, wholly-owned material restricted domestic subsidiaries of the Company, subject to certain exceptions, including, any applicable legal, regulatory or contractual constraints and to the requirement that such guarantee will not cause adverse tax consequences and the costs of providing such a guarantee are not excessive in view of the benefits obtained therefrom. Del Monte Corporation is currently the only subsidiary guarantor of the ABL Loans.

The borrowers under the ABL Facility are jointly and severally liable for all borrowings and other obligations thereunder. Pursuant to (a) a Security Agreement, dated as of March 8, 2011, among Parent, the Company, the subsidiary grantors and Bank of America, N.A., as collateral agent, and any additional borrowers that may become party thereto from time to time (the "ABL Security Agreement") and (b) a Pledge Agreement, dated as of March 8, 2011, among the Company, Parent, the subsidiary pledgors and Bank of America, N.A., as collateral agent (the "ABL Pledge Agreement"), such obligations and the guarantees of such obligations are secured, subject to permitted liens and other exceptions, by:

- a first-priority lien on the ABL Priority Collateral;
• a second-priority lien on the Term Priority Collateral.

The ABL Facility requires the Company to establish, within 90 days of the closing date, blocked account agreements or other control arrangements in order to perfect the collateral agent’s security interest in certain deposit accounts.

**Certain Covenants and Events of Default**

The ABL Facility contains a number of covenants that, among other things, limit or restrict, subject to certain exceptions, the ability of the Company and certain of its subsidiaries to:

• incur additional indebtedness;
• create liens;
• engage in mergers or consolidations;
• sell or transfer assets;
• pay dividends and distributions or repurchase its capital stock;
• make investments, loans or advances;
• prepay certain indebtedness;
• engage in certain transactions with affiliates;
• amend agreements governing certain subordinated indebtedness adverse to the lenders; and
• change its lines of business.

In addition, at any time when availability under the ABL Facility is less than the greater of (a) 12.5% of the lesser of (1) the total commitments and (2) the borrowing base and (b) $50 million, or if a significant asset sale has occurred, $35 million, the Company will be required to maintain a minimum fixed charge coverage ratio of 1.0:1.0.

The ABL Facility also contains a customary "holding company" covenant that restricts Parent's ability to take certain actions and contains certain customary additional affirmative covenants, representations and warranties, conditions to making loans, indemnification provisions and events of default, including upon a change of control.

**Certain Relationships**

See "Certain Relationships" under "1. Senior Secured Term Loan Facility" above.

*The foregoing summary of the ABL Facility, ABL Guarantee, ABL Security Agreement and ABL Pledge Agreement is not complete and is qualified in its entirety by reference to the Senior Secured Asset-Based Revolving Credit Agreement, ABL Guarantee, ABL Security Agreement and ABL Pledge Agreement, copies of which are filed as Exhibits 10.5, 10.6, 10.7 and 10.8, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.*

**3. Purchase Agreement**

On February 1, 2011, Merger Sub entered into a Purchase Agreement (the "Purchase Agreement") under which Merger Sub agreed to sell $1,300,000,000 aggregate principal amount of 7.625% senior notes due 2019 (the "Notes") to Merrill Lynch, Pierce, Fenner & Smith
Incorporated and Morgan Stanley & Co. Incorporated, as representatives of the several initial purchasers named therein (collectively, the "Initial Purchasers"). Concurrently with the consummation of the Merger on March 8, 2011, the Company and Del Monte Corporation entered into a Joinder Agreement to the Purchase Agreement pursuant to which the Company assumed all rights and obligations of Merger Sub under the Purchase Agreement and the Company and Del Monte Corporation, as guarantor, became bound by the terms of the Purchase Agreement.

The Purchase Agreement contains customary representations, warranties, conditions to closing, indemnification rights and obligations of the parties.

The foregoing summary of the Purchase Agreement is not complete and is qualified in its entirety by reference to the Purchase Agreement, a copy of which is filed as Exhibit 10.9 to this Current Report on Form 8-K and is incorporated herein by reference.

Certain Relationships

Affiliates of certain of the initial purchasers of Notes under the Purchase Agreement act as lenders and/or agents under the Term Loan Credit Agreement and/or the Senior Secured Asset-Based Revolving Credit Agreement. The lenders and their affiliates have in the past engaged, and may in the future engage, in transactions with and perform services, including commercial banking, financial advisory and investment banking services, for the Company and its affiliates in the ordinary course of business for which they have received or will receive customary fees and expenses. Affiliates of one or more of the lenders act as lenders and/or agents under, and as a consideration therefor received customary fees and expenses in connection with, the Term Loan Credit Agreement and/or the Senior Secured Asset-Based Revolving Credit Agreement. Following the consummation of the Merger and the related transactions, certain affiliates of certain initial purchasers indirectly own ownership interests of the Company. Those affiliates may assign all or a portion of their interests to other affiliates of the initial purchasers.

4. Indenture and Senior Notes due 2019

Overview

On February 16, 2011, Merger Sub issued the Notes, which mature on February 16, 2019 pursuant to an indenture, dated as of February 16, 2011 (the "Initial Indenture"), among Merger Sub and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The Initial Indenture was supplemented by the Supplemental Indenture, dated as of March 8, 2011 (the "Supplemental Indenture" and, together with the Initial Indenture, the "Indenture") entered into upon consummation of the Merger, among the Company, Del Monte Corporation and the Trustee. Upon the consummation of the Merger, the Company assumed Merger Sub's obligations under the Notes and the Indenture.

Interest

Interest on the Notes is payable semi-annually in cash in arrears on February 15 and August 15 of each year, commencing on August 15, 2011.

Ranking
The Notes are the Company's senior unsecured obligations and rank senior in right of payment to the Company's existing and future indebtedness and other obligations that expressly provide for their subordination to the Notes; rank equally in right of payment to all of the Company's existing and future unsecured indebtedness; are effectively subordinated to all of the Company's existing and future secured debt (including obligations under the new credit facilities described above) to the extent of the value of the collateral securing such debt; and are structurally subordinated to all existing and future liabilities, including trade payables, of the Company's non-guarantor subsidiaries, to the extent of the assets of those subsidiaries.

Guarantees

The Notes are fully and unconditionally guaranteed by each of the Company's existing and future domestic restricted subsidiaries that guarantee the Company's obligations under its new senior secured credit facilities. Such subsidiary guarantors are collectively referred to herein as the "subsidiary guarantors," and such subsidiary guarantees are collectively referred to herein as the "subsidiary guarantees." Del Monte Corporation is currently the only subsidiary guarantor of the Notes.

Each subsidiary guarantee of the Notes ranks senior in right of payment to all existing and future indebtedness and other obligations of the subsidiary guarantor that expressly provide for their subordination to the guarantees; ranks equally in right of payment to all of the existing and future unsecured indebtedness of the subsidiary guarantor; is effectively subordinated to all of the applicable subsidiary guarantor's existing and future secured debt (including obligations under the new credit facilities described above) to the extent of the value of the collateral securing such debt; and is structurally subordinated to all existing and future liabilities, including trade payables, of the Company's non-guarantor subsidiaries, to the extent of the assets of those subsidiaries.

Optional Redemption

At any time prior to February 15, 2014, the Company may redeem all or a part of the Notes, at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the greater of (1) 1.0% of the principal amount of such note; and (2) the excess, if any, of (a) the present value at such redemption date of (i) the redemption price of such note at February 15, 2014 (as set forth in the table appearing below), plus (ii) all required interest payments due on such note (excluding accrued but unpaid interest to such redemption date) through February 15, 2014, computed using a discount rate equal to the applicable treasury rate as of such redemption date plus 0.50%; over (b) the principal amount of such note as of, and accrued and unpaid interest and special interest, if any, to, but excluding, such date of redemption, subject to the rights of holders of record of Notes on the relevant record date to receive interest due on the relevant interest payment date.

On and after February 15, 2014, the Company may redeem the Notes, in whole or in part, at the redemption prices (expressed as percentages of the principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon and special interest, if any, to, but excluding, the applicable redemption date, subject to the right of holders of record of Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve month period beginning on February 15 of each of the years indicated below:

9
In addition, until February 15, 2014, the Company may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of Notes issued under the Indenture at a redemption price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and special interest, if any, to, but excluding, the applicable redemption date, subject to the right of holders of record of Notes on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more equity offerings of the Company or Parent; provided that at least 50% of the sum of the aggregate principal amount of Notes originally issued under the Indenture (including any additional Notes issued under the Indenture after the issue date) remains outstanding immediately after the occurrence of each such redemption; provided further that each such redemption occurs within 120 days of the date of closing of each such equity offering.

Change of Control

Upon the occurrence of a "change of control" (as defined in the Indenture), each holder of the Notes has the right to require the Company to repurchase some or all of such holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest, if any, to the repurchase date.

Covenants and Events of Default

The Indenture contains covenants limiting, among other things, the Company's ability and the ability of its restricted subsidiaries to (subject to certain exceptions):

- incur additional debt, issue disqualified stock or issue certain preferred stock;
- pay dividends on or make certain distributions and other restricted payments;
- create certain liens or encumbrances;
- sell assets;
- enter into transactions with affiliates;
- limit ability of restricted subsidiaries to make payments to the Company;
- consolidate, merge, sell or otherwise dispose of all or substantially all of the Company's assets; and
- designate the Company's subsidiaries as unrestricted subsidiaries.

The Indenture also provides for events of default which, if any of them occurs, would permit or require the principal of and accrued interest on the Notes to become or to be declared due and payable.

The foregoing summary of the Indenture is not complete and is qualified in its entirety by reference to the Indenture, a copy of which is filed as Exhibit 10.10 to this Current Report on Form 8-K and is incorporated herein by reference.

5. Registration Rights Agreement
On February 16, 2011, Merger Sub and the Initial Purchasers entered into a Registration Rights Agreement (the "Registration Rights Agreement") and, upon consummation of the Merger on March 8, 2011, the Company and Del Monte Corporation entered into a Registration Rights Joinder Agreement and became parties to the Registration Rights Agreement. In the Registration Rights Agreement, the Company has agreed that it will use its commercially reasonable efforts to register notes having substantially identical terms as the Notes with the Securities and Exchange Commission (the "SEC") as part of an offer to exchange freely tradable exchange notes for the Notes.

The Company is required to file a registration statement for the exchange notes with the SEC and will use its commercially reasonable efforts to consummate an offer to exchange the Notes for the freely tradable exchange notes on or prior to the 365th calendar day following the issue of the Notes, which date is February 16, 2012. The Company has also agreed to file and to use commercially reasonable best efforts to cause to be declared effective a shelf registration statement relating to the resale of the Notes under certain circumstances.

If the Company fails to complete the offer to exchange the Notes for the exchange notes on or prior to the 365th day from the issue date of the Notes; or, if applicable, a shelf registration statement covering resales of the Notes has not been declared effective on or prior to the 365th day from the issue date of the Notes (a "registration default"), the annual interest rate on the Notes will increase by 0.25%. The annual interest rate on the Notes will increase by an additional 0.25% for each subsequent 90-day period during which the registration default continues, up to a maximum additional interest rate of 1.0% per year over the applicable interest rate described above. If the registration default is corrected, the applicable interest rate on such Notes will revert to the original level.

The foregoing summary of the Registration Rights Agreement is not complete and is qualified in its entirety by reference to the Registration Rights Agreement, a copy of which is filed as Exhibit 10.11 to this Current Report on Form 8-K and is incorporated herein by reference.

6. Tender Offers; Supplemental Indentures Relating to Existing Notes Indentures

In connection with the Merger, Merger Sub commenced cash tender offers and consent solicitations on January 19, 2011 for any and all of (i) Del Monte Corporation's $250.0 million aggregate principal amount of 63/4% Senior Subordinated Notes due 2015 (the "2015 Notes") and (ii) Del Monte Corporation's $450.0 million aggregate principal amount of 71/2% Senior Subordinated Notes due 2019 (the "2019 Notes" and together with the 2015 Notes, the "Existing Notes"). The tender offers and consent solicitations expired at 8:00 a.m., New York City time, on March 8, 2011 (the "Expiration Date").

On the Expiration Date, Merger Sub accepted tenders for all the Existing Notes validly tendered in the tender offers, which represented approximately 96.65% of the outstanding principal amount of the 2015 Notes and approximately 99.53% of the outstanding principal amount of the 2019 Notes. Upon consummation of the Merger, the Company assumed Merger Sub's obligations in connection with the tender offers and consent solicitations. Payment of the tender offer consideration, the applicable consent payments and accrued and unpaid interest to, but excluding March 8, 2011, in the aggregate amount of $806,631,833.47 was made on March 8, 2011.
In connection with the Merger and the consent solicitations, the indenture relating to the 2015 Notes (the "2015 Note Indenture") was amended and supplemented pursuant to the Second Supplemental Indenture, dated as of February 1, 2011 (the "2015 Supplemental Indenture") and the indenture relating to the 2019 Notes (the "2019 Note Indenture" and, together with the 2015 Note Indenture, the "Existing Notes Indentures") was amended and supplemented pursuant to the First Supplemental Indenture, dated as of February 1, 2011 (the "2019 First Supplemental Indenture") and further amended and supplemented pursuant to the Second Supplemental Indenture, dated as of March 8, 2011 (the "2019 Second Supplemental Indenture" and, together with the 2019 First Supplemental Indenture, the "2019 Supplemental Indentures") to eliminate most of the restrictive covenants and certain of the events of default and to modify the covenants regarding consolidations and mergers contained in such Existing Notes Indentures. The 2015 Supplemental Indenture and the 2019 Supplemental Indentures are referred to herein collectively as the "Supplemental Indentures". The amendments to the Existing Notes Indentures set forth in the Supplemental Indentures became effective upon the closing of the Merger on March 8, 2011.

The Supplemental Indentures eliminated the following sections of the applicable Existing Notes Indentures:

<table>
<thead>
<tr>
<th>Section Number</th>
<th>Covenant/Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 4.04</td>
<td>&quot;Payment of Taxes and Other Claims&quot; in the 2015 Note Indenture and &quot;Payment of Taxes&quot; in the 2019 Note Indenture</td>
</tr>
<tr>
<td>Section 4.08</td>
<td>&quot;SEC Reports&quot;</td>
</tr>
<tr>
<td>Section 4.10</td>
<td>&quot;Limitation on Restricted Payments&quot;</td>
</tr>
<tr>
<td>Section 4.11</td>
<td>&quot;Limitation on Transactions with Affiliates&quot;</td>
</tr>
<tr>
<td>Section 4.12</td>
<td>&quot;Limitation on Incurrence of Additional Indebtedness&quot;</td>
</tr>
<tr>
<td>Section 4.13</td>
<td>&quot;Limitation on Dividends and Other Payment Restrictions Affecting Subsidiaries&quot;</td>
</tr>
<tr>
<td>Section 4.17</td>
<td>&quot;Limitation on Preferred Stock of Restricted Subsidiaries&quot;</td>
</tr>
<tr>
<td>Section 4.18</td>
<td>&quot;Limitation on Liens&quot;</td>
</tr>
<tr>
<td>Section 4.19</td>
<td>&quot;Limitation on Guarantees by Domestic Restricted Subsidiaries&quot;</td>
</tr>
<tr>
<td>Section 4.20</td>
<td>&quot;Restriction of Lines of Business to Food, Food Distribution and Related Businesses&quot; in the 2015 Notes Indenture and &quot;Rule 144A Information&quot; in the 2019 Notes Indenture</td>
</tr>
<tr>
<td>Section 4.21</td>
<td>&quot;Rule 144A Information&quot; in the 2015 Notes Indenture and &quot;Termination of Certain Covenants&quot; in the 2019 Notes Indenture</td>
</tr>
<tr>
<td>Section 4.22</td>
<td>&quot;Termination of Certain Covenants&quot; in the 2015 Notes Indenture</td>
</tr>
<tr>
<td>Section 5.01(a)</td>
<td>&quot;Merger, Consolidation and Sale of Assets of the Company&quot; clauses (ii) and (iii) (clauses relating to the absence of Defaults or Events of Default and the ability of the Issuer or surviving person to incur $1.00 of additional debt pursuant to the Consolidated Fixed Charge Coverage Ratio or have a Consolidated Fixed Charge Coverage Ratio at least equal to the Consolidated Fixed Charge Coverage Ratio of the Issuer for the applicable four quarter reference period)</td>
</tr>
</tbody>
</table>
Section 5.05(a) (iii) and (iv) (clauses relating to the absence of Defaults or Events of Default and the ability of the Issuer or surviving person to incur $1.00 of additional debt pursuant to the Consolidated Fixed Charge Coverage Ratio or have a Consolidated Fixed Charge Coverage Ratio at least equal to the Consolidated Fixed Charge Coverage Ratio of the Issuer for the applicable four quarter reference period)

Section 6.01(a) "Events of Defaults" clauses (3) (default in the observance or performance of any other covenant or agreement in the Indenture), (4) (failure to pay other debt exceeding $35.0 million in the case of the 2015 Notes Indenture and $50.0 million in the case of the 2019 Notes Indenture within applicable grace periods after final maturity or acceleration), (5) (judgments for the payment of money in an aggregate amount in excess of $35.0 million in the case of the 2015 Notes Indenture and $50.0 million in the case of the 2019 Notes Indenture) and (8) (the failure of a guarantee of the Notes)

The foregoing summary of the Supplemental Indentures is not complete and is qualified in its entirety by reference to the 2015 Supplemental Indenture, the 2019 First Supplemental Indenture and the 2019 Second Supplemental Indenture, copies of which are filed as Exhibits 10.12, 10.13 and 10.14, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

7. Monitoring Agreement and Indemnification Agreement

On March 8, 2011, in connection with the Merger, entities affiliated with the Sponsors (the "Sponsor Managers") and an entity affiliated with AlpInvest Partners (the "AlpInvest Manager," and with the Sponsor Managers, collectively, the "Managers") entered into a monitoring agreement with Del Monte Corporation, Parent and Blue Holdings I, L.P. (the "Monitoring Agreement"), pursuant to which the Managers will provide management, consulting, financial and other advisory services to Del Monte Corporation, the Company and their divisions, subsidiaries, parent entities and controlled affiliates. Pursuant to the Monitoring Agreement, the Sponsor Managers are entitled to receive an aggregate annual advisory fee in an amount equal to the greater of (i) $6.5 million and (ii) 1.00% of the Company's "Adjusted EBITDA" (as defined in the Indenture) less the annual advisory fee paid to the AlpInvest Manager. Under the terms of the Monitoring Agreement, the AlpInvest Manager will receive an aggregate annual fee of $250,000, subject to certain adjustments. The Managers will also receive reimbursement of reasonable out-of-pocket expenses incurred in connection with the provision of services pursuant to the Monitoring Agreement. The Monitoring Agreement will continue indefinitely unless terminated by the consent of all the parties thereto. In addition, the Monitoring Agreement will terminate automatically upon an initial public offering of Parent, unless Del Monte Corporation elects by prior written notice to continue the Monitoring Agreement. Upon a change of control of Parent, Del Monte Corporation may terminate the Monitoring Agreement. On March 8, 2011, the Managers also entered into an indemnification agreement with the Company and its parent entities: Parent, Blue Holdings I, L.P. and Blue Holdings GP, LLC (the "Indemnification Agreement"). The Indemnification Agreement contains customary exculpation and indemnification provisions in favor of the Managers and their affiliates.

The foregoing summary of the Monitoring Agreement and Indemnification Agreement is not complete and is qualified in its entirety by reference to the Monitoring Agreement and
Indemnification Agreement, copies of which are filed as Exhibits 10.15 and 10.16, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item Termination of a Material Definitive Agreement.

1.02. Prior Credit Facility

On March 8, 2011, in connection with the Merger, Del Monte Corporation repaid in full all outstanding loans, together with interest and all other amounts due in connection with such repayment under the Credit Agreement, dated as of January 29, 2010, by and among Del Monte Corporation, as Borrower, the Company, as Holdings, Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, Barclays Capital, the Investment Banking Division of Barclays Bank PLC, and BMO Capital Markets, as Co-Syndication Agents, and Coöperatieve Centrale Reiffseinen-Boerenleenbank B.A., New York Branch, Suntrust Bank, and U.S. Bank National Association, as Co-Documentation Agents (filed as an exhibit to the Company's Current Report on Form 8-K filed February 2, 2010) (the "Prior Credit Facility") and terminated the Prior Credit Facility. No penalties were due in connection with such repayments. The remaining obligations of Del Monte Corporation and the Company under the Prior Credit Facility generally are limited to certain remaining contingent indemnification obligations under such facility. Interest rates for borrowings under the Prior Credit Facility were based on market rates. Borrowings under the credit agreement governing the Prior Credit Facility bore interest, at the Company's option, at the administrative agent's base rate from time to time or the applicable LIBOR rate plus an applicable percentage depending upon the Company's Total Debt Ratio (as defined in the credit agreement governing the Prior Credit Facility). The credit agreement governing the Prior Credit Facility contained customary covenants and also contained customary events of default.

2. Non-Employee Director Compensation Plan

Effective as of the closing of the Merger on March 8, 2011, the Company's Non-Employee Director Compensation Plan (filed as an exhibit to the Company's Quarterly Report on Form 10-Q filed December 9, 2009) (the "Non-Employee Director Compensation Plan") was terminated. The Non-Employee Director Compensation Plan set forth the compensation provided to non-employee Directors serving on the Company's Board of Directors. In connection with the termination of the Non-Employee Director Compensation Plan, the Plan was also amended to provide that any fees otherwise payable to the persons who were the Company's non-employee directors immediately prior to the closing of the Merger would be paid within 5 business days of the consummation of the Merger rather than at the end of the current calendar quarter.
Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

In connection with the closing of the Merger, the Company notified the New York Stock Exchange (the "NYSE") on March 8, 2011 that each outstanding share of common stock, par value $.01 per share, of the Company (the "Common Stock") was cancelled and automatically converted into the right to receive $19.00 per share in cash, without interest (except for (i) shares owned by Parent, Merger Sub, the Company or any of the Company's subsidiaries and (ii) shares owned by stockholders who have properly demanded appraisal rights) and requested that the NYSE file with the Securities and Exchange Commission an application on Form 25 to report that the shares of Common Stock are no longer listed on the NYSE.

Item 3.03. Material Modification to Rights of Security Holders.

In connection with the Merger, on March 8, 2011 each share of Common Stock of the Company (except for (i) shares owned by Parent, Merger Sub, the Company or any of the Company's subsidiaries and (ii) shares owned by stockholders who have properly demanded appraisal rights) was converted into the right to receive $19.00 per share in cash, without interest.

The information set forth in Section 6 of Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 3.03.

Section 5 – Corporate Governance and Management

Item 5.01. Changes in Control of Registrant.

On March 8, 2011, pursuant to the terms of the Merger Agreement, the acquisition of the Company through the merger of Merger Sub with and into the Company was consummated. As a result of the Merger, the Company became wholly-owned directly by Parent. Parent is indirectly owned by funds advised by affiliates of the Sponsors and certain other investors (the "Investors"). The aggregate purchase price paid for all of the equity securities of the Company was approximately $4 billion, which purchase price was funded by the equity financing from the Investors and by the new credit facilities described in Item 1.01 above.

On March 8, 2011 affiliates of the Sponsors entered into an amended and restated limited liability company agreement (the "LLC Agreement") in respect of Blue Holdings GP, LLC, the general partner of Blue Holdings I, L.P. Pursuant to the LLC Agreement, affiliates of each of KKR and Vestar have the right to appoint three directors of the Company, affiliates of Centerview have the right to appoint two directors of the Company and affiliates of AlpInvest Partners have the right to appoint one director of the Company. The LLC Agreement contemplates that once a new permanent Chief Executive Officer is appointed, he or she will also serve on the board of the Company.

The information set forth in the first and second paragraphs of Section 6 of Item 5.02 of this Current Report on Form 8-K is incorporated into this Item 5.01 by reference.

Item 5.02. Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers; Compensatory Arrangements of Certain Officers.

1. Retirement of Richard G. Wolford and Resignation of David L. Meyers
Effective immediately following the closing of the Merger on March 8, 2011, Richard G. Wolford, Chairman, Chief Executive Officer and President of the Company, retired from each of his positions with the Company and Del Monte Corporation; his retirement constituted a "Termination Upon Change of Control" (as such term is defined in his employment agreement with the Company).

Effective immediately following the closing of the Merger on March 8, 2011, David L. Meyers, the Executive Vice President, Administration and Chief Financial Officer of the Company, resigned from each of his positions with the Company and Del Monte Corporation; his resignation constituted a "Termination Upon Change of Control" for "Good Reason" (as each such term is defined in his employment agreement with the Company).

2. **Appointment of Neil Harrison as Interim Chief Executive Officer**

   Neil Harrison has been appointed the interim Chief Executive Officer of the Company, effective as of March 8, 2011, while a search for a new Chief Executive Officer is undertaken. Pursuant to a letter agreement with Parent entered into on March 8, 2011 (the "Harrison Letter Agreement"), Mr. Harrison will receive a salary of $100,000 per month. Mr. Harrison is a Senior Advisor of Vestar Capital Partners, joining the firm in 2010. From July 2008 to December 2009, Mr. Harrison served as Chairman and Chief Executive Officer and, from September 2005 to July 2008, as Chairman, President and Chief Executive Officer of Birds Eye Foods. He currently serves as a director of Solo Cup Company and The Sun Products Company. Mr. Harrison is 58.

   As a result of his position with Vestar, Mr. Harrison may be deemed to have an indirect material interest in the Monitoring Agreement and the Indemnification Agreement, which were entered into by the Company on March 8, 2011, and the information set forth in Section 7 of Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.02.

   The foregoing summary of the Harrison Letter Agreement is not complete and is qualified in its entirety by reference to the Harrison Letter Agreement, a copy of which is filed as Exhibit 10.17 to this Current Report on Form 8-K and is incorporated herein by reference.

3. **Appointment of Larry E. Bodner as Chief Financial Officer; Employment Agreement of Larry E. Bodner**

   On March 8, 2011, Del Monte Corporation entered into an employment agreement with Larry E. Bodner (the "Bodner Employment Agreement"). In connection with the Bodner Employment Agreement, Mr. Bodner was appointed Executive Vice President and Chief Financial Officer of Del Monte Corporation on March 8, 2011. Mr. Bodner will also serve as Executive Vice President and Chief Financial Officer of the Company.

   Mr. Bodner joined the Company in July 2003 and served as Executive Vice President, Finance from April 2010 until March 2011. Mr. Bodner was Senior Vice President, Finance and Investor Relations from July 2006 to October 2007; and Vice President, Internal Reporting and Financial Analysis from July 2003 to July 2006. Prior to joining the Company, he was Chief Operating Officer of Market Compass from May 2001 to July 2003 and Chief Operating Officer/Chief Financial Officer of SelfCare from 1998 to 2001. From 1995 to 1997, Mr. Bodner
held a variety of senior financial positions with The Walt Disney Company. From 1986 to 1994, Mr. Bodner held a variety of finance positions with The Procter & Gamble Company. Mr. Bodner is 48.

The Bodner Employment Agreement has an indefinite term with compensation established by the Company's Board of Directors equal to an annual base salary of $505,000, less taxes and deductions, or as adjusted from time to time by the compensation committee of the Company's Board of Directors (or if no such committee is established, the Company's Board of Directors) (such committee or Board of Directors, the "Committee"), and eligibility for an annual incentive bonus targeted at 70% of Mr. Bodner's base salary, or as adjusted from time to time in accordance with the Del Monte Foods Company's Annual Incentive Plan or at the discretion of the Committee. Mr. Bodner's compensation will include participation in Del Monte Corporation's Executive Perquisite Plan, health and welfare benefit plans, retirement plans, and the Company's equity compensation plans.

Furthermore, the Bodner Employment Agreement provides that if Mr. Bodner's employment is terminated by Del Monte Corporation due to his death, Mr. Bodner's estate shall be entitled to receive any earned, but unpaid base salary, accrued but unused vacation time, the amount of any unreimbursed expenses incurred by Mr. Bodner prior to termination and benefits, if any, that Mr. Bodner or other designated beneficiaries are entitled to receive under Del Monte Corporation's benefit plans and a target bonus payment prorated for Mr. Bodner's actual employment during such year and adjusted for actual performance.

The Bodner Employment Agreement further provides that if Mr. Bodner's employment is terminated due to disability, Mr. Bodner shall receive, in addition to the payments to which he is entitled in the event of a termination due to death (other than the prorated target bonus payment referenced above), long-term disability benefits to the extent he qualifies for such benefits. Subject to the execution of a general release, Del Monte Corporation shall also provide a severance payment equal to Mr. Bodner's highest base salary during the twelve month period prior to the termination date and the target bonus for the year in which termination occurs.

In the event that Mr. Bodner voluntarily terminates his employment with Del Monte Corporation or is terminated for "Cause" (as defined in the Bodner Employment Agreement), he shall only be entitled to receive any earned, but unpaid base salary, accrued but unused vacation time, the amount of any unreimbursed expenses incurred by Mr. Bodner prior to such termination and benefits, if any, that Mr. Bodner is entitled to receive under the Del Monte Corporation benefit plans.

In the event that Mr. Bodner is terminated by Del Monte Corporation without Cause or voluntarily terminates his employment for "Good Reason" (as defined in the Bodner Employment Agreement), he shall be entitled to receive, in addition to the payments to which he is entitled in the event of a voluntary termination or termination for Cause, subject to the execution of a general release, the following: (i) a severance payment consisting of one and one-half (1 1/2) times his base salary and target bonus for the year in which such termination occurs, (ii) a target bonus prorated for Mr. Bodner's actual employment during such year and adjusted for actual performance, (iii) a lump-sum payment, on an after-tax basis, equal to the cost of COBRA premiums for eighteen months, (iv) a payment equal to one and one-half (1 1/2) times Mr. Bodner's annual perquisite allowance applicable to Mr. Bodner as of the date of termination and (v) eighteen months of executive-level outplacement services. Additionally, Mr. Bodner will vest in any equity incentive awards granted to him under the Company's equity plans.
compensation plans in accordance with the terms of such plans and the applicable award agreement issued thereunder.

In the event of a termination upon a "Change of Control" (as defined in the Bodner Employment Agreement, which definition, for the avoidance of doubt, includes the Merger), Mr. Bodner shall be entitled to receive the same benefits to which he is entitled upon termination without Cause or for Good Reason, also subject to the execution of a general release; provided, however, that he shall receive two (2) times his base salary and target bonus instead of one and one-half (1 1/2) times. Additionally, Mr. Bodner will be entitled to a full tax gross-up for such benefits in the event that the payment of such benefits is an "excess parachute payment" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), and would be subject to the excise tax imposed by Section 4999 of the Code.

The Bodner Employment Agreement also includes provisions regarding indemnification and non-disclosure of the proprietary or confidential information of Del Monte Corporation (including the Sponsors), and provisions regarding non-solicitation of Del Monte Corporation's employees and non-interference with the business relationships of any current or future customers or suppliers of Del Monte Corporation.

The foregoing summary of the Bodner Employment Agreement is not complete and is qualified in its entirety by reference to the Bodner Employment Agreement, a copy of which is filed as Exhibit 10.18 to this Current Report on Form 8-K and is incorporated herein by reference.

4. Employment Agreement of David W. Allen

On March 8, 2011, Del Monte Corporation entered into an employment agreement with David W. Allen (the "Allen Employment Agreement"). Pursuant to the Allen Employment Agreement, Mr. Allen will continue to serve as the Executive Vice President, Operations of Del Monte Corporation. Mr. Allen is a named executive officer of the Company. The Allen Employment Agreement will have an indefinite term with compensation established by the Company's Board of Directors equal to an annual base salary of $440,000, less taxes and deductions, or as adjusted from time to time by the Committee. Under the Allen Employment Agreement, Mr. Allen will be eligible for an annual incentive bonus targeted at 62.5% of Mr. Allen's base salary, as adjusted from time to time by the Committee. Under the Allen Employment Agreement, Mr. Allen will be eligible for an annual incentive bonus targeted at 62.5% of Mr. Allen's base salary, as adjusted from time to time in accordance with the Del Monte Foods Company's Annual Incentive Plan or the discretion of the Committee. Mr. Allen's compensation will include participation in Del Monte Corporation's Executive Perquisite Plan, health and welfare benefit plans, retirement plans, and the Company's equity compensation plans.

Furthermore, the Allen Employment Agreement provides that if Mr. Allen's employment is terminated by Del Monte Corporation due to his death, Mr. Allen's estate shall be entitled to receive any earned, but unpaid base salary, accrued but unused vacation time, the amount of any unreimbursed expenses incurred by Mr. Allen prior to termination and benefits, if any, that Mr. Allen or other designated beneficiaries are entitled to receive under Del Monte Corporation's benefit plans and a target bonus payment prorated for Mr. Allen's actual employment during such year and adjusted for actual performance.

The Allen Employment Agreement further provides that if Mr. Allen's employment is terminated due to disability, Mr. Allen shall receive, in addition to the payments to which he is
entitled in the event of a termination due to death (other than the prorated target bonus payment referenced above), long-term
disability benefits to the extent he qualifies for such benefits. Subject to the execution of a general release, Del Monte Corporation
shall also provide a severance payment equal to Mr. Allen's highest base salary during the twelve month period prior to the
termination date and the target bonus for the year in which termination occurs.

In the event that Mr. Allen voluntarily terminates his employment with Del Monte Corporation or is terminated for "Cause" (as
defined in the Allen Employment Agreement), he shall only be entitled to receive any earned, but unpaid base salary, accrued but
unused vacation time, the amount of any unreimbursed expenses incurred by Mr. Allen prior to such termination and benefits, if any,
that Mr. Allen is entitled to receive under the Del Monte Corporation benefit plans.

In the event that Mr. Allen is terminated by Del Monte Corporation without Cause or voluntarily terminates his employment for
"Good Reason" (as such term is defined in the Allen Employment Agreement), he shall be entitled to receive, in addition to the
payments to which he is entitled in the event of a voluntary termination or termination for Cause, subject to the execution of a general
release, the following: (i) a severance payment consisting of one and one-half (1 1/2) times his base salary and target bonus for the year
in which such termination occurs, (ii) a target bonus prorated for Mr. Allen's actual employment during such year and adjusted for
actual performance, (iii) a lump-sum payment, on an after-tax basis, equal to the cost of COBRA premiums for eighteen months, (iv) a
payment equal to one and one-half (1 1/2) times Mr. Allen's annual perquisite allowance applicable to Mr. Allen as of the date of
termination and (v) eighteen months of executive-level outplacement services. Additionally, Mr. Allen will vest in any equity
incentive awards granted to him under the Company's equity compensation plans in accordance with the terms of such plans and the
applicable award agreement issued thereunder.

In the event of a termination upon a "Change of Control" (as defined in the Allen Employment Agreement, which definition,
for the avoidance of doubt, includes the Merger), Mr. Allen shall be entitled to receive the same benefits to which he is entitled upon
termination without Cause or for Good Reason, also subject to the execution of a general release; provided, however, that he shall
receive two (2) times his base salary and target bonus instead of one and one-half (1 1/2) times. Additionally, Mr. Allen will be entitled
to a full tax gross-up for such benefits in the event that the payment of such benefits is an "excess parachute payment" within the
meaning of Section 280G of the Code and would be subject to the excise tax imposed by Section 4999 of the Code. However,
Mr. Allen is only entitled to receive the 280G gross-up in the event that payments exceed the level at which any payment is treated as
an "excess parachute payment" under Section 280G by 5% or more.

The Allen Employment Agreement also includes provisions regarding indemnification and non-disclosure of the proprietary or
confidential information of Del Monte Corporation (including the Sponsors), and provisions regarding non-solicitation of Del Monte
Corporation's employees and non-interference with the business relationships of any current or future customers or suppliers of Del
Monte Corporation.

The foregoing summary of the Allen Employment Agreement is not complete and is qualified in its entirety by reference to the
Allen Employment Agreement, a copy of which is filed as Exhibit 10.19 to this Current Report on Form 8-K and is incorporated herein
by reference.

5. Letter Agreement with Timothy A. Cole.
On February 11, 2011, Parent entered into a letter agreement with Timothy A. Cole (the "Cole Letter Agreement"). Pursuant to the Cole Letter Agreement, Parent agreed that it will cause the Company and Del Monte Corporation to continue to maintain the Del Monte Corporation Supplemental Executive Retirement Plan (Fourth Restatement), as amended and restated effective January 1, 2009 (the "SERP") until at least December 31, 2012; provided, however, that nothing in the Cole Letter Agreement will prohibit Parent or Del Monte Corporation from amending the SERP to freeze the amount of Mr. Cole's "Gross Benefit" (as such term is defined in the SERP) as earned through the end of Parent's 2012 fiscal year. The Cole Letter Agreement further provides that if the SERP is terminated, or if Mr. Cole's employment is terminated by Parent or any of its subsidiaries without "Cause" (as defined in the SERP) or if he resigns for "Good Reason" (as defined in that certain Management Stockholder's Agreement among Parent, Blue Holdings, I, L.P. and Mr. Cole, dated as of March 8, 2011), in any such case prior to December 31, 2012, Parent will cause Del Monte Corporation to vest Mr. Cole in his accrued benefit under the SERP at the time of any such termination.

The foregoing summary of the Cole Letter Agreement is not complete and is qualified in its entirety by reference to the Cole Letter Agreement, a copy of which is filed as Exhibit 10.20 to this Current Report on Form 8-K and is incorporated herein by reference.

6. Resignation of Directors; Appointment of Directors

Consistent with the terms of the Merger Agreement, each of Richard G. Wolford, Samuel H. Armacost, Timothy G. Bruer, Mary R. Henderson, Victor L. Lund, Terence D. Martin, Sharon L. McCollam, Joe L. Morgan and David R. Williams resigned from the Board of Directors of the Company on March 8, 2011 and have been replaced.

The Company's new Board of Directors, who were appointed on March 8, 2011, is comprised of the following individuals: Simon E. Brown, a member of KKR; Neil Harrison, a senior advisor at Vestar; David Hooper, a partner of Centerview; James M. Kilts, a partner of Centerview; Stephen Ko, a director of KKR; Iain Leigh, a managing partner of AlpInvest Partners; Kevin A. Mundt, a managing director of Vestar Capital Partners; Dean B. Nelson, a member of KKR; and Brian K. Ratzan, a managing director of Vestar. Each Director is to serve in accordance with the Amended and Restated By-Laws of the Company, until his successor is elected and qualified or until his earlier resignation or removal. The Company's new Directors will not receive any separate compensation for their service on the Board of Directors. Individual appointments to the various committees of the Board of Directors have not been determined as of the date hereof.

Pursuant to the LLC Agreement, affiliates of the Sponsors and AlpInvest Partners have the right to designate nine of 10 directors of the Company. Currently there are only nine directors, all of whom were designated by affiliates of the Sponsors and AlpInvest Partners. As described in the second paragraph of Item 5.01, once a new permanent Chief Executive Officer is appointed, he or she will serve on the board of the Company as the tenth Director.

As a result of their respective positions with the Sponsors and AlpInvest Partners, one or more of the directors may be deemed to have an indirect material interest in the Monitoring Agreement and the Indemnification Agreement, which were entered into by the Company on
March 8, 2011, and the information set forth in Section 7 of Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.02.

Item 5.03. Amendments to Articles of Incorporation or By-laws; Change in Fiscal Year.

In connection with the consummation of the Merger, the Company's Certificate of Incorporation was amended and restated, effective March 8, 2011, so that it reads in the form attached as an exhibit to the Merger Agreement. A copy of the Company's Restated Certificate of Incorporation is attached as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Further in connection with the consummation of the Merger, the Company's By-laws were amended and restated, effective March 8, 2011, so that they read in their entirety as the By-laws of Merger Sub read immediately prior to the closing of the Merger in accordance with the Merger Agreement. A copy of the Company's Amended and Restated By-laws is attached as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Section 9 – Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<table>
<thead>
<tr>
<th>Exhibit No.</th>
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<td>Amended and Restated By-laws of Del Monte Foods Company</td>
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Corporation, and each of the other entities from time to time party thereto, in favor of Bank of America, N.A., as Collateral Agent

10.7 Security Agreement, dated as of March 8, 2011, among Del Monte Foods Company, Blue Acquisition Group, Inc., each of the Subsidiaries of Del Monte Foods Company from time to time party thereto, and Bank of America, N.A., as Collateral Agent

10.8 Pledge Agreement, dated as of March 8, 2011, among Del Monte Foods Company, each of the Subsidiaries of Del Monte Foods Company from time to time party thereto, Blue Acquisition Group, Inc., and Bank of America, N.A., as Collateral Agent

10.9 Purchase Agreement, dated as of February 1, 2011, among Blue Merger Sub Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated and Morgan Stanley & Co. Incorporated as representatives of the other initial purchasers party thereto, as supplemented by the Joinder Agreement, dated as of March 8, 2011, among Del Monte Foods Company, Del Monte Corporation and Merrill Lynch, Pierce, Fenner & Smith and Morgan Stanley & Co. Incorporated as representatives of the other initial purchasers party thereto


10.12 Second Supplemental Indenture, dated as of February 1, 2011, to the Indenture, dated as of February 8, 2005 among Del Monte Corporation, Del Monte Foods Company and Deutsche Bank Trust Company Americas


*10.17 Letter Agreement, dated as of March 8, 2011, between Blue Acquisition Group, Inc. (parent of Del Monte Foods Company) and Neil Harrison

*10.18 Employment Agreement, dated as of March 8, 2011, between Del Monte Corporation and Larry E. Bodner

*10.19 Employment Agreement, dated as of March 8, 2011, between Del Monte
Corporation and David W. Allen

Letter Agreement, dated as of February 11, 2011, between Blue Acquisition Group, Inc. (parent of Del Monte Foods Company) and Timothy A. Cole

* indicates a management contract or compensatory plan or arrangement

23
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.

DEL MONTE FOODS COMPANY
By: /s/ James Potter
Name: James Potter
Title: Secretary

Date: March 10, 2011
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<tr>
<td>10.7</td>
<td>Security Agreement, dated as of March 8, 2011, among Del Monte Foods Company, Blue Acquisition Group, Inc., each of the Subsidiaries of Del Monte Foods Company from time to time party thereto, and Bank of America, N.A., as Collateral Agent</td>
</tr>
<tr>
<td>10.8</td>
<td>Pledge Agreement, dated as of March 8, 2011, among Del Monte Foods Company, each of the Subsidiaries of Del Monte Foods Company from time to time party thereto, Blue Acquisition Group, Inc., and Bank of America, N.A., as Collateral Agent</td>
</tr>
<tr>
<td>10.9</td>
<td>Purchase Agreement, dated as of February 1, 2011, among Blue Merger Sub Inc. and Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated and Morgan Stanley &amp; Co. Incorporated as representatives of the other initial purchasers party thereto, as supplemented by the Joinder Agreement, dated as of March 8, 2011, among Del Monte Foods Company, Del Monte Corporation and Merrill Lynch, Pierce, Fenner &amp; Smith and Morgan Stanley &amp; Co. Incorporated as representatives of the other initial purchasers party thereto</td>
</tr>
<tr>
<td>10.12</td>
<td>Second Supplemental Indenture, dated as of February 1, 2011, to the Indenture, dated as of February 8, 2005 among Del Monte Corporation, Del Monte Foods Company and Deutsche Bank Trust Company Americas</td>
</tr>
<tr>
<td>*10.17</td>
<td>Letter Agreement, dated as of March 8, 2011, between Blue Acquisition Group, Inc. (parent of Del Monte Foods Company) and Neil Harrison</td>
</tr>
<tr>
<td>*10.18</td>
<td>Employment Agreement, dated as of March 8, 2011, between Del Monte Corporation and Larry E. Bodner</td>
</tr>
<tr>
<td>*10.19</td>
<td>Employment Agreement, dated as of March 8, 2011, between Del Monte Corporation and David W. Allen</td>
</tr>
<tr>
<td>*10.20</td>
<td>Letter Agreement, dated as of February 11, 2011, between Blue Acquisition Group, Inc. (parent of Del Monte Foods Company) and Timothy A. Cole</td>
</tr>
</tbody>
</table>

* indicates a management contract or compensatory plan or arrangement
FIRST: The name of the corporation (which is hereinafter referred to as the “Corporation”) is Del Monte Foods Company.

SECOND: The name and address of the registered agent in the State of Delaware is The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as from time to time amended.

FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is one thousand (1,000) shares of common stock, par value $0.01 per share.

FIFTH: In furtherance and not in limitation of the powers conferred by law, subject to any limitations contained elsewhere in this certificate of incorporation, bylaws of the Corporation may be adopted, amended or repealed by a majority of the board of directors of the Corporation, but any bylaws adopted by the board of directors may be amended or repealed by the stockholders entitled to vote thereon. Election of directors need not be by written ballot.

SIXTH: (a) A director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended. If the General Corporation Law of the State of Delaware is amended after the effective date of this Certificate of Incorporation to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware, as so amended.

Any amendment, modification or repeal of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment, modification or repeal.
(b) Each person (a "Covered Person") who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Director or officer of the Corporation or, while a Director or officer of the Corporation, is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a Director, officer, employee or agent or in any other capacity while serving as a Director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended, against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a Director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in (c) of this Article SIXTH, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors. The right to indemnification and advancement of expenses conferred in this Article shall be a contract right. The Corporation shall pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any such proceeding in advance of its final disposition; provided, however, that, if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a Covered Person as set forth herein in advance of the final disposition of a proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Director or officer, to repay all amounts so advanced if it shall ultimately be determined that such Director or officer is not entitled to be indemnified under this Article or otherwise. The Corporation may, by action of the Board of Directors, provide indemnification and advancement of expenses to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of and advancement of expenses to Directors and officers.

(c) If a claim under (b) in this Article SIXTH is not paid in full by the Corporation within thirty days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the General Corporation Law of the State of Delaware for the Corporation to indemnify the
claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(d) The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article SIXTH shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Restated Certificate of Incorporation, Bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(e) The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

(f) Any repeal or modification of the foregoing provisions of this Article SIXTH shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.
ARTICLE I
MEETING OF STOCKHOLDERS

Section 1. Place of Meeting and Notice. Meetings of the stockholders of the Corporation shall be held at such place either within or without the State of Delaware as the Board of Directors may determine.

Section 2. Annual and Special Meetings. Annual meetings of stockholders shall be held, at a date, time and place fixed by the Board of Directors and stated in the notice of meeting, to elect a Board of Directors and to transact such other business as may properly come before the meeting. Special meetings of the stockholders may be called by the President for any purpose and shall be called by the President or Secretary if directed by the Board of Directors or requested in writing by the holders of not less than 25% of the capital stock of the Corporation. Each such stockholder request shall state the purpose of the proposed meeting.

Section 3. Notice. Except as otherwise provided by law, at least 10 and not more than 60 days before each meeting of stockholders, written notice of the time, date and place of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each stockholder.

Section 4. Quorum. At any meeting of stockholders, the holders of record, present in person or by proxy, of a majority of the Corporation's issued and outstanding capital stock shall constitute a quorum for the transaction of business, except as otherwise provided by law. In the absence of a quorum, any officer entitled to preside at or to act as secretary of the meeting shall have power to adjourn the meeting from time to time until a quorum is present.

Section 5. Voting. Except as otherwise provided by law, all matters submitted to a meeting of stockholders shall be decided by vote of the holders of record, present in person or by proxy, of a majority of the Corporation's issued and outstanding capital stock.

ARTICLE II
DIRECTORS

Section 1. Number, Election and Removal of Directors. The number of Directors that shall constitute the Board of Directors shall be not less than one nor more than fifteen. The first Board of Directors shall consist of three Directors. Thereafter, within the limits specified above, the number of Directors shall be determined by the Board of Directors or by the stockholders. The Directors shall be elected by the stockholders at their annual meeting. Vacancies and newly created directorships resulting from any increase in the number of Directors may be filled by a majority of the Directors then in office, although less than a quorum, or by the sole remaining Director or by the stockholders. A Director may be removed with or without cause by the stockholders.
Section 2. Meetings. Regular meetings of the Board of Directors shall be held at such times and places as may from time to time be fixed by the Board of Directors or as may be specified in a notice of meeting. Special meetings of the Board of Directors may be held at any time upon the call of the President and shall be called by the President or Secretary if directed by the Board of Directors. Telegraphic, facsimile or written notice of each special meeting of the Board of Directors shall be sent to each Director not less than two hours before such meeting. A meeting of the Board of Directors may be held without notice immediately after the annual meeting of the stockholders. Notice need not be given of regular meetings of the Board of Directors.

Section 3. Quorum. One-third of the total number of Directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board of Directors, the Directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until such a quorum is present. Except as otherwise provided by law, the Certificate of Incorporation of the Corporation, these By-Laws or any contract or agreement to which the Corporation is a party, the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors.

Section 4. Committees of Directors. The Board of Directors may, by resolution adopted by a majority of the whole Board, designate one or more committees, including without limitation an Executive Committee, to have and exercise such power and authority as the Board of Directors shall specify. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he/she or they constitute a quorum, may unanimously appoint another Director to act at the meeting in place of any such absent or disqualified member.

ARTICLE III
OFFICERS

The officers of the Corporation shall consist of a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other additional officers with such titles as the Board of Directors shall determine, all of whom shall be chosen by and shall serve at the pleasure of the Board of Directors. Such officers shall have the usual powers and shall perform all the usual duties incident to their respective offices. All officers shall be subject to the supervision and direction of the Board of Directors. The authority, duties or responsibilities of any officer of the Corporation may be suspended by the President with or without cause. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause.

ARTICLE IV
INDEMNIFICATION

Section 1. Right to Indemnification. Each person (a "Covered Person") who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is
or was a Director or officer of the Corporation or, while a Director or officer of the Corporation, is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a Director, officer, employee or agent or in any other capacity while serving as a Director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended, against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a Director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in Section (2) of this Article IV, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors. The right to indemnification and advancement of expenses conferred in this Article shall be a contract right. The Corporation shall pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any such proceeding in advance of its final disposition; provided, however, that, if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a Covered Person as set forth herein in advance of the final disposition of a proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Director or officer, to repay all amounts so advanced if it shall ultimately be determined that such Director or officer is not entitled to be indemnified under this Article or otherwise. The Corporation may, by action of the Board of Director, provide indemnification and advancement of expenses to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of and advancement of expenses to Directors and officers.

Section 2. Right of Claimant to Bring Suit. If a claim under Section (1) of this Article IV is not paid in full by the Corporation within thirty days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the General Corporation Law of the State of Delaware for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Director, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Board of Director, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.
Section 3. **Non-Exclusivity of Rights.** The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, By-Law, agreement, vote of stockholders or disinterested Directors or otherwise.

Section 4. **Insurance.** The Corporation may maintain insurance, at its expense, to protect itself and any Director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

Section 5. **Amendment or Repeal.** Any repeal or modification of the foregoing provisions of this Article IV shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE V

**GENERAL PROVISIONS**

Section 1. **Notices.** Whenever any statute, the Certificate of Incorporation or these By-Laws require notice to be given to any Director or stockholder, such notice may be given in writing by mail, addressed to such Director or stockholder at his address as it appears on the records of the Corporation, with postage thereon prepaid. Such notice shall be deemed to have been given when it is deposited in the United States mail. Notice to Directors may also be given by facsimile or telegram.

Section 2. **Fiscal Year.** The fiscal year of the Corporation shall end on the Sunday closest to the last day of April of each year unless otherwise determined by resolution of the Board of Directors.
$2,700,000,000

CREDIT AGREEMENT

Dated as of March 8, 2011

among

DEL MONTE FOODS COMPANY
   as the Borrower,

BLUE ACQUISITION GROUP, INC.
   as Holdings,

The Several Lenders
   from Time to Time Parties Hereto,

JPMORGAN CHASE BANK, N.A.,
   as Administrative Agent and Collateral Agent,

BARCLAYS CAPITAL,
   as Syndication Agent,

J.P. MORGAN SECURITIES LLC, and
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
   as Joint Lead Arrangers and Bookrunners,

BARCLAYS CAPITAL, and
MORGAN STANLEY SENIOR FUNDING, INC.,
   as Co-Documentation Agents and Bookrunners,

KKR CAPITAL MARKETS LLC,
   as Joint Manager,

and

DEUTSCHE BANK SECURITIES INC.,
   GOLDMAN SACHS BANK USA,
   and
MIZUHO CORPORATE BANK LTD.,
   as Joint Arrangers
TABLE OF CONTENTS

SECTION 1. Definitions
   1.1. Defined Terms  2
   1.2. Other Interpretive Provisions  49
   1.3. Accounting Terms  50
   1.4. Rounding  50
   1.5. References to Agreements, Laws, Etc.  50

SECTION 2. Amount and Terms of Credit
   2.1. Commitments  51
   2.2. Minimum Amount of Each Borrowing; Maximum Number of Borrowings  51
   2.3. Notice of Borrowing  51
   2.4. Disbursement of Funds  51
   2.5. Repayment of Loans; Evidence of Debt  52
   2.6. Conversions and Continuations  54
   2.7. Pro Rata Borrowings  54
   2.8. Interest  55
   2.9. Interest Periods  55
   2.10. Increased Costs, Illegality, Etc.  56
   2.11. Compensation  58
   2.12. Change of Lending Office  58
   2.13. Notice of Certain Costs  58
   2.15. Permitted Debt Exchanges  61

SECTION 3. [Reserved]  63

SECTION 4. Fees
   4.1. Fees  63
   4.2. Mandatory Termination of Commitments  63

SECTION 5. Payments
   5.1. Voluntary Prepayments  63
   5.2. Mandatory Prepayments  64
   5.3. Method and Place of Payment  66
   5.4. Net Payments  67
   5.5. Computations of Interest and Fees  70
   5.6. Limit on Rate of Interest  70

SECTION 6. Conditions Precedent to Initial Borrowing
   6.1. Credit Documents  71
   6.2. Collateral  71
   6.3. Legal Opinions  71
   6.4. Equity Investments  71
   6.5. Closing Certificates  72
   6.6. Authorization of Proceedings of Each Credit Party; Corporate Documents  72
   6.7. Fees  72
13.15. WAIVERS OF JURY TRIAL 121
13.16. Confidentiality 121
13.17. Direct Website Communications 122
13.18. USA PATRIOT Act 123
13.20. Payments Set Aside 124

SCHEDULES

Schedule 1.1(b) Mortgaged Properties
Schedule 1.1(c) Commitments of Lenders
Schedule 1.1(g) Debt Repayment
Schedule 8.3 Conflicts
Schedule 8.4 Litigation
Schedule 8.12 Subsidiaries
Schedule 9.9 Closing Date Affiliate Transactions
Schedule 9.14(e) Post-Closing Actions
Schedule 10.1 Closing Date Indebtedness
Schedule 10.2 Closing Date Liens
Schedule 10.4 Scheduled Dispositions
Schedule 10.5 Closing Date Investments
Schedule 13.2 Notice Addresses

EXHIBITS

Exhibit A Form of Joinder Agreement
Exhibit B Form of Guarantee
Exhibit C [Reserved]
Exhibit D Form of Perfection Certificate
Exhibit E Form of Pledge Agreement
Exhibit F Form of Security Agreement
Exhibit G Form of Legal Opinion of Simpson Thacher & Bartlett LLP
Exhibit H Form of Credit Party Closing Certificate
Exhibit I Form of Assignment and Acceptance
Exhibit J Form of Promissory Note (Initial Term Loans)
Exhibit K Form of First Lien Intercreditor Agreement
Exhibit L Form of Second Lien Intercreditor Agreement
Exhibit M Form of ABL Intercreditor Agreement
Exhibit N Form of Non-Bank Tax Certificate
Exhibit O Form of Conversion/Continuation Notice
CREDIT AGREEMENT, dated as of March 8, 2011, as amended, restated, supplemented or otherwise modified from time to time, among BLUE ACQUISITION GROUP, INC., a Delaware corporation ("Holdings"), DEL MONTE FOODS COMPANY, a Delaware corporation (the "Company" and, following the consummation of the Merger, the "Borrower"), the lending institutions from time to time parties hereto (each a "Lender" and, collectively, the "Lenders") and JPMORGAN CHASE BANK, N.A., as Administrative Agent (such term and each other capitalized term used but not defined in this preamble having the meaning provided in Section 1) and Collateral Agent.

WHEREAS, pursuant to the Agreement and Plan of Merger (as amended from time to time in accordance therewith, the "Acquisition Agreement"), dated as of November 24, 2010, by and among the Company, Holdings and Merger Sub, Merger Sub will merge with and into the Company (the "Merger"), with the Company surviving the Merger as a wholly-owned Subsidiary of Holdings;

WHEREAS, to fund, in part, the Merger, it is intended that the Sponsors and the other Initial Investors will contribute an amount in cash to Holdings and/or a direct or indirect parent thereof in exchange for Stock (which cash will be contributed to the Borrower in exchange for common Stock of the Borrower) (such contribution, the "Equity Investments"), which shall be no less than 25% of the pro forma total capitalization of Holdings and its Subsidiaries after giving effect to the Transactions (the "Minimum Equity Amount");

WHEREAS, to consummate the transactions contemplated by the Acquisition Agreement, it is intended that the Borrower will (A) issue senior unsecured notes with a stated maturity no earlier than eight years after the Closing Date in sales pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended (the "Senior Notes Offering"), under the Notes Indenture generating aggregate gross proceeds of up to $1,300,000,000 (the "Senior Notes") and (B) enter into the ABL Facility to initially provide for an aggregate principal amount of up to $750,000,000 of revolving borrowings, a portion of which may be borrowed on the Closing Date to finance a portion of the Transactions;

WHEREAS, in connection with the foregoing, the Borrower has requested that the Lenders extend credit to the Borrower in the form of Initial Term Loans to the Borrower on the Closing Date in Dollars, in an aggregate principal amount of $2,700,000,000;

WHEREAS, the proceeds of the Initial Term Loans will be used by the Borrower, together with (a) the net proceeds of the Senior Notes Offering, (b) proceeds of borrowings under the ABL Facility (if needed) and (c) the net proceeds of the Equity Investments on the Closing Date (or, in the case of the Debt Repayment, such later date as may be necessary to effect the Debt Repayments in accordance with the tender offers therefor) solely to effect the Merger, to effect the Debt Repayments and to pay Transaction Expenses; and

WHEREAS, the Lenders are willing to make available to the Borrower such term loans upon the terms and subject to the conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto hereby agree as follows:
SECTION 1. Definitions

1.1. Defined Terms.

(a) As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"1989 Intercreditor Agreement" means the Amended and Restated Intercreditor Agreement, dated as of December 5, 1989, by and among certain creditors of the Borrower.

"ABL Agent" shall mean Bank of America, N.A., in its capacity as administrative agent and collateral agent under the ABL Documents, or any successor administrative agent or collateral agent under the ABL Documents.

"ABL Documents" shall mean the ABL Facility, any guarantees issued thereunder and the collateral and security documents (and intercreditor agreements) entered into in connection therewith.

"ABL Facility" shall mean the Asset-Based Revolving Credit Agreement entered into as of the Closing Date by and among the Borrower, the subsidiary borrowers party thereto, the lenders party thereto in their capacities as lenders thereunder, and Bank of America, N.A., as administrative agent and collateral agent thereunder, including any guarantees, collateral documents and account control agreements, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancing thereof and any credit, commercial paper or other facilities with banks or other institutional lenders or investors that replace, refund or refinance all or any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof.

"ABL Intercreditor Agreement" shall mean the intercreditor agreement dated as of the Closing Date among the Administrative Agent, the Collateral Agent, the ABL Agent and the Credit Parties, substantially in the form attached as Exhibit M or any other intercreditor agreement among the ABL Agent, one or more representatives for the holders of Permitted Other Indebtedness (to the extent such Permitted Other Indebtedness is secured by a lien with the same priority as the Obligations or by a Lien ranking junior to the Lien securing the Obligations), and the Collateral Agent on terms that are no less favorable in any material respect to the Secured Parties as those contained in the form attached as Exhibit M.

"ABL Priority Collateral" shall have the meaning assigned to such term in the ABL Intercreditor Agreement.

"ABR" shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as announced from time to time by the Administrative Agent as its "prime rate" at its principal office in New York City and (c) the LIBOR Rate for an interest period of one (1) month plus 1%; provided that, notwithstanding the foregoing, in no event shall the ABR at any time be less than 2.50% per annum. The "prime rate" is a rate set by the Administrative Agent based upon various factors including the Administrative Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the ABR due to a change in such rate announced by the Administrative Agent or in the Federal Funds Effective
Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"ABR Loan" shall mean each Loan bearing interest based on the ABR.

"Acquired EBITDA" shall mean, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined using such definitions as if references to the Borrower and its Restricted Subsidiaries therein were to such Pro Forma Entity and its Restricted Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity.

"Acquired Entity or Business" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Acquired Indebtedness" means, with respect to any specified Person, (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Acquisition Agreement" shall have the meaning provided in the preamble to this Agreement.

"Administrative Agent" shall mean JPMorgan, as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent pursuant to Section 12.9.

"Administrative Agent's Office" shall mean the Administrative Agent's address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

"Administrative Questionnaire" shall have the meaning provided in Section 13.6(b).

"Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"Affiliated Institutional Lender" shall mean any investment fund managed or advised by Affiliates of a Sponsor that is a bona fide debt fund and that extends credit or buys loans in the ordinary course of business.

"Affiliated Lender" shall mean a Lender that is a Sponsor or any Affiliate thereof, other than Holdings, any Subsidiary of Holdings or the Borrower, any Affiliated Institutional Lender or any natural person.

"Agent Parties" shall have the meaning provided in Section 13.17(c).
“Agents” shall mean the Administrative Agent, the Collateral Agent, the Syndication Agent, each Joint Lead Arranger and Bookrunner, the Co-Documentation Agents, the Joint Manager and the Joint Arrangers.

"Agreement" shall mean this Credit Agreement, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Agreement Currency" shall have the meaning provided in Section 13.19.

"Applicable ABR Margin" shall mean, at any date, with respect to each ABR Loan that is an Initial Term Loan, 2.00% per annum.

"Applicable LIBOR Margin" shall mean, at any date, with respect to each LIBOR Loan that is an Initial Term Loan, 3.00% per annum.

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

"Asset Sale Prepayment Event" shall mean any Disposition of any business units, assets or other property of the Credit Parties or any of their Restricted Subsidiaries not in the ordinary course of business (including any Disposition of any Stock or Stock Equivalents of any Subsidiary owned by the Borrower or a Restricted Subsidiary). Notwithstanding the foregoing, the term "Asset Sale Prepayment Event" shall not include any transaction permitted by Section 10.4 (other than transactions permitted by Section 10.4(b) and Section 10.4(g) (solely to the extent such Permitted Sale Leaseback relates to property owned on the Closing Date), which shall constitute Asset Sale Prepayment Events).

"Assignment and Acceptance" shall mean (a) an assignment and acceptance substantially in the form of Exhibit I, or such other form as may be approved by the Administrative Agent and (b) in the case of any assignment of Term Loans in connection with a Permitted Debt Exchange conducted in accordance with Section 2.15, such form of assignment (if any) as may be agreed by the Administrative Agent in accordance with Section 2.15(a).

"Authorized Officer" shall mean the Chief Executive Officer, President, the Chief Financial Officer, the Treasurer, the Vice President-Finance or any other senior officer of the Borrower designated as such in writing to the Administrative Agent by the Borrower.

"Bankruptcy Code" shall have the meaning provided in Section 11.5.

"BBA LIBOR" shall have the meaning provided in the definition of "LIBOR Rate."

"benefited Lender" shall have the meaning provided in Section 13.8.

"Board" shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" shall have the meaning provided in the preamble to this Agreement.

"Borrowing" shall mean and include the incurrence of one Type of Term Loan on the Closing Date (or resulting from conversions on a given date after the Closing Date) having, in the case of
LIBOR Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of LIBOR Loans).

"Borrowing Base" means 85% of the book value of the receivables and 75% of the book value of the inventory of the Borrower and its Restricted Subsidiaries.

"Business Day" shall mean any day excluding Saturday, Sunday and any other day on which banking institutions in New York City are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a LIBOR Loan, any fundings, disbursements, settlements and payments in respect of any such LIBOR Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such LIBOR Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capital Leases) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on a consolidated statement of cash flows of the Borrower and its Subsidiaries (including capitalized software expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs).

"Capital Lease" shall mean, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person; provided, that the adoption or issuance of any accounting standards after the Closing Date will not cause any lease that was not or would not have been a Capital Lease prior to such adoption or issuance to be deemed a Capital Lease.

"Capitalized Lease Obligations" shall mean, as applied to any Person, all obligations under Capital Leases of such Person or any of its Subsidiaries, in each case taken at the amount thereof accounted for as liabilities in accordance with GAAP.

"Cash Equivalents" shall mean:

1. United States dollars,
2. Canadian dollars,
3. (a) euro or any national currency of any participating member state in the European Union or, (b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by them from time to time in the ordinary course of business,
4. securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,
5. certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the U.S. dollar equivalent as of the date of determination) in the case of foreign banks,
(6) repurchase obligations for underlying securities of the types described in clauses (4) and (5) entered into with any financial institution meeting the qualifications specified in clause (5) above,

(7) commercial paper rated at least P-1 by Moody's or at least A-1 by S&P and in each case maturing within 12 months after the date of creation thereof,

(8) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 12 months after the date of creation thereof,

(9) investment funds investing 95% of their assets in securities of the types described in clauses (1) through (8) above and (10) and (11) below,

(10) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition, and

(11) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 12 months or less from the date of acquisition.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) through (3) above; provided that such amounts are converted into any currency listed in clauses (1) through (3) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"Cash Management Services" means any of the following to the extent not constituting a line of credit (other than an overnight overdraft facility that is not in default): ACH transactions, treasury and/or cash management services, including, without limitation, controlled disbursement services, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services.

"Casualty Event" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Restricted Subsidiaries receives insurance proceeds, or proceeds of a condemnation award or other compensation.

"Centerview" shall mean each of Centerview Partners Management LLC and Centerview Employees, L.P.

"Change in Law" shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the Closing Date, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender with any guideline, request, directive or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law). For purposes of this definition, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith shall be deemed to have gone into effect after the date hereof, regardless of the date enacted, adopted or issued.
"Change of Control" shall mean and be deemed to have occurred if (a) either (i) the Permitted Holders shall at any time not own, in the aggregate, directly or indirectly, beneficially and of record, at least 35% of the voting power of the outstanding Voting Stock of the Borrower or (ii) the Sponsors shall at any time not own, in the aggregate, directly or indirectly, beneficially and of record, at least 12% of the voting power of the outstanding Voting Stock of the Borrower; or (b) any person, entity or “group” (within the meaning of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended), other than the Permitted Holders, shall at any time have acquired direct or indirect beneficial ownership of a percentage of the voting power of the outstanding Voting Stock of the Borrower that exceeds 35% thereof, unless, in the case of either clause (a) or (b) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the board of directors of the Borrower; or (c) Continuing Directors shall not constitute at least a majority of the board of directors of the Borrower; or (d) at any time, a Change of Control (as defined in the Senior Notes Indenture) shall have occurred or (e) at any time prior to an initial public offering of the Borrower, Holdings shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Borrower.

"Class", when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, New Term Loans (of each Series) or Extended Term Loans (of the same Extension Series) and, when used in reference to any Commitment, refers to whether such Commitment is an Initial Term Loan Commitment or a New Term Loan Commitment.

"Closing Date" shall mean the date of the initial Borrowing hereunder.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Co-Documentation Agents" shall mean Barclays Capital (the investment banking division of Barclays Bank PLC) and Morgan Stanley Senior Funding, Inc..

"Collateral" shall mean all property pledged or purported to be pledged pursuant to the Security Documents.

"Collateral Agent" shall mean JPMorgan Chase Bank, N.A., as collateral agent under the Security Documents, or any successor collateral agent pursuant to Section 12.9.

"Commitments" shall mean, with respect to each Lender (to the extent applicable), such Lender's Initial Term Loan Commitment or New Term Loan Commitment.

"Communications" shall have the meaning provided in Section 13.17(a).

"Company" shall have the meaning provided in the preamble to this Agreement.

"Confidential Information" shall have the meaning provided in Section 13.16.

"Confidential Information Memorandum" shall mean the Confidential Information Memorandum of the Borrower dated January 20, 2011.

"Consolidated Depreciation and Amortization Expense" means with respect to any Person for any period, the total amount of consolidated depreciation and amortization expense, including the amortization of deferred financing fees or costs, capitalized expenditures, customer acquisition costs
and incentive payments, conversion costs and contract acquisition costs of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated EBITDA" shall mean, with respect to any Person for any period, the Consolidated Net Income of such Person for such period increased (without duplication) by:

(a) provision for taxes based on income or profits or capital, including, without limitation, state, franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period deducted, including any penalties and interest relating to any tax examinations (and not added back) in computing Consolidated Net Income, plus

(b) Fixed Charges of such Person for such period (including (x) net losses or Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk and (y) costs of surety bonds in connection with financing activities, in each case, to the extent included in Fixed Charges), together with items excluded from the definition of "Consolidated Interest Expense" pursuant to clauses 1(u) through 1(z) thereof, to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income; plus

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted in computing Consolidated Net Income, plus

(d) any expenses or charges (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the offering of the Senior Notes, the ABL Facility and the Term Loans and (ii) any amendment or other modification of the Senior Notes, the ABL Facility and the Term Loans, and, in each case, deducted in computing Consolidated Net Income, plus

(e) the amount of any restructuring charge or reserve or non-recurring integration costs deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions after the Closing Date and costs related to the closure and/or consolidation of facilities, plus

(f) any other non-cash charges, including any write off or write downs, reducing Consolidated Net Income for such period, excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, plus

(g) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, plus

(h) the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid or accrued in such period to the Sponsors or any of their respective Affiliates, plus

(i) expenses consisting of internal software development costs that are expensed during the period but could have been capitalized under alternative accounting policies in accordance with GAAP, plus

-8-
(j) costs of surety bonds incurred in such period in connection with financing activities, plus

(k) the amount of net cost savings and synergies projected by the Borrower in good faith to be realized as a result of specified actions taken or to be taken prior to or during such period (which cost savings or synergies shall be subject only to certification by management of the Borrower and shall be calculated on a Pro Forma Basis as though such cost savings or synergies had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that (A) such cost savings or synergies are reasonably identifiable and factually supportable, (B) such actions have been taken or are to be taken within 12 months after the date of determination to take such action and (C) no cost savings or synergies shall be added pursuant to this clause (k) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clause (l) or (r) below with respect to such period, plus

(l) business optimization expenses (including consolidation initiatives, severance costs and other costs relating to initiatives aimed at profitability improvement), plus

(m) restructuring charges or reserves (including restructuring costs related to acquisitions after the Closing Date and to closure and/or consolidation of facilities and to exiting lines of business), plus

(n) the amount of loss or discount on sale of receivables and related assets to the Receivables Subsidiary in connection with a Receivables Facility, plus

(o) any costs or expense incurred by the Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of an issuance of Equity Interest of the Borrower (other than Disqualified Equity Interests) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (iii) of Section 10.5(a) and have not been relied on for purposes of any incurrence of Indebtedness pursuant to clause (l)(b) of Section 10.1 plus

(p) the amount of expenses relating to payments made to option holders of any direct or indirect parent company of the Borrower or any of its direct or indirect parent companies in connection with, or as a result of, any distribution being made to shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted under this Agreement; plus

(q) with respect to any joint venture, an amount equal to the proportion of those items described in clauses (a) and (c) above relating to such joint venture corresponding to the Borrower’s and the Restricted Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary), plus

(r) the amount of any loss attributable to a new plant or facility until the date that is 12 months after the date of commencement of construction or the date of acquisition thereof, as the case may be; provided that (A) such losses are reasonably identifiable and factually supportable and certified by a responsible officer of the Borrower, (B) losses attributable to such plant or facility after 12 months from the date of commencement of construction or the date of acquisition of such plant or facility, as the case may be, shall not be included in this clause (r) and (C) no
amounts shall be added pursuant to this clause (r) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clauses (k) or (l) above with respect to such period, and

(2) decreased by (without duplication) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated EBITDA in any prior period; and

(3) increased or decreased by (without duplication):

(a) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk and revaluations of intercompany balances), plus or minus, as the case may be

(b) any net gain or loss resulting in such period from Hedging Obligations, and the application of Financial Accounting Standards Codification No. 815—Derivatives and Hedging, plus or minus, as the case may be (c) without duplication, the Historical Adjustments incurred in such period.

Notwithstanding the foregoing, the aggregate amount of addbacks made pursuant to subclauses (k), (l) and (r) of clause (1) above in any four fiscal quarter period shall not exceed 15% of Consolidated EBITDA (prior to giving effect to such addbacks) for such four fiscal quarter period.

For avoidance of doubt:

(i) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA currency translation gains and losses related to currency remeasurements of Indebtedness or intercompany balances (including the net loss or gain resulting from Hedge Agreements for currency exchange risk),

(ii) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any adjustments resulting from the application of Statement of Financial Accounting Standards No. 133 and its related pronouncements and interpretations,

(iii) there shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person or business, or attributable to any property or asset acquired by the Borrower or any Restricted Subsidiary during such period (but not the Acquired EBITDA of any related Person or business or any Acquired EBITDA attributable to any assets or property, in each case to the extent not so acquired) to the extent not subsequently sold, transferred, abandoned or otherwise disposed by the Borrower or such Restricted Subsidiary (each such Person, business, property or asset acquired and not subsequently so disposed of, an "Acquired Entity or Business") and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "Converted Restricted Subsidiary"), based on the actual Acquired EBITDA of such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition or conversion) and (B) an adjustment in respect of each Acquired Entity or Business equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition) as specified in a Pro Forma Adjustment Certificate and delivered to the Lenders and the Administrative Agent, and
(iv) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred, abandoned or otherwise disposed of, closed or classified as discontinued operations by the Borrower or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a "Sold Entity or Business"), and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a " Converted Unrestricted Subsidiary") based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition or conversion).

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than or greater than par, as applicable, other than with respect to Indebtedness issued in connection with the Transactions, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark-to-market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (d) the interest component of Capitalized Lease Obligations and (e) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (t) accretion or accrual of discounted liabilities not constituting Indebtedness, (u) interest expense attributable to a parent entity resulting from pushdown accounting, (v) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (w) any Additional Interest (as defined in the Senior Notes Indenture) and any comparable "additional interest" with respect to other securities, (x) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, and original issue discount with respect to Indebtedness issued in connection with the Transactions, (y) any expensing of bridge, commitment and other financing fees and (z) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Receivables Facility); plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued less

(3) interest income for such period.

For purposes of this definition, interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP.

"Consolidated Net Income" shall mean, with respect to any Person for any period, the aggregate of the Net Income, of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP, provided that, without duplication,

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transactions to the extent incurred on or prior to the date that is the one year anniversary of the Closing Date) severance, relocation costs, new product introductions, and one-time compensation charges shall be excluded,
(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,

(3) any after-tax effect of income (loss) from disposed, or discontinued operations and any after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions other than in the ordinary course of business, as determined in good faith by the board of directors of the Borrower, shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Borrower shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash or Cash Equivalents) to the referent Person or a Restricted Subsidiary thereof in respect of such period,

(6) solely for the purpose of determining the amount available for Restricted Payments under clause (iii)(1) of Section 10.5 the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded if the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination wholly permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the 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 stockholders, unless (x) such restriction with respect to the payment of dividends or similar distributions has been legally waived or (y) such restriction is otherwise permitted hereunder; provided that Consolidated Net Income of the Borrower will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) or Cash Equivalents to the Borrower or a Restricted Subsidiary in respect of such period, to the extent not already included therein,

(7) effects of adjustments (including the effects of such adjustments pushed down to the Borrower and its Restricted Subsidiaries) in any line item in such Person's consolidated financial statements required or permitted by ASC 805 and ASC 350 (formerly Financial Accounting Standards Board Statement Nos. 141 and 142, respectively) resulting from the application of purchase accounting in relation to the Transactions and any acquisition that is consummated after the Closing Date or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(8) any after-tax effect of income (loss) from the early extinguishment of Indebtedness or Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid) shall be excluded,

(9) any impairment charge, asset write-off or write-down pursuant to ASC 350 and ASC 360 (formerly Financial Accounting Standards Board Statement Nos. 142 and No. 144, respectively) and the amortization of intangibles arising pursuant to ASC 805 (formerly Financial Accounting Standards Board Statement No. 141) shall be excluded,
(10) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, phantom equity, stock options, restricted stock or other rights to officers, directors or employees shall be excluded,

(11) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, recapitalization, Disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

(12) accruals and reserves that are established or adjusted within twelve months after the Closing Date that are so required to be established as a result of the Transactions in accordance with GAAP, or changes as a result of adoption or modification of accounting policies, shall be excluded,

(13) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (a) not denied by the applicable carrier in writing within 180 days and (b) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), losses and expenses with respect to liability or casualty events or business interruption shall be excluded,

(14) any non-cash SFAS 133 (or such successor provision) income (or loss) related to Hedging Obligations shall be excluded, and

(15) any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowance related to such item, shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 10.5 only (other than clause (iii)(4) thereof), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Borrower and the Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Borrower and the Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Borrower or any Restricted Subsidiary, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under such covenant pursuant to clause (iii)(4) thereof.

"Consolidated Senior Secured Debt" shall mean Consolidated Total Debt as of such date secured by a Lien (excluding any Permitted Other Indebtedness incurred pursuant to Section 10.1(aa), Section 10.1(bb)(i)(a) (but solely to the extent the Net Cash Proceeds thereof are applied not later than five (5) Business Days after the receipt thereof to repurchase, repay, redeem or otherwise defease Senior Notes pursuant to and in accordance with Section 10.5), Section 10.1(bb)(i)(b) or Section 10.1(cc) and, in each case, secured by a Lien on Collateral ranking junior to the Lien securing the Obligations).
"Consolidated Senior Secured Debt to Consolidated EBITDA Ratio" shall mean, as of any date of determination, the ratio of (a) Consolidated Senior Secured Debt as of such date minus the lesser of (x) the aggregate cash and Cash Equivalents (in each case, free and clear of all Liens (other than Permitted Liens) included in the cash and Cash Equivalents accounts listed on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries as at such date and (y) $100,000,000 to (b) Consolidated EBITDA for the Test Period then last ended.

"Consolidated Total Assets" shall mean, as of any date of determination, the amount that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on the most recent consolidated balance sheet of the Borrower and the Restricted Subsidiaries at such date.

"Consolidated Total Debt" shall mean, as at any date of determination, an amount equal to the sum of the aggregate amount of all outstanding Indebtedness of the Borrower and the Restricted Subsidiaries consisting of borrowed money or evidenced by bonds, notes, debentures or similar instruments or reimbursement obligations in respect of letters of credit or bankers' acceptances and Capital Lease Obligations, in each case, determined on a consolidated basis in accordance with GAAP; provided that the amount of any Indebtedness outstanding under the ABL Facility and any other revolving credit facility on any date shall be deemed to be the average daily amount of such Indebtedness thereunder for the most recent twelve month period ending on such date (or, prior to the one year anniversary of the Closing Date, during the period from the Closing Date to such date).

"Consolidated Total Debt to Consolidated EBITDA Ratio" shall mean, as of any date of determination, the ratio of (a) Consolidated Total Debt as of such date minus the lesser of (x) the aggregate cash and Cash Equivalents (in each case, free and clear of all Liens (other than Permitted Liens) included in the cash and Cash Equivalents accounts listed on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries as at such date and (y) $100,000,000 to (b) Consolidated EBITDA for the Test Period then last ended.

"Consolidated Working Capital" shall mean, at any date, the excess of (a) the sum of all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries at such date excluding the current portion of current and deferred income taxes over (b) the sum of all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Borrower and the Restricted Subsidiaries on such date, including deferred revenue but excluding, without duplication, (i) the current portion of any Funded Debt, (ii) all Indebtedness consisting of Loans to the extent otherwise included therein, (iii) the current portion of interest and (iv) the current portion of current and deferred income taxes.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (2) to advance or supply funds (A) for the purchase or payment of any such primary obligation or (B) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

-14-
"Continuing Director" shall mean, at any date, an individual (a) who is a member of the board of directors of the Borrower on the Closing Date, (b) who, as of the date of determination, has been a member of such board of directors for at least the twelve preceding months, (c) who has been nominated to be a member of such board of directors, directly or indirectly, by a Sponsor or Persons nominated by a Sponsor or (d) who has been nominated to be a member of such board of directors by a majority of the other Continuing Directors then in office.

"Contract Consideration" shall have the meaning provided in the definition of "Excess Cash Flow."

"Contractual Requirement" shall have the meaning provided in Section 8.3.

"Converted Restricted Subsidiary" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Converted Unrestricted Subsidiary" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Credit Documents" shall mean this Agreement, the Guarantees, the Security Documents and any promissory notes issued by the Borrower hereunder.

"Credit Event" shall mean and include the making (but not the conversion or continuation) of a Loan.

"Credit Party" shall mean the Borrower, the Guarantors and each other Subsidiary of the Borrower that is a party to a Credit Document.

"Debt Incurrence Prepayment Event" shall mean any issuance or incurrence by the Borrower or any of the Restricted Subsidiaries of any Indebtedness (excluding any Indebtedness permitted to be issued or incurred under Section 10.1 other than Section 10.1(y) and Section 10.1(aa)).

"Debt Repayment" shall mean the purchase, repayment, prepayment, repurchase or defeasance of the Indebtedness of the Credit Parties under the Indebtedness that is identified on Schedule 1.1(g) and that is purchased, repaid, prepaid, repurchased or defeased on the Closing Date (or such later date as may be necessary to effect the Debt Repayment in accordance with the tender offers therefor).

"Declined Proceeds" shall have the meaning provided in Section 5.2(h).

"Default" shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"Default Rate" shall have the meaning provided in Section 2.8(c).

"Deferred Net Cash Proceeds" shall have the meaning provided such term in the definition of "Net Cash Proceeds."

"Deferred Net Cash Proceeds Payment Date" shall have the meaning provided such term in the definition of "Net Cash Proceeds."
“Designated Non-Cash Consideration” shall mean the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 10.4(b) or Section 10.4(c) that is designated as Designated Non-Cash Consideration pursuant to a certificate of an Authorized Officer of the Borrower, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within 180 days following the consummation of the applicable Disposition).

“Designated Preferred Stock” means preferred stock of the Borrower, Holdings or any other direct or indirect parent company of the Borrower (in each case other than Disqualified Equity Interests) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan plan or trust established by the Borrower or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an officers’ certificate executed by a senior vice president and the principal financial officer of the Borrower or the applicable parent company thereof, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (iii) of Section 10.5(a).

“Disposed EBITDA” shall mean, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary (determined as if references to the Borrower and the Restricted Subsidiaries in the definition of Consolidated EBITDA were references to such Sold Entity or Business or Converted Unrestricted Subsidiary and its respective Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business or Converted Unrestricted Subsidiary, as the case may be.

“Disposition” shall have the meaning provided in Section 10.4(b).

“Disqualified Equity Interests” shall mean, with respect to any Person, any Stock or Stock Equivalents of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Stock or Stock Equivalent that is not Disqualified Equity Interests), other than as a result of a change of control or asset sale, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than as a result of a change of control or asset sale to the extent the terms of such Stock or Stock Equivalents provide that such Stock or Stock Equivalents shall not be required to be repurchased or redeemed until the Latest Term Loan Maturity Date has occurred or such repurchase or redemption is otherwise permitted by this Agreement (including as a result of a waiver hereunder)), in whole or in part, in each case prior to the date that is ninety-one (91) days after the Latest Term Loan Maturity Date hereunder; provided that if such Stock or Stock Equivalents are issued to any plan for the benefit of employees of the Borrower or its Subsidiaries or by any such plan to such employees, such Stock or Stock Equivalents shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Dividends” or “dividends” shall have the meaning provided in Section 10.5.

“Dollars” and “$” shall mean dollars in lawful currency of the United States of America.

“Domestic Subsidiary” shall mean each Subsidiary of the Borrower that is organized under the laws of the United States, any state or territory thereof, or the District of Columbia.

“Environmental Claims” shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation or proceedings pursuant
to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "Claims"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief relating to the presence, Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as wetlands.

"Environmental Law" shall mean any applicable Federal, state, foreign or local statute, law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release or threat of Release of Hazardous Materials.

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

"Equity Investments" shall have the meaning provided in the preamble to this Agreement.

"Equity Offering" shall mean any public or private sale of common stock or preferred stock of the Borrower or any of its direct or indirect parent companies (excluding Disqualified Equity Interests), other than: (a) public offerings with respect to the Borrower's or any direct or indirect parent company's common stock registered on Form S-8 and (b) issuances to any Subsidiary of the Borrower.

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

"ERISA Affiliate" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party, is treated as a single employer under Section 414 of the Code.

"ERISA Event" shall mean (a) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (b) the existence with respect to any Plan of a non-exempt Prohibited Transaction; (c) the failure of any insured medical Plan to satisfy the non-discrimination requirements of Section 105 of the Code; (d) any Reportable Event; (e) the failure of any Credit Party or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (f) a determination that any Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (g) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (h) the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or the incurrence by any Credit Party or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension
Plan; (i) the receipt by any Credit Party or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (j) the failure by any Credit Party or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (k) the incurrence by any Credit Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (l) the receipt by any Credit Party or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from a Credit Party or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent, in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (m) the failure by any Credit Party or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"Event of Default" shall have the meaning provided in Section 11.

"Excess Cash Flow" shall mean, for any period, an amount equal to the excess of

(a) the sum, without duplication, of

(i) Consolidated Net Income for such period,

(ii) an amount equal to the amount of all non-cash charges to the extent deducted in arriving at such Consolidated Net Income and cash receipts to the extent excluded in arriving at such Consolidated Net Income,

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions by the Borrower and the Restricted Subsidiaries completed during such period or the application of purchase accounting),

(iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income; and

(v) cash receipts in respect of Hedge Agreements during such fiscal year to the extent not otherwise included in Consolidated Net Income; and

over (b) the sum, without duplication, of

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges to the extent included in arriving at such Consolidated Net Income,

(ii) without duplication of amounts deducted pursuant to clause (xi) below in prior years, the amount of Capital Expenditures or acquisitions of Intellectual Property accrued or made in cash during such period, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of Indebtedness of the Borrower or the Restricted Subsidiaries (unless such Indebtedness has been repaid),
(iii) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Restricted Subsidiaries (including (A) the principal component of payments in respect of Capitalized Lease Obligations, (B) the amount of any repayment of Term Loans pursuant to Section 2.5, and (C) the amount of a mandatory prepayment of Term Loans pursuant to Section 5.2(a) to the extent required due to a Disposition that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase but excluding (x) all other prepayments of Term Loans and (y) all prepayments of loans under the ABL Facility and any other revolving loans) made during such period, except to the extent financed with the proceeds of other Indebtedness of the Borrower or the Restricted Subsidiaries;

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income;

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions by the Borrower and the Restricted Subsidiaries completed during such period or the application of purchase accounting);

(vi) payments by the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and the Restricted Subsidiaries other than Indebtedness, to the extent not already deducted from Consolidated Net Income;

(vii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the aggregate amount of cash consideration paid by the Borrower and the Restricted Subsidiaries (on a consolidated basis) in connection with Investments (including acquisitions) made during such period, constituting "Permitted Investments" or made pursuant to Section 10.5 to the extent that such Investments were financed with internally generated cash flow of the Borrower and the Restricted Subsidiaries;

(viii) the amount of dividends paid during such period (on a consolidated basis) by the Borrower and the Restricted Subsidiaries pursuant to Section 10.5(b)(2), (4) or (15), to the extent such dividends were financed with internally generated cash flow of the Borrower and the Restricted Subsidiaries;

(ix) the aggregate amount of expenditures actually made by the Borrower and the Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period and are not deducted in calculating Consolidated Net Income;

(x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Restricted Subsidiaries during such period that are made in connection with any prepayment of Indebtedness to the extent that such payments are not deducted in calculating Consolidated Net Income;

(xi) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any of the Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period (including Permitted Acquisitions), Capital
Expenditures or acquisitions of Intellectual Property to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period, provided that to the extent the aggregate amount of internally generated cash actually utilized to finance such Permitted Acquisitions, Capital Expenditures or acquisitions of Intellectual Property during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters,

(xii) the amount of taxes (including penalties and interest) paid in cash or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period, and

(xiii) cash expenditures in respect of Hedge Agreements during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income.

"Excluded Contribution" means net cash proceeds, the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Borrower from (a) contributions to its common equity capital, and (b) the sale (other than to a Subsidiary of the Borrower or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower) of Stock (other than Disqualified Equity Interests and Designated Preferred Stock) of the Borrower, in each case designated as Excluded Contributions pursuant to an officers' certificate executed by a senior vice president and the principal financial officer of the Borrower on the date such capital contributions are made or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in clause (iii) of Section 10.5(a).

"Excluded Stock and Stock Equivalents" shall mean (i) any Stock or Stock Equivalents with respect to which, (x) in the reasonable judgment of the Administrative Agent and the Borrower (as agreed to in writing), the cost or other consequences of pledging such Stock or Stock Equivalents in favor of the Secured Parties under the Security Documents shall be excessive in view of the benefits to be obtained by the Lenders therefrom, or (y) pledging such Stock or Stock Equivalents in favor of the Secured Parties under the Security Documents would result in adverse tax consequences as reasonably determined by the Borrower, (ii) solely in the case of any pledge of Stock and Stock Equivalents of any Foreign Subsidiary or any Domestic Subsidiary substantially all of the assets of which consist of Stock or Stock Equivalents of Foreign Subsidiaries to secure the Obligations, any Stock or Stock Equivalents of any class of such Foreign Subsidiary or such Domestic Subsidiary in excess of 65% of the outstanding Stock or Stock Equivalents of such class (such percentage to be adjusted upon any Change in Law as may be required to avoid adverse U.S. federal income tax consequences to the Borrower or any Subsidiary), (iii) any Stock or Stock Equivalents to the extent the pledge thereof would violate any applicable Requirement of Law, (iv) in the case of (A) any Stock or Stock Equivalents of any Subsidiary to the extent such Stock or Stock Equivalents are subject to a Lien permitted by clause (9) of the definition of "Permitted Lien" or (B) any Stock or Stock Equivalents of any Subsidiary that is not wholly-owned by the Borrower and its Subsidiaries at the time such Subsidiary becomes a Subsidiary, any Stock or Stock Equivalents of each such Subsidiary described in clause (A) or (B) to the extent (1) that a pledge thereof to secure the Obligations is prohibited by any applicable Contractual Requirement (other than customary non-assignment provisions which are ineffective under the Uniform Commercial Code or other applicable law), (2) any Contractual Requirement prohibits such a pledge without the consent of any other party; provided that this clause (2) shall not apply if (x) such other party is a Credit Party or wholly-owned Subsidiary or (y) consent has been obtained to consummate such pledge (it being understood that the foregoing shall not be deemed to obligate the Borrower or any Subsidiary to obtain any such consent) and for so long as such Contractual Requirement or replacement or renewal thereof is in effect, or (3) a pledge thereof to secure the Obligations
would give any other party (other than a Credit Party or wholly-owned Subsidiary) to any contract, agreement, instrument or indenture governing such Stock or Stock Equivalents the right to terminate its obligations thereunder (other than customary non-assignment provisions which are ineffective under the Uniform Commercial Code or other applicable law) and (v) any Stock or Stock Equivalents of any Subsidiary to the extent that (A) the pledge of such Stock or Stock Equivalents would result in adverse tax consequences to the Borrower or any Subsidiary as reasonably determined by the Borrower and (B) such Stock or Stock Equivalents have been identified in writing to the Collateral Agent by an Authorized Officer of the Borrower.

"Excluded Subsidiary" shall mean (a) each Domestic Subsidiary, in each case, for so long as any such Subsidiary does not (on a consolidated basis with its Restricted Subsidiaries) constitute a Material Subsidiary, (b) each Domestic Subsidiary that is not a wholly-owned Subsidiary on any date such Subsidiary would otherwise be required to become a Guarantor pursuant to the requirements of Section 9.11 (for so long as such Subsidiary remains a non-wholly-owned Restricted Subsidiary), (c) any Domestic Subsidiary substantially all the assets of which consist of (x) Stock and Stock Equivalents of Foreign Subsidiaries and/or (y) of other Domestic Subsidiaries so long as substantially all the assets of any such other Domestic Subsidiary consist of Stock and Stock Equivalents of Foreign Subsidiaries, (d) each Domestic Subsidiary that is prohibited by any applicable Contractual Requirement or Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Restricted Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (e) each Domestic Subsidiary that is a Subsidiary of a Foreign Subsidiary, (f) each Domestic Subsidiary with respect to which, as reasonably determined by the Borrower, the consequence of providing a Guarantee of the Obligations would adversely affect the ability of the Borrower and its Subsidiaries to satisfy applicable Requirements of Law, (g) any other Domestic Subsidiary with respect to which, (x) in the reasonable judgment of the Administrative Agent and the Borrower, the cost or other consequences of providing a Guarantee of the Obligations shall be excessive in view of the benefits to be obtained by the Lenders therefrom or (y) providing such a Guarantee would result in adverse tax consequences as reasonably determined by the Borrower, (h) each Unrestricted Subsidiary and (i) any Receivables Subsidiary.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its overall net income or branch profits (however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local or foreign law), and franchise (and similar) Taxes imposed on it (in lieu of net income Taxes), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) in the case of a Non-U.S. Lender (other than an assignee pursuant to a request by the Borrower under Section 2.10), any United States federal withholding Tax imposed on any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document that (A) is required to be imposed on amounts payable to such Non-U.S. Lender pursuant to laws in force at the time such Non-U.S. Lender becomes a party hereto (or designates a new lending office), except to the extent that such Non-U.S. Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding Tax pursuant to Section 5.4(a) or (B) is attributable to such Non-U.S. Lender’s failure to comply with Section 5.4(e) (or (iii) any United States federal withholding Tax imposed under Sections 1471 through 1474 of the Code or any Treasury regulations promulgated thereunder.
“Existing Class” shall mean any Existing Term Loan Class.

"Existing Notes" means the Borrower's 6-⅜% Senior Subordinated Notes due 2015 and 7-⅝% Senior Subordinated Notes due 2019.

"Existing Term Loan Class" shall have the meaning provided in Section 2.14(f)(i).

"Extended Repayment Date" shall have the meaning provided in Section 2.5(c).

"Extended Term Loan Repayment Amount" shall have the meaning provided in Section 2.5(c).

"Extended Term Loans" shall have the meaning provided in Section 2.14(f)(i).

"Extending Lender" shall have the meaning provided in Section 2.14(f)(iii).

"Extension Amendment" shall have the meaning provided in Section 2.14(f)(iv).

"Extension Date" shall have the meaning provided in Section 2.14(f)(v).

"Extension Election" shall have the meaning provided in Section 2.14(f)(iii).

"Extension Request" shall mean a Term Loan Extension Request.

"Extension Series" shall mean all Extended Term Loans that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Term Loans provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees and amortization schedule.

"Federal Funds Effective Rate" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (a) if such day is not a Business Day, the Federal Funds Effective 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 Effective Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"Fees" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"First Lien Intercreditor Agreement" shall mean an Intercreditor Agreement substantially in the form of Exhibit K among the Administrative Agent, the Collateral Agent and the representatives for purposes thereof for any other First Lien Secured Parties, with such changes thereto as may be reasonably acceptable to the Administrative Agent; provided that such changes are not materially adverse to the Lenders.

"First Lien Obligations" shall mean the Obligations and the Permitted Other Indebtedness Obligations (other than any Permitted Other Indebtedness Obligations that are unsecured or secured
by a Lien ranking junior to the Lien securing the Obligations) secured by a first priority interest in the Term Priority Collateral and a second priority interest in the ABL Priority Collateral, collectively.

"First Lien Secured Parties" shall mean the Secured Parties and the Permitted Other Indebtedness Secured Parties and any representative on their behalf for such purposes (other than in the case of Permitted Other Indebtedness Secured Parties whose Permitted Other Indebtedness Obligations are secured by a Lien ranking junior to the Lien securing the Obligations, such Permitted Other Indebtedness Secured Parties, the collateral agent and any other representative on their behalf), collectively.

"Fixed Charge Coverage Ratio" shall mean, as of any date of determination, the ratio of (1) Consolidated EBITDA for the Test Period then last ended to (2) the Fixed Charges for such Test Period. In the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees or redeems any Indebtedness or issues or redeems Disqualified Equity Interests or preferred stock subsequent to the commencement of the Test Period but prior to or simultaneously with the date of determination, then the Fixed Charge Coverage Ratio shall be calculated giving Pro Forma Effect to such incurrence, assumption, guarantee or redemption of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or preferred stock (in each case, including a pro forma application of the net proceeds therefrom), as if the same had occurred at the beginning of the Test Period.

For purposes of calculating the Fixed Charge Coverage Ratio, Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (as determined in accordance with GAAP) that have been made by the Borrower or any Restricted Subsidiary during the Test Period or subsequent to such Test Period and on or prior to or simultaneously with the date of determination shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Test Period. If since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Borrower or any Restricted Subsidiary since the beginning of such period) shall have made any Investment, acquisition, disposition, merger, consolidation or disposed operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving Pro Forma Effect thereto for such Test Period as if such Investment, acquisition, disposition, merger, consolidation or disposed operation had occurred at the beginning of the Test Period.

For purposes of this definition, whenever Pro Forma Effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower (and may include, for the avoidance of doubt, cost savings and operating expense reductions resulting from such Investment, acquisition, merger or consolidation which is being given Pro Forma Effect that have been or are expected to be realized; provided that such costs savings and operating expense reductions are made in compliance with the definition of Pro Forma Adjustment). If any Indebtedness bears a floating rate of interest and is being given Pro Forma Effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrower to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrower may designate.
“Fixed Charges” means, with respect to any Person for any period, the sum of:

(a) Consolidated Interest Expense of such Person for such period,

(b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock (including any Designated Preferred Stock) or any Refunding Capital Stock of such Person made during such period, and

(c) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests made during such period.

“Foreign Asset Sale” shall have the meaning provided in Section 5.2(i).

“Foreign Benefit Arrangement” shall mean any employee benefit arrangement mandated by non-US law that is maintained or contributed to by any Credit Party or any ERISA Affiliate.

‘Foreign Plan’ shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to US law and is maintained or contributed to by any Credit Party or any ERISA Affiliate.

“Foreign Plan Event” shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (A) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (B) the failure to register or loss of good standing with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (C) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the material terms of such Foreign Plan or Foreign Benefit Arrangement.

“Foreign Subsidiary” shall mean each Subsidiary of the Borrower that is not a Domestic Subsidiary.

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

“Funded Debt” shall mean all indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of the Borrower or any Restricted Subsidiary, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including all amounts of Funded Debt required to be paid or prepaid within one year from the date of its creation and, in the case of the Borrower, Indebtedness in respect of the Loans.

“GAAP” shall mean generally accepted accounting principles in the United States of America, as in effect from time to time; provided, however, that if there occurs after the Closing Date any change in GAAP that affects in any respect the calculation of any covenant contained in Section 10, the Lenders and the Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of the Lenders and the Borrower after such change in GAAP conform as nearly as possible to their respective positions as of the Closing Date and, until any such amendments have been agreed upon, the covenants in
Section 10 shall be calculated as if no such change in GAAP has occurred; provided further, that any change in GAAP after the Closing Date will not cause any lease that was not or would not have been a Capital Lease prior to such change to be deemed a Capital Lease.

"Governmental Authority" shall mean any nation, sovereign or government, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

"Granting Lender" shall have the meaning provided in Section 13.6(g).

"Guarantee" shall mean (a) the Guarantee made by the Borrower and each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit B, and (b) any other guarantee of the Obligations made by a Restricted Subsidiary that is a Domestic Subsidiary in form and substance reasonably acceptable to the Administrative Agent, in each case as the same may be amended, supplemented or otherwise modified from time to time.

"Guarantee Obligations" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such Indebtedness or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness or (d) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term "Guarantee Obligations" shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Guarantors" shall mean (a) each Domestic Subsidiary that is party to the Guarantee on the Closing Date, (b) each Domestic Subsidiary that becomes a party to the Guarantee after the Closing Date pursuant to Section 9.11 or otherwise, (c) each other Subsidiary that the Borrower may from time to time, in its discretion, cause to become a party to the Guarantee pursuant to Section 9.11 or otherwise and (d) Holdings.

"Hazardous Materials" shall mean (a) any petroleum or petroleum products, radioactive materials, asbestos and asbestos containing material, polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited, or regulated by any Environmental Law.

"Hedge Agreements" shall mean interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, cross-currency rate swap agreements, currency
future or option contracts, commodity price protection agreements or other commodity price hedging agreements, and other similar agreements entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business (and not for speculative purposes) for the principal purpose of protecting the Borrower or any of the Restricted Subsidiaries against fluctuations in interest rates, currency exchange rates or commodity prices.

"Hedge Bank" shall mean (a) any Person that, at the time it enters into a Hedge Agreement, is a Lender or an Affiliate of a Lender or (b) with respect to any Hedge Agreement entered into prior to the Closing Date, any person that is a Lender or an Affiliate of a Lender on the Closing Date.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under any Hedge Agreements.

"Historical Financial Statements" shall mean the audited consolidated balance sheets of the Borrower as of May 2, 2010 and May 3, 2009 and the audited consolidated statements of income, stockholders' equity and cash flows of the Borrower for each of the fiscal years in the three year period ending on May 2, 2010.

"Historical Adjustments" means with respect to any Person, without duplication, the following items to the extent incurred prior to the Closing Date and, in each case, during the applicable period:

1. gains (losses) from the early extinguishment of Indebtedness;
2. the cumulative effect of a change in accounting principles;
3. gains (losses), net of tax, from disposed or discontinued operations;
4. non-cash adjustments to LIFO reserves;
5. gains (losses) attributable to the disposition of fixed assets; and
6. other costs consisting of (i) one-time restructuring charges, (ii) one-time severance costs in connection with former employees, (iii) debt financing costs, (iv) unusual litigation expenses, (v) fees and expenses related to acquisitions and (vi) consulting services in connection with acquisitions.

"Holdings" shall have the meaning provided in the preamble to this Agreement.

"Increased Amount Date" shall have the meaning provided in Section 2.14(a).

"Indebtedness" shall mean, with respect to any Person, (1) any indebtedness (including principal and premium) 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 bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capital Lease Obligations), except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligation that, after 30 days of becoming due and payable, has not been paid and such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, or (d) representing any obligations in respect of Hedge Agreements, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and obligations in respect of Hedge Agreements) would appear as a liability upon a balance sheet (excluding the
footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Borrower solely by reason of push down accounting under GAAP shall be excluded, (2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person; provided that notwithstanding the foregoing, Indebtedness shall be deemed not to include (A) Contingent Obligations incurred in the ordinary course of business or (B) obligations under or in respect of Receivables Facilities.

"indemnified liabilities" shall have the meaning provided in Section 13.5.

"Indemnified Taxes" shall mean all Taxes imposed on or with respect to, or measured by, any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, other than Excluded Taxes.

"Initial Investors" shall mean Kohlberg Kravis Roberts & Co. L.P., KKR 2006 Fund L.P., Centerview Partners Management LLC, Centerview Employees L.P., Vestar Capital Partners V, L.P. and each of their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

"Initial Term Loan" shall have the meaning provided in Section 2.1.

"Initial Term Loan Commitment" shall mean, (a) in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(c) as such Lender's "Initial Term Loan Commitment" and (b) in the case of any Lender that becomes a Lender after the Closing Date, the amount specified as such Lender's "Initial Term Loan Commitment" in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Initial Term Loan Commitment, in each case as the same may be changed from time to time pursuant to the terms hereof. The aggregate amount of the Initial Term Loan Commitments as of the Closing Date is $2,700,000,000.

"Initial Term Loan Lender" shall mean a Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

"Initial Term Loan Maturity Date" shall mean March 8, 2018 or, if such date is not a Business Day, the first Business Day thereafter.

"Initial Term Loan Repayment Amount" shall have the meaning provided in Section 2.5(b).

"Initial Term Loan Repayment Date" shall have the meaning provided in Section 2.5(b).

"Insolvent" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Intellectual Property" shall mean U.S. and foreign intellectual property, including all (i) (a) patents, inventions, processes, developments, technology and know-how; (b) copyrights and works
of authorship in any media, including graphics, advertising materials, labels, package designs and photographs; (c) trademarks, service marks, trade names, brand names, corporate names, domain names, logos, trade dress and other source indicators, and the goodwill of any business symbolized thereby; (d) trade secrets, confidential, proprietary or non-public information and (ii) all registrations, applications renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations, foreign counterparts or similar legal protections related thereto.

"Interest Period" shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

"Investment" shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Borrower in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

For purposes of the definition of "Unrestricted Subsidiary" and Section 10.5,

(1) "Investments" shall include the portion (proportionate to the Borrower's equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (x) the Borrower’s "Investment" in such Subsidiary at the time of such redesignation less (y) the portion (proportionate to the Borrower's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

"Investment Grade Securities" shall mean:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Borrower and its Subsidiaries,
(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"Joinder Agreement" shall mean an agreement substantially in the form of Exhibit A.

"Joint Arrangers" shall mean Deutsche Bank Securities Inc., Goldman Sachs Bank USA and Mizuho Corporate Bank, Ltd.

"Joint Lead Arrangers and Bookrunners" shall mean J.P. Morgan Securities LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

"Joint Manager" shall mean KKR Capital Markets LLC.

"Junior Debt" shall mean any Indebtedness in respect of Senior Notes, Subordinated Indebtedness, Permitted Additional Debt or any Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b).

"JPMorgan" shall mean JPMorgan Chase bank, N.A. and its successors.

"Judgment Currency" shall have the meaning provided in Section 13.19.

"KKR" shall mean each of Kohlberg Kravis Roberts & Co. L.P. and KKR 2006 Fund L.P.

"Latest Term Loan Maturity Date" shall mean, at any date of determination, the latest maturity or expiration date applicable to any Term Loan hereunder at such time, including the latest maturity or expiration date of any New Term Loan or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

"Lender" shall have the meaning provided in the preamble to this Agreement.

"LIBOR Loan" shall mean any Loan bearing interest at a rate determined by reference to the LIBOR Rate.

"LIBOR Rate" shall mean, for any Interest Period with respect to a LIBOR Loan of any currency, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Bloomberg (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 such currency (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 "LIBOR Rate" for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in such currency for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered by the Administrative Agent's London Branch to major banks in the applicable London interbank eurocurrency market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period (or on the first
day of such Interest Period in the case of any LIBOR Loan denominated in Sterling; provided that, notwithstanding the foregoing, in no event shall the LIBOR Rate at any time be less than 1.50% per annum.

"Lien" shall mean any mortgage, pledge, security interest, hypothecation, assignment, lien (statutory or other) or similar encumbrance (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof).

"Loan" shall mean any Initial Term Loan or New Term Loan made by any Lender hereunder.

"Material Adverse Change" shall mean any event, change, occurrence or developments or effect that would have or would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Borrower and its Subsidiaries taken as a whole, other than any event, change, occurrence or developments or effect resulting from (i) changes in general economic, financial market, business or geopolitical conditions, (ii) changes or developments in any of the industries in which the Borrower or its Subsidiaries operate, (iii) changes in any applicable laws or applicable accounting regulations or principles or interpretations thereof, (iv) any change in the price or trading volume of the Borrower's common stock, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such change that are not otherwise excluded from this definition of "Material Adverse Change" may be taken into account in determining whether there has been a Material Adverse Change), (v) any failure by the Borrower to meet any published analyst estimates or expectations of the Borrower's revenue, earnings or other financial performance or results of operations for any period, in and of itself, or any failure by the Borrower to meet its internal or published projections, budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such failure that are not otherwise excluded from this definition of "Material Adverse Change" may be taken into account in determining whether there has been a Material Adverse Change), (vi) any outbreak or escalation of hostilities or war or any act of terrorism, (vii) the announcement of the Acquisition Agreement and the transactions contemplated thereby, including any failure by the Borrower to meet any published analyst estimates or expectations of the Borrower's revenue, earnings or other financial performance or results of operations for any period, in and of itself, or any failure by the Borrower to meet its internal or published projections, budget, plan or forecast of its revenues, earnings or other financial performance or results of operations, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such failure that are not otherwise excluded from this definition of "Material Adverse Change" may be taken into account in determining whether there has been a Material Adverse Change), (viii) any breach or default by the Borrower in the performance of any of its obligations under the Acquisition Agreement, (ix) any action taken by the Borrower, or which the Borrower causes to be taken by any of its Subsidiaries (other than pursuant to Section 5.1 of the Acquisition Agreement), in each case which is required by the Acquisition Agreement or (x) any actions taken (or omitted to be taken (other than pursuant to Section 5.1 of the Acquisition Agreement)) at the request of Holdings or Merger Sub, except in the case of each of clauses (i) through (iii) and (vi), to the extent such changes have a disproportionately adverse impact on the Borrower and its Subsidiaries, taken as a whole, relative to other industry participants.

"Material Adverse Effect" shall mean a circumstance or condition affecting the business, assets, operations, properties or financial condition of the Borrower and the Subsidiaries, taken as a whole, that would, individually or in the aggregate, materially adversely affect (a) the ability of the Borrower and the other Credit Parties, taken as a whole, to perform their payment obligations under this Agreement or any of the other Credit Documents or (b) the rights and remedies of the Administrative Agent and the Lenders under this Agreement or any of the other Credit Documents.
“Material Subsidiary” shall mean, at any date of determination, (i) each Restricted Subsidiary of the Borrower (a) whose total assets at the last day of the Test Period ending on the last day of the most recent fiscal period for which Section 9.1 Financials have been delivered were equal to or greater than 5% of the Consolidated Total Assets of the Borrower and the Restricted Subsidiaries at such date or (b) whose revenues during such Test Period were equal to or greater than 5% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP; provided that if, at any time and from time to time after the Closing Date, Restricted Subsidiaries that are not Material Subsidiaries have, in the aggregate, (x) total assets at the last day of such Test Period equal to or greater than 7.5% of the Consolidated Total Assets of the Borrower and the Restricted Subsidiaries at such date or (y) revenues during such Test Period equal to or greater than 7.5% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP, then the Borrower shall, on the date on which financial statements for such quarter are delivered pursuant to this Agreement, designate in writing to the Administrative Agent one or more of such Restricted Subsidiaries as “Material Subsidiaries.”

“Maturity Date” shall mean the Initial Term Loan Maturity Date or the New Term Loan Maturity Date, as applicable.

“Maximum Incremental Facilities Amount” shall mean, at any date of determination, (a) the sum of (i) $500,000,000 plus (ii) an additional amount if, after giving effect to the incurrence of such additional amount, the Borrower (x) would be in compliance with the Senior Secured Leverage Test and (y) could incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 10.1 minus (b) the sum of (i) the aggregate principal amount of New Term Loan Commitments incurred pursuant to Section 2.14(a) prior to such date and (ii) the aggregate principal amount of Permitted Other Indebtedness issued or incurred pursuant to Section 10.1(bb)(i)(a) prior to such date.

“Merger” shall have the meaning provided in the preamble to this Agreement.

“Merger Sub” shall mean Blue Merger Sub Inc., a Delaware corporation and a direct wholly-owned subsidiary of Holdings.

“Minimum Borrowing Amount” shall mean (a) with respect to a Borrowing of LIBOR Loans, $5,000,000 (or, if less, the entire remaining applicable Commitments at the time of such Borrowing) and (b) with respect to a Borrowing of ABR Loans, $1,000,000 (or, if less, the entire remaining applicable Commitments at the time of such Borrowing).

“Minimum Equity Amount” shall have the meaning provided in the preamble to this Agreement.

“Minimum Tender Condition” shall have the meaning provided in Section 2.15(b).

“Moody’s” shall mean Moody’s Investors Service, Inc. or any successor by merger or consolidation to its business.

“Mortgage” shall mean a mortgage, deed of trust, deed to secure debt, trust deed or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably acceptable to the Collateral Agent, together with such terms and provisions as may be required by local laws.
“Mortgaged Property” shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party and identified on Schedule 1.1(b), and each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.14.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Cash Proceeds” shall mean, with respect to any Prepayment Event and any incurrence of Permitted Other Indebtedness, (a) the gross cash proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of the Borrower or any of the Restricted Subsidiaries in respect of such Prepayment Event or incurrence of Permitted Other Indebtedness, as the case may be, less (b) the sum of:

(i) the amount, if any, of all taxes paid or estimated to be payable by the Borrower or any of the Restricted Subsidiaries in connection with such Prepayment Event or incurrence of Permitted Other Indebtedness,

(ii) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) associated with the assets that are the subject of such Prepayment Event and (y) retained by the Borrower or any of the Restricted Subsidiaries, provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(iii) the amount of any Indebtedness (other than Permitted Other Indebtedness) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(iv) in the case of any Asset Sale Prepayment Event or Casualty Event or Permitted Sale Leaseback, the amount of any proceeds of such Prepayment Event that the Borrower or any Restricted Subsidiary has reinvested (or intends to reinvest within the Reinvestment Period or has entered into a binding commitment prior to the last day of the Reinvestment Period to reinvest) in the business of the Borrower or any of the Restricted Subsidiaries, provided that any portion of such proceeds that has not been so reinvested within such Reinvestment Period (with respect to such Prepayment Event, the "Deferred Net Cash Proceeds") shall, unless the Borrower or a Restricted Subsidiary has entered into a binding commitment prior to the last day of such Reinvestment Period to reinvest such proceeds no later than 180 days following the last day of such Reinvestment Period, (x) be deemed to be Net Cash Proceeds of an Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback occurring on the last day of such Reinvestment Period or, if later, 180 days after the date the Borrower or such Restricted Subsidiary has entered into such binding commitment, as applicable (such last day or 180th day, as applicable, the "Deferred Net Cash Proceeds Payment Date"), and (y) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i),

(v) in the case of any Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback by a non-wholly-owned Restricted Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (v)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly-owned Restricted Subsidiary as a result thereof,
(vi) reasonable and customary fees paid by the Borrower or a Restricted Subsidiary in connection with any of the foregoing, and
(vii) in the case of a Disposition, in an aggregate amount not to exceed $200,000,000, any cash proceeds and the fair market value of any Cash Equivalents received in connection with sales of manufacturing facilities and related assets, in connection with establishing outsourcing arrangements providing substantially similar functionality,
in each case only to the extent not already deducted in arriving at the amount referred to in clause (a) above.

"Net Income" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

"New Term Loan" shall have the meaning provided in Section 2.14(c).

"New Term Loan Commitments" shall have the meaning provided in Section 2.14(a).

"New Term Loan Lender" shall have the meaning provided in Section 2.14(c).

"New Term Loan Maturity Date" shall mean the date on which a New Term Loan matures.

"New Term Loan Repayment Amount" shall have the meaning provided in Section 2.5(c).

"New Term Loan Repayment Date" shall have the meaning provided in Section 2.5(c).

"Non-Consenting Lender" shall have the meaning provided in Section 13.7(b).

"Non-U.S. Lender" shall mean any Agent or Lender that is not a "United States person" as defined by Section 7701(a)(30) of the Code.

"Notice of Borrowing" shall have the meaning provided in Section 2.3(a).

"Notice of Conversion or Continuation" shall have the meaning provided in Section 2.6(a).

"Obligations" shall mean all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Credit Document or otherwise with respect to any Loan or under any Secured Hedge Agreement entered into with the Borrower or any of its Domestic Subsidiaries, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities and other amounts payable by any Credit Party under any Credit Document.
"Other Taxes" means all present or future stamp or documentary Taxes or any other excise, property, intangible, mortgage recording or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include any of the foregoing Taxes (i) that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("Assignment Taxes") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrower, or (ii) Excluded Taxes.

"Overnight Rate" shall mean, for any day, the greater of (i) the Federal Funds Effective Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

"Participant" shall have the meaning provided in Section 13.6(c).

"Participant Register" shall have the meaning provided in Section 13.6(c).

"Patriot Act" shall have the meaning provided in Section 13.18.

"PBGC" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pension Plan" shall mean any Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA.

"Perfection Certificate" shall mean a certificate of the Borrower in the form of Exhibit D or any other form approved by the Administrative Agent.

"Permitted Additional Debt" shall mean unsecured Indebtedness, issued by the Borrower or a Guarantor, (a) the terms of which (i) do not provide for any scheduled repayment, mandatory redemption or sinking fund obligation prior to the Latest Term Loan Maturity Date (other than customary offers to purchase upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default) and (ii) to the extent the same are subordinated, provide for customary subordination to the Obligations under the Credit Documents, (b) the covenants, events of default, guarantees and other terms of which (other than interest rate and redemption premiums), taken as a whole, are not more restrictive to the Borrower and the Restricted Subsidiaries than those herein (or to the extent such Permitted Additional Debt constitutes refinancing Indebtedness of the Senior Notes, those applicable to the Senior Notes being refinanced); provided that a certificate of an Authorized Officer of the Borrower is delivered to the Administrative Agent at least five Business Days (or such shorter period as the Administrative Agent may reasonably agree) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees) and (c) of which no Subsidiary of the Borrower (other than a Guarantor or any guarantor of the Indebtedness being refinanced by such Permitted Additional Debt, if applicable) is an obligor.
"Permitted Debt Exchange" shall have the meaning provided in Section 2.15(a).

"Permitted Debt Exchange Notes" shall have the meaning provided in Section 2.15(a).

"Permitted Debt Exchange Offer" shall have the meaning provided in Section 2.15(a).

"Permitted Holders" shall mean each of (i) the Initial Investors and their respective Affiliates and members of management of the Borrower (or its direct or indirect parent) who are holders of Equity Interests of the Borrower (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Borrower, Holdings or any other direct or indirect parent company of the Borrower and (ii) any direct or indirect parent of the Borrower formed not in connection with, or in contemplation of, a transaction (other than Transactions) that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control.

"Permitted Investments" shall mean:

(a) any Investment in the Borrower or any Restricted Subsidiary;
(b) any Investment in cash, Cash Equivalents or Investment Grade Securities;
(c) any Investment by the Borrower or any Restricted Subsidiary in a Person that is engaged in a Similar Business if as a result of such Investment (a "Permitted Acquisition") (1) such Person becomes a Restricted Subsidiary or (2) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary, and, in each case, any Investment held by such Person; provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;
(d) any Investment in securities or other assets not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with a Disposition made pursuant to Section 10.4 or any other disposition of assets not constituting a Disposition;
(e) any Investment existing on the Closing Date and listed on Schedule 10.5;
(f) any Investment acquired by the Borrower or any Restricted Subsidiary (1) in exchange for any other Investment or accounts receivable held by the Borrower or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the Borrower of such other Investment or accounts receivable or (2) as a result of a foreclosure by the Borrower or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;
(g) Hedging Obligations permitted under clause (j) of Section 10.1;
(h) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (h) that are at that time outstanding, not to exceed the greater of (x) $175,000,000 and (y) 2.25% of Consolidated Total Assets.
at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(i) Investments the payment for which consists of Equity Interests of the Borrower, Holdings or any other direct or indirect parent company of the Borrower (exclusive of Disqualified Equity Interests); provided that such Equity Interests will not increase the amount available for Restricted Payments under clause (iii) of Section 10.5(a);

(j) guarantees of Indebtedness permitted under Section 10.1;

(k) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 9.9;

(l) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(m) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (m) that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed the greater of (x) $175,000,000 and (y) 2.25% of Consolidated Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(n) Investments relating to any special purpose wholly-owned Subsidiary of the Borrower organized in connection with a Receivables Facility that, in the good faith determination of the board of directors of the Borrower, are necessary or advisable to effect such Receivables Facility;

(o) advances to, or guarantees of Indebtedness of, employees not in excess of $25,000,000 outstanding at any one time, in the aggregate; and

(p) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Borrower or any direct or indirect parent company thereof.

"Permitted Liens" shall mean, with respect to any Person:

(1) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business;

(2) Liens imposed by law, such as carriers', warehousemen's, materialmen's, repairmen's and mechanics' Liens, in each case for sums not yet overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an
appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for taxes, assessments or other governmental charges not yet overdue for a period of more than 30 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP, or for property taxes on property the Borrower or one of its Subsidiaries has determined to abandon if the sole recourse for such tax, assessment, charge, levy or claim is to such property;

(4) Liens in favor of Borrowers of performance, surety, bid, indemnity, warranty, release, appeal or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph and telephone and cable television lines, gas and oil pipelines and other similar purposes, or zoning, building codes or other restrictions (including, without limitation, minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Indebtedness permitted to be incurred pursuant to clause (a) (provided that such Liens shall be subject to the ABL Intercreditor Agreement), (d), (l)(b), (r), (aa), (bb) or (cc) of Section 10.1, provided that, (i) in the case of clause (d), such Lien may not extend to any property or equipment (or assets affixed or appurtenant thereto) other than the property or equipment being financed or refinanced under such clause (d); (ii) in the case of clause (r), such Lien may not extend to any assets other than the assets owned by the Foreign Subsidiaries incurring such Indebtedness; (iii) in the case of Liens securing Permitted Other Indebtedness Obligations that constitute First Lien Obligations pursuant to this clause (6), the applicable Permitted Other Indebtedness Secured Parties (or a representative thereof on behalf of such holders) shall enter into security documents with terms and conditions not materially more restrictive to the Credit Parties, taken as a whole, than the terms and conditions of the Security Documents and (x) in the case of the first such issuance of Permitted Other Indebtedness constituting First Lien Obligations, the Collateral Agent, the Administrative Agent and the representative for the holders of such Permitted Other Indebtedness Obligations shall have entered into the First Lien Intercreditor Agreement and shall have become a party to the ABL Intercreditor Agreement and (y) in the case of subsequent issuances of Permitted Other Indebtedness constituting First Lien Obligations, the Collateral Agent, the Administrative Agent and the representative for the holders of such Permitted Other Indebtedness Obligations shall have entered into the First Lien Intercreditor Agreement and the ABL Intercreditor Agreement in accordance with the terms thereof; and (iv) in the case of Liens securing Permitted Other Indebtedness Obligations that do not constitute First Lien Obligations pursuant to this clause (6), the applicable Permitted Other Indebtedness Secured Parties (or a representative thereof on behalf of such holders) shall enter into security documents with terms and conditions not materially more restrictive to the Credit Parties, taken as a whole, than the terms and conditions of the Security Documents and shall (x) in the case of the first such issuance of Permitted Other Indebtedness that do not constitute First Lien Obligations, the Collateral Agent, the Administrative Agent and the representative of the holders of such Permitted Other Indebtedness Obligations shall have entered
into the Second Lien Intercreditor Agreement and shall have become a party to the Second Lien Intercreditor Agreement and (y) in the case of subsequent issuances of Permitted Other Indebtedness that do not constitute First Lien Obligations, the representative for the holders of such Permitted Other Indebtedness shall have become a party to the Second Lien Intercreditor Agreement and the ABL Intercreditor Agreement in accordance with the terms thereof; without any further consent of the Lenders, the Administrative Agent and the Collateral Agent shall be authorized to execute and deliver on behalf of the Secured Parties the First Lien Intercreditor Agreement and the Second Lien Intercreditor Agreement contemplated by this clause (6);

(7) Liens existing on the Closing Date and set forth on Schedule 10.2;

(8) Liens on property or shares of stock of a Person at the time such Person becomes a Subsidiary; provided such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary; provided further, however, that such Liens may not extend to any other property owned by the Borrower or any Restricted Subsidiary;

(9) Liens on property at the time the Borrower or a Restricted Subsidiary acquired the property, including any acquisition by means of a merger or consolidation with or into the Borrower or any Restricted Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, merger or consolidation; provided further that the Liens may not extend to any other property owned by the Borrower or any Restricted Subsidiary;

(10) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary permitted to be incurred in accordance with the Section 10.1.

(11) Liens securing Hedging Obligations and Cash Management Services so long as the related Indebtedness is, and is permitted hereunder to be, secured by a Lien on the same property securing such Hedging Obligations;

(12) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(13) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Borrower or any Restricted Subsidiary and do not secure any Indebtedness;

(14) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or consignments entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(15) Liens in favor of the Borrower or any Guarantor;

(16) Liens on equipment of the Borrower or any Restricted Subsidiary granted in the ordinary course of business to the Borrower's client at which such equipment is located;

(17) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;
(18) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6) (other than Indebtedness incurred under Section 10.1(aa), 10.1(bb) or 10.1(cc)), (7), (8), (9), (10), (11), (15) and (20) of this definition of "Permitted Liens" provided that (x) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15) and (20) at the time the original Lien became a Permitted Lien under this Agreement, and (B) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(19) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business;

(20) [Reserved];

(21) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed $50,000,000 at any one time outstanding;

(22) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.11 so long as such Liens are adequately bonded and any appropriate legal proceedings that may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(23) 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;

(24) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(25) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 10.1; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(26) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(27) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;
(28) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted under this Agreement;

(29) 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 Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(30) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(31) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business;

(32) zoning by-laws and other land use restrictions, including, without limitation, site plan agreements, development agreements and contract zoning agreements;

(33) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(34) Liens on real property located in Topeka, Kansas granted as security for synthetic lease obligations; and

(35) any Lien granted pursuant to a security agreement between the Borrower or any Restricted Subsidiary and a licensee of intellectual property to secure the damages, if any, of such licensee resulting from the rejection of the licensee of such licensee in a bankruptcy, reorganization or similar proceeding with respect to the Borrower or such Restricted Subsidiary; provided that such Liens, in the aggregate, do not encumber any assets of the Borrower or any Restricted Subsidiary other than the assets securing such Liens in existence on the Closing Date.

For purposes of this definition, the term "Indebtedness" shall be deemed to include interest on such Indebtedness.

"Permitted Other Indebtedness" shall mean subordinated or senior Indebtedness (which Indebtedness may (x) be unsecured, (y) have the same lien priority as the First Lien Obligations or (z) be secured by a Lien ranking junior to the Lien securing the First Lien Obligations), in each case issued or incurred by the Borrower or a Guarantor, (a) the terms of which do not provide for any scheduled repayment, mandatory repayment or redemption or sinking fund obligations prior to, at the time of incurrence, the Latest Term Loan Maturity Date (other than, in each case, customary offers to repurchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights after an event of default), (b) the covenants, events of default, guarantees, collateral and other terms of which (other than interest rate and redemption or prepayment premiums), taken as a whole, are not more restrictive to the Borrower and the Restricted Subsidiaries than those herein; provided that a certificate of an Authorized Officer of the Borrower delivered to the Administrative Agent at least five Business Days (or such shorter period as the Administrative Agent may reasonably agree) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence...
that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within two Business Days after receipt of such certificate that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees), (c) of which no Subsidiary of the Borrower (other than a Guarantor) is an obligor and (d) that, if secured, are not secured by any assets other than the Collateral.

"Permitted Other Indebtedness Documents" shall mean any document or instrument (including any guarantee, security agreement or mortgage and which may include any or all of the Credit Documents) issued or executed and delivered with respect to any Permitted Other Indebtedness by any Credit Party.

"Permitted Other Indebtedness Obligations" shall mean, if any Permitted Other Indebtedness is issued or incurred, all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Permitted Other Indebtedness Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Permitted Other Indebtedness Obligations of the applicable Credit Parties under the Permitted Other Indebtedness Documents (and any of their Restricted Subsidiaries to the extent they have obligations under the Permitted Other Indebtedness Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities and other amounts payable by any such Credit Party under any Permitted Other Indebtedness Document.

"Permitted Other Indebtedness Secured Parties" shall mean the holders from time to time of secured Permitted Other Indebtedness Obligations (and any representative on their behalf).

"Permitted Sale Leaseback" shall mean any Sale Leaseback consummated by the Borrower or any of the Restricted Subsidiaries after the Closing Date, provided that any such Sale Leaseback not between (a) a Credit Party and another Credit Party or (b) a Restricted Subsidiary that is not a Credit Party to another Restricted Subsidiary that is not a Credit Party is consummated for fair value as determined at the time of consummation in good faith by (i) the Borrower or such Restricted Subsidiary and, in the case of any Sale Leaseback (or series of related Sales Leasebacks) the aggregate proceeds of which exceed $50,000,000, (ii) the board of directors of the Borrower or such Restricted Subsidiary (which such determination may take into account any retained interest or other Investment of the Borrower or such Restricted Subsidiary in connection with, and any other material economic terms of, such Sale Leaseback).

"Person" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise or any Governmental Authority.

"Plan" shall mean any employee benefit plan as defined in Section 3(3) of ERISA, including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" shall have the meaning provided in Section 13.17(b).
“Pledge Agreement” shall mean (a) the Pledge Agreement, entered into by the Credit Parties party thereto and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit E, on the Closing Date, and (b) any other pledge agreement with respect to all of the Obligations delivered pursuant to Section 9.12, in each case, as the same may be amended, supplemented or otherwise modified from time to time.

“Post-Acquisition Period” shall mean, with respect to any Permitted Acquisition, the period beginning on the date such Permitted Acquisition is consummated and ending on the last day of the sixth full consecutive fiscal quarter immediately following the date on which such Permitted Acquisition is consummated.

“Prepayment Event” shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event, Casualty Event or any Permitted Sale Leaseback.

“Prime Rate” shall mean the “prime rate” referred to in the definition of “ABR.”

“Pro Forma Adjustment” shall mean, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, with respect to the Acquired EBITDA of the applicable Acquired Entity or Business or Converted Restricted Subsidiary or the Consolidated EBITDA of the Borrower, the pro forma increase or decrease in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, projected by the Borrower in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of such Acquired Entity or Business or Converted Restricted Subsidiary with the operations of the Borrower and the Restricted Subsidiaries; provided that (i) at the election of the Borrower, such Pro Forma Adjustment shall not be required to be determined for any Acquired Entity or Business or Converted Restricted Subsidiary to the extent the aggregate consideration paid in connection with such acquisition was less than $10,000,000 and (ii) so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, it may be assumed, for purposes of projecting such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, that the applicable amount of such cost savings will be realizable during the entirety of such Test Period, or the applicable amount of such additional costs, as applicable, will be incurred during the entirety of such Test Period; provided further that any such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, shall be without duplication for cost savings or additional costs already included in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, for such Test Period.

“Pro Forma Adjustment Certificate” shall mean any certificate of an Authorized Officer of the Borrower delivered pursuant to Section 9.1(h) or Section 9.1(d).

“Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect” shall mean, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all Stock in any Subsidiary of the Borrower or any division, product line, or facility used for operations of the Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or Investment described in the definition of "Specified Transaction," shall be included, (b) any retirement of Indebtedness and (c) any incurrence or assumption of Indebtedness by the Borrower or any of the Restricted Subsidiaries in connection therewith (it being agreed
that if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination).

"Pro Forma Entity" shall have the meaning provided in the definition of the term "Acquired EBITDA."

"Prohibited Transaction" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"Qualified Proceeds" means assets that are used or useful in, or Stock of any Person engaged in, a Similar Business.

"Real Estate" shall have the meaning provided in Section 9.1(f).

"Receivables Facility" means any one or more receivables financing facilities, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the Obligations of which are non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such facilities) to the Borrower and the Restricted Subsidiaries (other than a Receivables Subsidiary) pursuant to which the Borrower or any Restricted Subsidiary sells its accounts receivable to either (a) a Person that is not a Restricted Subsidiary or (b) a Receivables Subsidiary that in turn funds such purchase by purporting to sell its accounts receivable to a Person that is not a Restricted Subsidiary or by borrowing from such a Person or from another Receivables Subsidiary that in turn funds itself by borrowing from such a Person.

"Receivables Subsidiary" means any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto.

"Refinanced Term Loans" shall have the meaning provided in Section 13.1.

"Refinancing Permitted Other Indebtedness" shall have the meaning provided in Section 10.1(bb)(ii).

"Refunding Capital Stock" shall have the meaning provided in Section 10.5(b).

"Register" shall have the meaning provided in Section 13.6(b)(iv).

"Regulation T" shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"Regulation U" shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"Regulation X" shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"Reinvestment Period" shall mean 12 months following the date of receipt of Net Cash Proceeds of an Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback.

"Rejection Notice" shall have the meaning provided in Section 5.2(b).
“Related Parties” shall mean, with respect to any specified Person, such Person’s Affiliates and the directors, officers, employees, agents, trustees and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

“Release” shall mean any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into the environment, or into, from or through any building.

“Reorganization” shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Repayment Amount” shall mean the Initial Term Loan Repayment Amount, a New Term Loan Repayment Amount with respect to any Series or an Extended Term Loan Repayment Amount with respect to any Extension Series, as applicable.

“Replacement Term Loans” shall have the meaning provided in Section 13.1.

“Reportable Event” shall mean any “reportable event,” as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan, other than those events as to which notice is waived pursuant to DOL Reg. § 4043 as in effect on the date hereof (no matter how such notice requirement may be changed in the future).

“Repricing Transaction” means the prepayment or refinancing of all or a portion of the Term Loans with the incurrence by any Credit Party of any long-term bank debt financing incurred for the primary purpose of repaying, refinancing, substituting or replacing the Term Loans and having an effective interest cost or weighted average yield (as determined by the Administrative Agent consistent with generally accepted financial practice and, in any event, excluding any arrangement or commitment fees in connection therewith) that is less than the interest rate for or weighted average yield (as determined by the Administrative Agent on the same basis) of the Term Loans, including without limitation, as may be effected through any amendment to this Agreement relating to the interest rate for, or weighted average yield of, the Term Loans.

“Required Initial Term Loan Lenders” shall mean, at any date, Lenders having or holding a majority of the sum of (a) the Total Initial Term Loan Commitment at such date and (b) the aggregate outstanding principal amount of the Initial Term Loans (excluding Initial Term Loans held by Affiliated Lenders) at such date.

“Required Lenders” shall mean, at any date, (a) Lenders having or holding a majority of the sum of (i) the Total Term Loan Commitment at such date and (ii) the outstanding principal amount of the Term Loans at such date, in each case excluding the Commitments and Loans held by Affiliated Lenders, or (b) if the Total Term Loan Commitments have been terminated or for the purposes of acceleration pursuant to Section 11, Lenders having or holding a majority of the outstanding principal amount of the Loans (excluding the Loans of Affiliated Lenders) in the aggregate at such date.

“Requirement of Law” shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.
“Restricted Foreign Subsidiary” shall mean a Foreign Subsidiary that is a Restricted Subsidiary.

“Restricted Investment” shall mean an Investment other than a Permitted Investment.

“Restricted Payment” shall have the meaning provided in Section 10.5(a).

“Restricted Subsidiary” shall mean any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“Retained Declined Proceeds” shall have the meaning provided in Section 5.2(h).

“S&P” shall mean Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

“Sale Leaseback” shall mean any transaction or series of related transactions pursuant to which the Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

“Scheduled Dispositions” shall have the meaning provided in Section 10.4(k).

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Second Lien Intercreditor Agreement” shall mean an Intercreditor Agreement substantially in the form of Exhibit L among the Administrative Agent, the Collateral Agent and the representatives for purposes thereof for any other Permitted Other Indebtedness Secured Parties that are holders of Permitted Other Indebtedness Obligations having a Lien on the Collateral ranking junior to the Lien securing the Obligations, with such changes thereto as may be reasonably acceptable to the Administrative Agent; provided that such changes are not materially adverse to the Lenders.

“Section 2.14 Additional Amendment” shall have the meaning provided in Section 2.14(f)(iv).

“Section 9.1 Financials” shall mean the financial statements delivered, or required to be delivered, pursuant to Section 9.1(a) or (b) together with the accompanying officer's certificate delivered, or required to be delivered, pursuant to Section 9.1(d).

“Secured Hedge Agreement” shall mean any Hedge Agreement that is entered into by and between the Borrower or any Restricted Subsidiary and any Hedge Bank.

“Secured Parties” shall mean the Administrative Agent, the Collateral Agent and each Lender, in each case with respect to the Term Loans, each Hedge Bank that is party to any Secured Hedge Agreement with the Borrower or any Domestic Subsidiary, and each sub-agent pursuant to Section 12 appointed by the Administrative Agent with respect to matters relating to the Term Loans or the Collateral Agent with respect to matters relating to any Security Document.

“Securitization” shall mean a public or private offering by a Lender or any of its Affiliates or their respective successors and assigns of securities or notes which represent an interest in, or
which are collateralized, in whole or in part, by the Loans and the Lender's rights under the Credit Documents.

"Security Agreement" shall mean the Security Agreement entered into by the Borrower, the other grantors party thereto and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F, as the same may be amended, supplemented or otherwise modified from time to time.

"Security Documents" shall mean, collectively, (a) the Guarantee, (b) the Pledge Agreement, (c) the Security Agreement, (d) the Mortgages, (e) the ABL Intercreditor Agreement, (f) if executed, the First Lien Intercreditor Agreement, (g) if executed, the Second Lien Intercreditor Agreement and (h) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure all of the Obligations; provided that each Security Document shall be subject to the 1989 Intercreditor Agreement.

"Senior Notes" shall have the meaning provided in the recitals to this Agreement and any modification, replacement, refinancing, refunding, renewal or extension thereof that constitutes Permitted Additional Debt.

"Senior Notes Indenture" shall mean the Indenture, dated as of the Closing Date, among the Borrower, the guarantors party thereto and a trustee, pursuant to which the Senior Notes shall be issued, as the same may be amended, supplemented or otherwise modified from time to time in accordance therewith.

"Senior Notes Offering" shall have the meaning provided in the recitals of this Agreement.

"Senior Secured Leverage Test" shall mean, as of any date of determination, with respect to the last day of the most recently ended Test Period, the Consolidated Senior Secured Debt to Consolidated EBITDA Ratio shall be no greater than 4.00 to 1.0.

"Series" shall have the meaning provided in Section 2.14(a).

"Similar Business" means any business conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business that is similar, reasonably related, incidental or ancillary thereto.

"Sold Entity or Business" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Solvent" shall mean, with respect to any Person, that as of the Closing Date, (a) (i) the sum of such Person's debt (including contingent liabilities) does not exceed the present fair saleable value of such Person's present assets; (ii) such Person's capital is not unreasonably small in relation to its business as contemplated on the Closing Date; and (iii) such Person has not incurred and does not intend to incur, or believe that it will incur, debts including current obligations beyond its ability to pay such debts as they become due (whether at maturity or otherwise); and (b) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of

-46-
whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Specified Representations" shall mean the representations and warranties relating to the Company, its subsidiaries and their respective businesses made by the Company in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Holdings has the right to terminate its obligations under the Acquisition Agreement as a result of a breach of such representations and warranties in the Acquisition Agreement.

"Specified Transaction" shall mean, with respect to any period, any Investment, any Disposition of assets, incurrence or repayment of Indebtedness, Dividend, Subsidiary designation, New Term Loan or other event that by the terms of this Agreement requires "Pro Forma Compliance" with a test or covenant hereunder or requires such test or covenant to be calculated on a "Pro Forma Basis."

"Sponsor Management Agreement" means that certain Monitoring Agreement dated as of March 8, 2011, among Holdings, the Borrower, and certain affiliates of the Sponsors, as in effect on the Closing Date and as may be amended, modified, supplemented, restated, replaced or substituted so long as such amendment, modification, supplement, restatement, replacement or substitution is not, when taken as a whole, materially disadvantageous to the Lenders compared to the Monitoring Agreement in effect on the Closing Date.

"Sponsors" shall mean any of (i) KKR and its Affiliates, (ii) Centerview and its Affiliates and (iii) Vestar and its Affiliates, in each case excluding portfolio companies of any of the foregoing.

"SPV" shall have the meaning provided in Section 13.6(g).

"Stock" shall mean shares of capital stock or shares in the capital, as the case may be (whether denominated as common stock or preferred stock or ordinary shares or preferred shares, as the case may be), beneficial, partnership or membership interests, participations or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting.

"Stock Equivalents" shall mean all securities convertible into or exchangeable for Stock and all warrants, options or other rights to purchase or subscribe for any Stock, whether or not presently convertible, exchangeable or exercisable.

"Subordinated Indebtedness" shall mean Indebtedness of the Borrower or any Guarantor that is by its terms subordinated in right of payment to the obligations of the Borrower and such Guarantor, as applicable, under this Agreement.

"Subsidiary" of any Person shall mean and include (a) any corporation more than 50% of whose Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (b) any limited liability company, partnership, association, joint venture or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time. Unless otherwise expressly provided, all references herein to a "Subsidiary" shall mean a Subsidiary of the Borrower.

"Successor Borrower" shall have the meaning provided in Section 10.3(a).
"Syndication Agent" shall mean Barclays Capital, together with its Affiliates, as syndication agent for the Lenders under this Agreement and the other Credit Documents.

"Taxes" shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

"Term Loan Commitment" shall mean, with respect to each Lender, such Lender's Initial Term Loan Commitment, and, if applicable, New Term Loan Commitment with respect to any Series.

"Term Loan Extension Request" shall have the meaning provided in Section 2.14 (f)(i).

"Term Loan Lender" shall mean, at any time, any Lender that has a Term Loan Commitment or an outstanding Term Loan.

"Term Loans" shall mean the Initial Term Loans, any New Term Loans and any Extended Term Loans, collectively.

"Term Priority Collateral" shall mean all Collateral other than ABL Priority Collateral.

"Test Period" shall mean, for any determination under this Agreement, the four consecutive fiscal quarters of the Borrower then last ended.

"Title Policy" shall have the meaning provided in Section 9.14.

"Total Credit Exposure" shall mean, at any date, the sum, without duplication, of (a) the Total Term Loan Commitment at such date and (b) without duplication of clause (a), the aggregate outstanding principal amount of all Term Loans at such date.

"Total Initial Term Loan Commitment" shall mean the sum of the Initial Term Loan Commitments of all Lenders.

"Total Term Loan Commitment" shall mean the sum of the Initial Term Loan Commitments, and the New Term Loan Commitments, if applicable, of all the Lenders.

"Transaction Expenses" shall mean any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Credit Documents and the transactions contemplated hereby and thereby.

"Transactions" shall mean, collectively, the transactions contemplated by this Agreement, the Senior Notes Indenture, the Merger and the Equity Investments and any repayment, repurchase, prepayment or defeasance of Indebtedness of the Borrower or any of its Subsidiaries in connection therewith.

"Transferee" shall have the meaning provided in Section 13.6(e).

"Type" shall mean as to any Term Loan, its nature as an ABR Loan or a LIBOR Loan.

"Unrestricted Subsidiary" shall mean (1) any Subsidiary of the Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the board of directors of the Borrower, as provided below) and (2) any Subsidiary of an Unrestricted Subsidiary.
The board of directors of the Borrower may designate any Subsidiary of the Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Borrower or any Subsidiary of the Borrower (other than any Subsidiary of the Subsidiary to be so designated); provided that

(a) any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or other governing body are owned, directly or indirectly, by the Borrower,

(b) such designation complies with Section 10.5, and

(c) each of (1) the Subsidiary to be so designated and (2) its Subsidiaries has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Borrower or any Restricted Subsidiary.

The board of directors of the Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation no Default shall have occurred and be continuing and either: (1) the Borrower could incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 10.1 or (2) the Fixed Charge Coverage Ratio for the Borrower and the Restricted Subsidiaries would be greater than such ratio for the Borrower and the Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the board of directors of the Borrower shall be notified by the Borrower to the Administrative Agent by promptly delivering to the Administrative Agent a copy of the Board Resolution giving effect to such designation and a certificate of an Authorized Officer certifying that such designation complied with the foregoing provisions.

"U.S." and "United States" shall mean the United States of America.

"U.S. Lender" shall have the meaning provided in Section 5.4(e).

"Vestar" shall mean Vestar Capital Partners V, L.P.

"Voting Stock" shall mean, with respect to any Person, such Person's Stock or Stock Equivalents having the right to vote for the election of directors of such Person under ordinary circumstances.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

1.2. Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

-49-
1.3. Accounting Terms.

(a) 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.

(b) Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Specified Transaction occurs, the Consolidated Total Debt to Consolidated EBITDA Ratio, the Consolidated Senior Secured Debt to Consolidated EBITDA Ratio and the Senior Secured Leverage Test shall each be calculated with respect to such period and such Specified Transaction on a Pro Forma Basis.

1.4. Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under 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).

1.5. References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents) and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law.
SECTION 2. Amount and Terms of Credit

2.1. Commitments. Subject to and upon the terms and conditions herein set forth, each Lender having an Initial Term Loan Commitment severally agrees to make a loan or loans (each, an "Initial Term Loan") to the Borrower on the Closing Date. Such Term Loans (i) may at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or LIBOR Loans, provided that all Term Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term Loans of the same Type, (ii) may be repaid or prepaid in accordance with the provisions hereof, but once repaid or prepaid, may not be reborrowed, (iii) shall not exceed for any such Lender the Initial Term Loan Commitment of such Lender, and (iv) shall not exceed in the aggregate the Total Initial Term Loan Commitments. On the Initial Term Loan Maturity Date, all then unpaid Initial Term Loans shall be repaid in full in Dollars.

2.2. Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing of Term Loans shall be in a minimum amount of at least the Minimum Borrowing Amount for such Type of Loans and in a multiple of $1,000,000 in excess thereof. More than one Borrowing may be incurred on any date, provided that at no time shall there be outstanding more than 15 Borrowings of LIBOR Loans under this Agreement.

2.3. Notice of Borrowing.
   (a) The Borrower shall give the Administrative Agent at the Administrative Agent's Office (i) prior to 11:00 a.m. (New York City time) at least two Business Days' prior written notice (or telephonic notice promptly confirmed in writing) in the case of a Borrowing of Initial Term Loans to be made on the Closing Date if such Initial Term Loans are to be LIBOR Loans and (ii) prior to 11:00 a.m. (New York City time) written notice (or telephonic notice promptly confirmed in writing) in the case of a Borrowing of Initial Term Loans made on the Closing Date if such Initial Term Loans are to be ABR Loans. Such notice (a "Notice of Borrowing") shall specify (i) the identity of the Borrower, (ii) the aggregate principal amount of the Term Loans to be made, (iii) the date of the Borrowing (which shall be the Closing Date) and (iv) whether the Term Loans shall consist of ABR Loans and/or LIBOR Loans and, if the Term Loans are to include LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of the proposed Borrowing of Term Loans, of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing.
   (b) Without in any way limiting the obligation of the Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of the Borrower.

2.4. Disbursement of Funds.
   (a) No later than 2:00 p.m. (New York City time) on the date specified in each Notice of Borrowing, each Lender shall make available its pro rata portion, if any, of each Borrowing requested to be made on such date in the manner provided below; provided that on the Closing Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrower and the Administrative Agent for the purpose of consummating the Transactions.
   (b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments, and in immediately available funds to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will make available to the Borrower,
by depositing to an account designated by the Borrower to the Administrative Agent the aggregate of the amounts so made available in the applicable currency. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent’s demand therefor the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent in the applicable currency. The Administrative Agent shall also be entitled to recover from such Lender or the Borrower interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrower, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

2.5. Repayment of Loans; Evidence of Debt.

(a) The Borrower shall repay to the Administrative Agent, for the benefit of the applicable Lenders, on the Initial Term Loan Maturity Date, the then-outstanding Initial Term Loans, in Dollars.

(b) The Borrower shall repay to the Administrative Agent, in Dollars, for the benefit of the Initial Term Loan Lenders, on each date set forth below (or, if not a Business Day, the immediately preceding Business Day) (each, an “Initial Term Loan Repayment Date”), a principal amount in respect of the Initial Term Loans equal to (x) the outstanding principal amount Initial Term Loans on the Closing Date multiplied by (y) the percentage set forth below opposite such Initial Term Loan Repayment Date (each, an “Initial Term Loan Repayment Amount”):

<table>
<thead>
<tr>
<th>Date</th>
<th>Initial Term Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 30, 2011</td>
<td>0.25%</td>
</tr>
<tr>
<td>December 31, 2011</td>
<td>0.25%</td>
</tr>
<tr>
<td>March 31, 2012</td>
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</tr>
<tr>
<td>June 30, 2012</td>
<td>0.25%</td>
</tr>
<tr>
<td>September 30, 2012</td>
<td>0.25%</td>
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<tr>
<td>December 31, 2012</td>
<td>0.25%</td>
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<tr>
<td>March 31, 2013</td>
<td>0.25%</td>
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<tr>
<td>June 30, 2013</td>
<td>0.25%</td>
</tr>
<tr>
<td>September 30, 2013</td>
<td>0.25%</td>
</tr>
<tr>
<td>December 31, 2013</td>
<td>0.25%</td>
</tr>
<tr>
<td>March 31, 2014</td>
<td>0.25%</td>
</tr>
<tr>
<td>Date</td>
<td>Initial Term Loan</td>
</tr>
<tr>
<td>------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>June 30, 2014</td>
<td>0.25%</td>
</tr>
<tr>
<td>September 30, 2014</td>
<td>0.25%</td>
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<tr>
<td>December 31, 2014</td>
<td>0.25%</td>
</tr>
<tr>
<td>March 31, 2015</td>
<td>0.25%</td>
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<tr>
<td>June 30, 2015</td>
<td>0.25%</td>
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<tr>
<td>September 30, 2015</td>
<td>0.25%</td>
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<tr>
<td>December 31, 2015</td>
<td>0.25%</td>
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<tr>
<td>March 31, 2016</td>
<td>0.25%</td>
</tr>
<tr>
<td>June 30, 2016</td>
<td>0.25%</td>
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<tr>
<td>September 30, 2016</td>
<td>0.25%</td>
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<tr>
<td>December 31, 2016</td>
<td>0.25%</td>
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<tr>
<td>June 30, 2017</td>
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<tr>
<td>September 30, 2017</td>
<td>0.25%</td>
</tr>
<tr>
<td>December 31, 2017</td>
<td>0.25%</td>
</tr>
</tbody>
</table>

Initial Term Loan Maturity Date | Remaining outstanding amounts

(c) In the event that any New Term Loans are made, such New Term Loans shall, subject to Section 2.14(d), be repaid by the Borrower in the amounts (each, a "New Term Loan Repayment Amount") and on the dates (each a "New Term Loan Repayment Date") set forth in the applicable Joinder Agreement. In the event that any Extended Term Loans are established, such Extended Term Loans shall, subject to Section 2.14(f), be repaid by the Borrower in the amounts (each such amount with respect to any Extended Repayment Date, an "Extended Term Loan Repayment Amount") and on the dates (each, an "Extended Repayment Date") set forth in the applicable Extension Amendment.

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent shall maintain the Register pursuant to Section 13.6(b), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is an Initial Term Loan or New Term Loan, as applicable, the Type of each Loan made, and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.
2.6. Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrower shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 of the outstanding principal amount of Term Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Loans as LIBOR Loans for an additional Interest Period, provided that (i) no partial conversion of LIBOR Loans shall reduce the outstanding principal amount of LIBOR Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount, (ii) ABR Loans may not be converted into LIBOR Loans if a Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) LIBOR Loans may not be continued as LIBOR Loans for an additional Interest Period if a Default or Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion or continuation shall be effected by the Borrower by giving the Administrative Agent at the Administrative Agent's Office prior to 1:00 p.m. (New York City time) at least (i) three Business Days' notice, in the case of a continuation of or conversion to LIBOR Loans (other than in the case of a notice delivered on the Closing Date pursuant to clause (d), which shall be deemed to be effective on the Closing Date) or (ii) one Business Day's notice in the case of a conversion into ABR Loans prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans are to be converted into or continued as LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If any Default or Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of LIBOR Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrower shall be deemed to have elected to convert such Borrowing of LIBOR Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.

(c) No Loan may be converted into or continued as a Loan denominated in a different currency.

(d) Notwithstanding anything to the contrary herein, the Borrower may deliver a Notice of Conversion or Continuation pursuant to which the Borrower elects to irrevocably continue the outstanding principal amount of any Initial Term Loans subject to an interest rate Hedge Agreement as LIBOR Loans for each Interest Period until the expiration of the term of such applicable Hedge Agreement.

2.7. Pro Rata Borrowings. Each Borrowing of Initial Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Initial Term Loan Commitments. Each Borrowing of New Term Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable New Term Loan Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and
failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

2.8. Interest.

(a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable ABR Margin plus the ABR, in each case, in effect from time to time.

(b) The unpaid principal amount of each LIBOR Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable LIBOR Margin plus the relevant LIBOR Rate.

(c) If all or a portion of (i) the principal amount of any Loan or (ii) any interest payable thereon or any other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum that is (the "Default Rate") (x) in the case of overdue principal, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any other overdue amount, including overdue interest, to the extent permitted by applicable law, the rate described in Section 2.8(a) plus 2% from the date of such non-payment to the date on which such amount is paid in full (after as well as before judgment).

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in the same currency in which the Loan is denominated; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, quarterly in arrears on the last Business Day of each March, June, September and December (provided that the first such payment, if applicable, shall be on March 31, 2011), (ii) in respect of each LIBOR Loan, on the last day of each Interest Period applicable thereto, and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, (iii) in respect of each Loan, (A) on any prepayment in respect of LIBOR Loans, (B) at maturity (whether by acceleration or otherwise) and (C) after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of LIBOR Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

2.9. Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans in accordance with Section 2.6(a), the Borrower shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of the Interest Period applicable to such Borrowing, which Interest Period shall, at the option of the Borrower be a one, two, three or six or (if available to all the Lenders making such LIBOR Loans as determined by such Lenders in good faith based on prevailing market conditions) a nine or twelve month or shorter period.
Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of LIBOR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of LIBOR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of a LIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day; and

(d) the Borrower shall not be entitled to elect any Interest Period in respect of any LIBOR Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

2.10. Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent and (y) in the case of clauses (ii) and (iii) below, the Required Lenders shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the LIBOR Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such LIBOR Borrowing are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the interbank LIBOR market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate; or

(ii) at any time, that such Lenders shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any LIBOR Loans (other than any increase or reduction attributable to Taxes, described in paragraph (d) of this Section 2.10) because of (x) any change since the Closing Date in any applicable law, governmental rule, regulation, guideline or order (or in the interpretation or administration thereof and including the introduction of any new law or governmental rule, regulation, guideline or order), such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the interbank LIBOR market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any LIBOR Loan has become unlawful by compliance by such Lenders in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the interbank LIBOR market;
then, and in any such event, the Required Lenders (or the Administrative Agent, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrower with respect to LIBOR Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the case of clause (ii) above, the Borrower shall pay to such Lenders, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lenders for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to any such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of subclause (iii) above, the Borrower shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) as promptly as possible and, in any event, within the time period required by law.

(b) At any time that any LIBOR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a LIBOR Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if the affected LIBOR Loan is then being made pursuant to a Borrowing, cancel such Borrowing by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Borrower was notified by a Lender pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected LIBOR Loan is then outstanding, upon at least three Business Days’ notice to the Administrative Agent, require the affected Lender to convert each such LIBOR Loan into an ABR Loan, provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy of any Lender or compliance by any Lender or its parent with any Change in Law relating to capital adequacy occurring after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or its parent's or its Affiliate's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's or its parent's policies with respect to capital adequacy), then from time to time, promptly after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or its parent for such reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date. Each Lender, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) upon receipt of such notice.

(d) It is understood that this Section 2.10 shall not apply to (i) Taxes indemnifiable under Section 5.4, (ii) Taxes imposed on gross or net income, profits or revenue, including value-added or similar Taxes, (iii) Excluded Taxes or (iv) Other Taxes.

-57-
2.11. Compensation. If (a) any payment of principal of any LIBOR Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such LIBOR Loan as a result of a payment or conversion pursuant to Section 2.5, 2.6, 2.10, 5.1, 5.2 or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of LIBOR Loans is not made as a result of a withdrawn Notice of Borrowing, (c) any ABR Loan is not converted into a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation, (d) any LIBOR Loan is not continued as a LIBOR Loan, as the case may be, as a result of a withdrawn Notice of Conversion or Continuation or (e) any prepayment of principal of any LIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan.

2.12. Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrower use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event, provided that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Section 2.10 or 5.4.

2.13. Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 5.4 is given by any Lender more than 120 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 5.4, as the case may be, for any such amounts incurred or accruing prior to the 121st day prior to the giving of such notice to the Borrower.


(a) The Borrower may by written notice to Administrative Agent elect to request the establishment of one or more additional tranches of term loans (the commitments thereto, the "New Term Loan Commitments") by an aggregate amount not in excess of the Maximum Incremental Facilities Amount in the aggregate and not less than $50,000,000 individually (or such lesser amount as (x) may be approved by the Administrative Agent or (y) shall constitute the difference between the Maximum Incremental Facilities Amount and all such New Term Loan Commitments obtained on or prior to such date). Each such notice shall specify the date (each, an "Increased Amount Date") on which the Borrower proposes that the New Term Loan Commitments shall be effective, which shall be a date not less than ten Business Days after the date on which such notice is delivered to the Administrative Agent. The Borrower may approach any Lender or any Person (other than a natural person) to provide all or a portion of the New Term Loan Commitments; provided that any Lender may elect or decline, in its sole discretion, to provide a New Term Loan Commitment. In each case, such New Term Loan Commitments shall become effective as of the applicable Increased Amount Date; provided that (i) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to such New Term Loan Commitments, as applicable
and (ii) all representations and warranties made by any Credit Party contained herein or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date), (iii) the New Term Loan Commitments shall be effected pursuant to one or more Joinder Agreements executed and delivered by the Borrower and Administrative Agent, and each of which shall be recorded in the Register and shall be subject to the requirements set forth in Section 5.4(e), (iv) the Borrower shall make any payments required pursuant to Section 2.11 in connection with the New Term Loan Commitments, as applicable, and (v) the Borrower shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by Administrative Agent in connection with any such transaction. Any New Term Loans made on an Increased Amount Date shall be designated, a separate series (a “Series”) of New Term Loans for all purposes of this Agreement.

(b) [Reserved].

(c) On any Increased Amount Date on which any New Term Loan Commitments of any Series are effective, subject to the satisfaction of the foregoing terms and conditions, (i) each Lender with a New Term Loan Commitment (each, a “New Term Loan Lender”) of any Series shall make a Loan to the Borrower (a “New Term Loan”) in an amount equal to its New Term Loan Commitment of such Series, and (ii) each New Term Loan Lender of any Series shall become a Lender hereunder with respect to the New Term Loan Commitment of such Series and the New Term Loans of such Series made pursuant thereto.

(d) The terms and provisions of the New Term Loans and New Term Loan Commitments of any Series shall be, except as otherwise set forth herein or in the applicable Joinder Agreement, identical to the existing Initial Term Loans; provided that (i) the applicable New Term Loan Maturity Date of each Series shall be no earlier than the Initial Term Loan Maturity Date and mandatory prepayment and other payment rights (other than scheduled amortization) of the New Term Loans and the existing Initial Term Loans shall be identical; (ii) the rate of interest and the amortization schedule applicable to the New Term Loans of each Series shall be determined by the Borrower and the applicable New Term Loan Lenders and shall be set forth in each applicable Joinder Agreement; provided that (x) the weighted average life to maturity of all New Term Loans shall be no shorter than the weighted average life to maturity of the Initial Term Loans and (y) if the Applicable LIBOR Margin in respect of the New Term Loans exceeds the Applicable LIBOR Margin in respect of the Initial Term Loans by more than 0.50%, the Applicable LIBOR Margin in respect of the Initial Term Loans shall be adjusted to be equal to the Applicable LIBOR Margin in respect of the New Term Loans minus 0.50%; provided further that in determining the Applicable LIBOR Margin, (x) original issue discount or upfront fees (which shall be deemed to constitute a like amount of original issue discount) paid by the Borrower to the New Term Loan Lenders under the New Term Loans and the existing Initial Term Loans in the initial primary syndication thereof shall be included and equated to interest rate (with original issue discount being equated to interest based on an assumed four-year life to maturity) and (y) any amendments to the Applicable LIBOR Margin in respect of the Initial Term Loans that become effective subsequent to the Closing Date but prior to the time of such New Term Loans shall also be included in such calculations; provided further that if the LIBOR Rate in respect of the New Term Loans includes a floor greater than the LIBOR floor applicable to the Initial Term Loans, such excess amount shall be equated to interest margin for purposes of determining any increase to the Applicable Margin in respect of the Initial Term Loans; and (iii) all other terms applicable to the New Term Loans of each Series that differ from the existing Initial Term Loans shall be reasonably acceptable to the Administrative Agent (as evidenced by its execution of the applicable Joinder Agreement).
(e) Each Joinder Agreement may, without the consent of any other Lenders, effect such technical amendments to this Agreement and the other Credit Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provision of this Section 2.14.

(f) (i) The Borrower may at any time and from time to time request that all or a portion of the Term Loans of any Class (an "Existing Term Loan Class") be converted to extend the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so converted, "Extended Term Loans") and to provide for other terms consistent with this Section 2.14(f). In order to establish any Extended Term Loans, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Existing Term Loan Class) (a "Term Loan Extension Request") setting forth the proposed terms of the Extended Term Loans to be established, which shall be identical to the Term Loans of the Existing Term Loan Class from which they are to be converted except (x) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of principal of the Extended Term Loans may be delayed to later dates than the scheduled amortization of principal of the Term Loans of such Existing Term Loan Class (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in Section 2.5 or in the Joinder Agreement, as the case may be, with respect to the Existing Term Loan Class from which such Extended Term Loans were converted, in each case as more particularly set forth in paragraph (iv) of this Section 2.14(f) below) and (y) (A) the interest margins with respect to the Extended Term Loans may be higher or lower than the interest margins for the Term Loans of such Existing Term Loan Class and/or (B) additional fees may be payable to the Lenders providing such Extended Term Loans in addition to or in lieu of any increased margins contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment; provided that, notwithstanding anything to the contrary in this Section 2.14 or otherwise, no Extended Term Loans may be optionally prepaid prior to the date on which the Existing Term Loan Class from which they were converted is repaid in full except in accordance with the last sentence of Section 5.1(a). No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Class converted into Extended Term Loans pursuant to any Extension Request. Any Extended Term Loans of any Extension Series shall constitute a separate Class of Term Loans from the Existing Term Loan Class from which they were converted.

(ii) [Reserved]

(iii) The Borrower shall provide the applicable Extension Request at least five (5) Business Days prior to the date on which Lenders under the applicable Existing Class or Existing Classes are requested to respond. Any Lender (an "Extending Lender") wishing to have all or a portion of its Term Loans of the Existing Class or Existing Classes subject to such Extension Request converted into Extended Term Loans shall notify the Administrative Agent (an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Term Loans of the Existing Class or Existing Classes subject to such Extension Request that it has elected to convert into Extended Term Loans; provided that if any Existing Lenders fail to respond, such Existing Lenders will be deemed to have declined to extend their Term Loans. In the event that the aggregate amount of Term Loans of the Existing Class or Existing Classes subject to Extension Elections exceeds the amount of Extended Term Loans requested pursuant to the Extension Request, Term Loans of the Existing Class or Existing Classes subject to Extension Elections shall be converted to Extended Term Loans on a pro rata basis based on the amount of Term Loans included in each such Extension Election.

(iv) Extended Term Loans shall be established pursuant to an amendment (an "Extension Amendment") to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.14(f)(iv) and notwithstanding anything to the contrary set forth in Section 13.1, shall not require the consent of any Lender other than the Extending Lenders with respect to

-60-
the Extended Term Loans established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. No Extension Amendment shall provide for any tranche of Extended Term Loans in an aggregate principal amount that is less than $75,000,000. In addition to any terms and changes required or permitted by Section 2.14(f)(i), each Extension Amendment (x) shall amend the scheduled amortization payments pursuant to Section 2.5 or the applicable Joinder Agreement with respect to the Existing Term Loan Class from which the Extended Term Loans were converted to reduce each scheduled Repayment Amount for the Existing Term Loan Class in the same proportion as the amount of Term Loans of the Existing Term Loan Class is to be converted pursuant to such Extension Amendment (it being understood that the amount of any Repayment Amount payable with respect to any individual Term Loan of such Existing Term Loan Class that is not an Extended Term Loan shall not be reduced as a result thereof) and (y) may, but shall not be required to, impose additional requirements (not inconsistent with the provisions of this Agreement in effect at such time) with respect to the final maturity and weighted average life to maturity of New Term Loans incurred following the date of such Extension Amendment. Notwithstanding anything to the contrary in this Section 2.14(f) and without limiting the generality or applicability of Section 13.1 to any Section 2.14 Additional Amendments (as defined below), any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a “Section 2.14 Additional Amendment”) to this Agreement and the other Credit Documents; provided that such Section 2.14 Additional Amendments are within the requirements of Section 2.14(f)(i) and do not become effective prior to the time that such Section 2.14 Additional Amendments have been consented to (including, without limitation, pursuant to (1) consents applicable to holders of New Term Loans provided for in any Joinder Agreement and (2) consents applicable to holders of any Extended Term Loans provided for in any Extension Amendment) by such of the Lenders, Credit Parties and other parties (if any) as may be required in order for such Section 2.14 Additional Amendments to become effective in accordance with Section 13.1.

(v) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Class is converted to extend the related scheduled maturity date(s) in accordance with clauses (i) and/or (ii) above (an “Extension Date”), in the case of the existing Term Loans of each Extending Lender, the aggregate principal amount of such existing Term Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Term Loans so converted by such Lender on such date, and the Extended Term Loans shall be established as a separate Class of Term Loans (together with any other Extended Term Loans so established on such date).

2.15. Permitted Debt Exchanges.

(a) Notwithstanding anything to the contrary contained in this Agreement, pursuant to one or more offers (each, a “Permitted Debt Exchange Offer”) made from time to time by the Borrower to all Lenders (other than any Lender that, if requested by the Borrower, is unable to certify that it is either a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933, as amended) or an institutional “accredited investor” (as defined in Rule 501 under the Securities Act of 1933, as amended)) with outstanding Term Loans on the same terms, the Borrower may from time to time following the Closing Date consummate one or more exchanges of Term Loans for Permitted Other Indebtedness in the form of notes (such notes, “Permitted Debt Exchange Notes,” and each such exchange a “Permitted Debt Exchange”), so long as the following conditions are satisfied: (i) no Default or Event of Default shall have occurred and be continuing at the time the offering document in respect of a Permitted Debt Exchange Offer is delivered to the relevant Lenders, (ii) the aggregate principal amount (calculated on the face amount thereof) of Term Loans exchanged shall equal the aggregate principal amount (calculated on the face amount thereof) of Permitted Debt Exchange Notes issued in exchange for such Term Loans, (iii) the aggregate principal amount (calculated on the face amount thereof) of all Term Loans exchanged by the Borrower pursuant to any Permitted Debt Exchange shall automatically be cancelled
and retired by the Borrower on date of the settlement thereof (and, if requested by the Administrative Agent, any applicable exchanging Lender shall execute and deliver to the Administrative Agent an Assignment and Acceptance, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in the Term Loans being exchanged pursuant to the Permitted Debt Exchange to the Borrower for immediate cancellation), (iv) if the aggregate principal amount of all Term Loans (calculated on the face amount thereof) tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof of the applicable Class actually held by it) shall exceed the maximum aggregate principal amount of Term Loans offered to be exchanged by the Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrower shall exchange Term Loans subject to such Permitted Debt Exchange Offer tendered by such Lenders ratably up to such maximum amount based on the respective principal amounts so tendered, (v) each such Permitted Exchange Offer shall be made on a pro rata basis to the Lenders (other than any Lender that, if requested by the Borrower, is unable to certify that it is either a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended) or an institutional "accredited investor" (as defined in Rule 501 under the Securities Act of 1933, as amended) based on their respective aggregate principal amounts of outstanding Term Loans, (vi) all documentation in respect of such Permitted Debt Exchange shall be consistent with the foregoing, and all written communications generally directed to the Lenders in connection therewith shall be in form and substance consistent with the foregoing and made in consultation with the Borrower and the Administrative Agent, and (vii) any applicable Minimum Tender Condition shall be satisfied.

(b) With respect to all Permitted Debt Exchanges effected by the Borrower pursuant to this Section 2.15, (i) such Permitted Debt Exchanges (and the cancellation of the exchanged Term Loans in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 5.1 or 5.2, and (ii) such Permitted Debt Exchange Offer shall be made for not less than $75,000,000 in aggregate principal amount of Term Loans, provided that subject to the foregoing clause (ii) the Borrower may at its election specify as a condition (a "Minimum Tender Condition") to consummating any such Permitted Debt Exchange that a minimum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower's discretion) of Term Loans be tendered.

(c) In connection with each Permitted Debt Exchange, the Borrower shall provide the Administrative Agent at least 10 Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and the Borrower and the Administrative Agent, acting reasonably, shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this Section 2.15 and without conflict with Section 2.15(d); provided that the terms of any Permitted Debt Exchange Offer shall provide that the date by which the relevant Lenders are required to indicate their election to participate in such Permitted Debt Exchange shall be not less than five (5) Business Days following the date on which the Permitted Debt Exchange Offer is made.

(d) The Borrower shall be responsible for compliance with, and hereby agrees to comply with, all applicable securities and other laws in connection with each Permitted Debt Exchange, it being understood and agreed that (x) neither the Administrative Agent nor any Lender assumes any responsibility in connection with the Borrower's compliance with such laws in connection with any Permitted Debt Exchange and (y) each Lender shall be solely responsible for its compliance with any applicable "insider trading" laws and regulations to which such Lender may be subject under the Securities Exchange Act of 1934, as amended.
SECTION 4. Fees

4.1. Fees. The Borrower agrees to pay to the Administrative Agent in Dollars, for its own account, administrative agent fees as have been previously agreed in writing or as may be agreed in writing from time to time.

4.2. Mandatory Termination of Commitments.

(a) The Initial Term Loan Commitments shall terminate at 5:00 p.m. (New York City time) on the Closing Date.

(b) The New Term Loan Commitment for any Series shall, unless otherwise provided in the applicable Joinder Agreement, terminate at 5:00 p.m. (New York City time) on the Increased Amount Date for such Series.

SECTION 5. Payments

5.1. Voluntary Prepayments.

(a) The Borrower shall have the right to prepay its Term Loans without premium or penalty, subject to clause (b) below, in whole or in part from time to time on the following terms and conditions: (a) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and (in the case of LIBOR Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than 3:00 p.m. (New York City time) (i) in the case of LIBOR Loans, three Business Days prior to or (ii) in the case of ABR Loans, one Business Day prior to, the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the Lenders; (b) each partial prepayment of any Borrowing of LIBOR Loans shall be in a minimum amount of $5,000,000 and in multiples of $1,000,000 in excess thereof and (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $100,000 in excess thereof, provided that no partial prepayment of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding LIBOR Loans made pursuant to such Borrowing to an amount less than the applicable Minimum Borrowing Amount for such LIBOR Loans and (c) in the case of any prepayment of LIBOR Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrower shall, after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan. Each prepayment in respect of any Term Loans pursuant to this Section 5.1 shall be (a) applied to the Class or Classes of Term Loans as the Borrower may specify and (b) applied to reduce Initial Term Loan Repayment Amounts, any New Term Loan Repayment Amounts, and, subject to Section 2.14(f), Extended Term Loan Repayment Amounts, as the case may be, in each case, in such order as the Borrower may specify. Notwithstanding the foregoing, the Borrower may not repay Extended Term Loans of any Extension Series unless such prepayment is accompanied by a pro rata repayment of Term Loans of the Existing Term Loan Class from which such Extended Term Loans were converted (or such Term Loans of the Existing Term Loan Class have otherwise been repaid in full).
(b) In the event that, on or prior to the first anniversary of the Closing Date, the Borrower (x) makes any prepayment of Term Loans in connection with any Repricing Transaction, or (y) effects any amendment of this Agreement resulting in a Repricing Transaction, the Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Term Lender, (I) in the case of clause (x), a prepayment premium of 1% of the amount of the Term Loans being prepaid and (II) in the case of clause (y), a payment equal to 1% of the aggregate amount of the applicable Term Loans outstanding immediately prior to such amendment.

5.2. Mandatory Prepayments.

(a) Term Loan Prepayments. (i) On each occasion that a Prepayment Event occurs, the Borrower shall, within three Business Days after its receipt of the Net Cash Proceeds of a Debt Incurrence Prepayment Event and within ten Business Days after the occurrence of any other Prepayment Event (or, in the case of Deferred Net Cash Proceeds, within ten Business Days after the Deferred Net Cash Proceeds Payment Date), prepay, in accordance with clause (c) below and subject to clause (B) of this Section 5.2(a)(i), Term Loans with an equivalent principal amount equal to 100% of the Net Cash Proceeds from such Prepayment Event; provided that, with respect to the Net Cash Proceeds of an Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback, in each case solely to the extent with respect to any Collateral, the Borrower may use a portion of such Net Cash Proceeds to prepay or repurchase Permitted Other Indebtedness (and with such prepaid or repurchased Permitted Other Indebtedness permanently extinguished) with a Lien on the Collateral ranking pari passu with the Liens securing the Obligations to the extent any applicable Permitted Other Indebtedness Document requires the issuer of such Permitted Other Indebtedness to prepay or make an offer to purchase such Permitted Other Indebtedness with the proceeds of such Prepayment Event, in each case in an amount not to exceed the product of (x) the amount of such Net Cash Proceeds multiplied by (y) a fraction, the numerator of which is the outstanding principal amount of the Permitted Other Indebtedness with a Lien on the Collateral ranking pari passu with the Liens securing the Obligations and with respect to which such a requirement to prepay or make an offer to purchase exists and the denominator of which is the sum of the outstanding principal amount of such Permitted Other Indebtedness and the outstanding principal amount of Term Loans.

(ii) Not later than the date that is ninety days after the last day of any fiscal year (commencing with and including the fiscal year ending April 29, 2012), the Borrower shall prepay, in accordance with clause (c) below, Term Loans with a Dollar Equivalent principal amount equal to (x) 50% of Excess Cash Flow for such fiscal year, provided that (A) the percentage in this Section 5.2(a)(ii) shall be reduced to 25% if the Consolidated Total Debt to Consolidated EBITDA Ratio on the date of prepayment (prior to giving effect thereto and as certified by an Authorized Officer of the Borrower) is less than or equal to 5.5 to 1.0 but greater than 4.5 to 1.0 and (B) no payment of any Term Loans shall be required under this Section 5.2(a)(ii) if the Consolidated Total Debt to Consolidated EBITDA Ratio on the date of prepayment (prior to giving effect thereto and as certified by an Authorized Officer of the Borrower) is less than or equal to 4.5 to 1.00, minus (y) the principal amount of Term Loans voluntarily prepaid pursuant to Section 5.1 during such fiscal year and, to the extent accompanied by permanent optional reductions of revolving commitments, revolving loans under the ABL Facility or other revolving facilities, in each case, other than to the extent any such prepayment is funded with the proceeds of Funded Debt.

(b) [Reserved].

(c) Application to Repayment Amounts. Subject to Section 5.2(h), each prepayment of Term Loans required by Section 5.2(a)(i) or (ii) shall be allocated pro rata among the Initial Term Loans, the New Term Loans and the Extended Term Loans based on the applicable remaining Repayment
Amounts due thereunder and shall be applied within each Class of Term Loans (i) first to the next four scheduled installments of unpaid Repayment Amounts due in respect of such Term Loans in direct order of maturity thereof and (ii) thereafter on a pro rata basis based on the principal amounts of each scheduled installment of the remaining unpaid Repayment Amounts; provided that, subject to the pro rata application to Repayment Amounts, if any Class of Extended Term Loans have been established hereunder, the Borrower may allocate such prepayment in its sole discretion to the Term Loans of the Existing Term Loan Class, if any, from which such Extended Term Loans were converted. Subject to Section 5.2(h), with respect to each such prepayment, the Borrower will, not later than the date specified in Section 5.2(a) for making such prepayment, give the Administrative Agent telephonic notice (promptly confirmed in writing and which shall include a calculation of the amount of such prepayment to be applied to each Class of Term Loans) requesting that the Administrative Agent provide notice of such prepayment to each Initial Term Loan Lender, New Term Loan Lender or Extended Term Loan Lender, as applicable.

(d) Application to Term Loans. With respect to each prepayment of Term Loans required by Section 5.2(a), the Borrower may, if applicable, designate the Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made; provided, that if any Lender has provided a Rejection Notice in compliance with Section 5.2(h), such prepayment shall be applied with respect to the Term Loans to be prepaid on a pro rata basis across all outstanding Types of such Term Loans in proportion to the percentage of such outstanding Term Loans to be prepaid represented by each such Class. In the absence of a Rejection Notice or a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its reasonable discretion with a view, but no obligation, to minimize breakage costs owing under Section 2.11.

(e) [Reserved].

(f) [Reserved].

(g) Minimum Amount. No prepayment shall be required pursuant to Section 5.2(a)(i) (other than in connection with a Debt Incurrence Prepayment Event) (i) in the case of any Disposition yielding Net Cash Proceeds of less than $10,000,000 in the aggregate and (ii) unless and until the amount at any time of Net Cash Proceeds from Prepayment Events required to be applied at or prior to such time pursuant to such Section and not yet applied at or prior to such time to prepay Term Loans pursuant to such Section exceeds (x) $10,000,000 for a single Prepayment Event or (y) $50,000,000 in the aggregate for all Prepayment Events (other than those which are either under the threshold specified in subclause (i) or over the threshold specified in subclause (ii)(x)) in any one fiscal year, at which time all such Net Cash Proceeds referred to in this subclause (y) with respect to such fiscal year shall be applied as a prepayment in accordance with this Section 5.2.

(h) Rejection Right. The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 5.2(a) at least three Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Lender holding Term Loans of the contents of the Borrower's prepayment notice and of such Lender's pro rata share of the prepayment. Each Term Loan Lender may reject all (but not less than all) of its pro rata share of any mandatory prepayment (such declined amounts, the "Declined Proceeds") of Term Loans required to be made pursuant to Section 5.2(a) by providing written notice (each, a "Rejection Notice") to the Administrative Agent and the Borrower no later than 5:00 p.m. (New York time) one Business Day after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance.
of the total amount of such mandatory prepayment of Term Loans. Any Declined Proceeds remaining thereafter shall be retained by the Borrower ("Retained Declined Proceeds"); provided that in the case of any mandatory repayment of Term Loans required to be made pursuant to Section 5.2(a)(i) (in the case of Permitted Other Indebtedness issued or incurred pursuant to Section 10.1(aa)), any Declined Proceeds shall be reallocated and paid to the Term Loan Lenders that have not rejected such mandatory prepayment on a pro rata basis and shall not constitute Retained Declined Proceeds.

(i) Foreign Asset Sales. Notwithstanding any other provisions of this Section 5.2, (i) to the extent that any or all of the Net Cash Proceeds from a Casualty Event of, or any asset sale by a Restricted Foreign Subsidiary giving rise to an Asset Sale Prepayment Event (a "Foreign Asset Sale") or any amount included in Excess Cash Flow and attributable to Foreign Subsidiaries are prohibited or delayed by applicable local law from being repatriated to the United States, such portion of the Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 5.2 but may be retained by the applicable Restricted Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Restricted Foreign Subsidiary to promptly take all actions required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Cash Proceeds will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans as required pursuant to this Section 5.2 and (ii) to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Cash Proceeds of any Foreign Asset Sale or Excess Cash Flow would have a material adverse tax consequence with respect to such Net Cash Proceeds or Excess Cash Flow, the Net Cash Proceeds or Excess Cash Flow so affected may be retained by the applicable Restricted Foreign Subsidiary, provided that, in the case of this clause (ii), on or before the date on which any Net Cash Proceeds or Excess Cash Flow so retained would otherwise have been required to be applied to reinvestments or prepayments pursuant to Section 5.2(a), (x) the Borrower applies an amount equal to such Net Cash Proceeds or Excess Cash Flow to such reinvestments or prepayments as if such Net Cash Proceeds or Excess Cash Flow had been received by the Borrower rather than such Restricted Foreign Subsidiary, less the amount of additional taxes that would have been payable or reserved against if such Net Cash Proceeds or Excess Cash Flow had been repatriated (or, if less, the Net Cash Proceeds or Excess Cash Flow that would be calculated if received by such Foreign Subsidiary) or (y) such Net Cash Proceeds or Excess Cash Flow are applied to the repayment of Indebtedness of a Restricted Foreign Subsidiary.

5.3. Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto, not later than 2:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent’s Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrower, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent’s Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder shall be made in the currency in which such Loans are denominated and all other payments under each Credit Document shall, unless otherwise specified in such Credit Document, be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York City time) or, otherwise,
5.4. **Net Payments.**

(a) **Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.**

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable laws require any Credit Party or the Administrative Agent to withhold or deduct any Tax, such Tax shall be withheld or deducted in accordance with such laws as reasonably determined by such withholding agent.

(ii) If any Credit Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States federal backup withholding and withholding Taxes, from any payment, then (A) such withholding agent shall withhold or make such deductions as are reasonably determined by such withholding agent to be required by applicable law, (B) such withholding agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after any required withholding or deductions have been made (including withholding or deductions applicable to additional sums payable under this Section) the Administrative Agent or such Lender, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(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) **Tax Indemnifications.** Without limiting the provisions of subsection (a) or (b) above, the Borrower shall, and does hereby, indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after 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) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable expenses arising therefrom or with respect thereto, 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 any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. If the Borrower reasonably believes that any such Indemnified Taxes or Other Taxes were not correctly or legally asserted, the Administrative Agent and/or each affected
Lender will use reasonable efforts to cooperate with the Borrower in pursuing a refund of such Indemnified Taxes or Other Taxes so long as such efforts would not, in the sole determination of the Administrative Agent or affected Lender, result in any additional costs, expenses or risks or be otherwise disadvantageous to it.

(d) Evidence of Payments. After any payment of Taxes by any Credit Party or the Administrative Agent to a Governmental Authority as provided in this Section 5.4, the Borrower shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at such time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender’s entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender’s status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before any date on which such documentation expires or becomes obsolete, (iii) after the occurrence of any change in the Lender’s circumstances requiring a change in the most recent documentation previously delivered by it to the Borrower and the Administrative Agent and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and each such Lender shall promptly notify in writing the Borrower and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code (a "U.S. Lender") shall deliver to the Borrower and the Administrative Agent executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements; and

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:
(1) executed originals of Internal Revenue Service Form W-8BEN (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

(2) executed originals of Internal Revenue Service Form W-8ECI (or any successor form thereto);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit N-1, N-2, N-3 or N-4 (a "Non-Bank Certificate"), to the effect that such Non-U.S. Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code, and that no interest payments are effectively connected income and (y) executed originals of Internal Revenue Service Form W-8BEN;

(4) where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), IRS Form W-8IMY (or any successor thereto) and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is claiming the benefits of the portfolio interest exemption, a Non-Bank Certificate of such beneficial owner(s) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Certificate(s) may be provided by the Non-U.S. Lender on behalf of the beneficial owner(s)); or

(5) executed originals of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(iii) Notwithstanding anything to the contrary in this Section 5.4, no Lender shall be required to deliver any documentation that it is not legally eligible to deliver.

(f) Treatment of Certain Refunds. Subject to the last sentence in Section 5.4(c), at no time shall the Administrative Agent or any Lender have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section, the Administrative Agent or such Lender (as applicable) 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 Credit Parties under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, 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 the Administrative Agent or such Lender, agrees to repay the amount paid.
over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Credit Party or any other Person.

5.5. **Computations of Interest and Fees.**

(a) Except as provided in the next succeeding sentence, interest on LIBOR Loans and ABR Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans in respect of which the rate of interest is calculated on the basis of the Administrative Agent's prime rate shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.

5.6. **Limit on Rate of Interest.**

(a) **No Payment Shall Exceed Lawful Rate.** Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) **Payment at Highest Lawful Rate.** If the Borrower is not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) **Adjustment if Any Payment Exceeds Lawful Rate.** If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrower shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrower.
SECTION 6. Conditions Precedent to Initial Borrowing

The initial Borrowing under this Agreement is subject to the satisfaction of the following conditions precedent.

6.1. Credit Documents. The Administrative Agent shall have received:

(a) this Agreement, executed and delivered by a duly authorized officer of the Borrower and each Lender;
(b) the Guarantee, executed and delivered by a duly authorized officer of each Guarantor;
(c) the Pledge Agreement, executed and delivered by a duly authorized officer of each pledgor party thereto;
(d) the Security Agreement, executed and delivered by a duly authorized officer of each grantor party thereto; and
(e) the ABL Intercreditor Agreement executed and delivered by a duly authorized officer of each party thereto.

6.2. Collateral. Except for any items referred to on Schedule 9.14(e):

(a) (i) All outstanding equity interests in whatever form of each Restricted Subsidiary directly owned by or on behalf of any Credit Party and required to be pledged pursuant to the Pledge Agreement shall have been pledged pursuant thereto and (ii) the Collateral Agent shall have received all certificates representing securities pledged under the Pledge Agreement to the extent certificated, accompanied by instruments of transfer and undated stock powers endorsed in blank;

(b) All Uniform Commercial Code or other applicable personal property and financing statements, reasonably requested by the Collateral Agent to be filed, registered or recorded to create the Liens intended to be created by any Security Document and perfect such Liens to the extent required by, and with the priority required by, such Security Document shall have been delivered to the Collateral Agent for filing, registration or recording;

(c) The Borrower shall deliver to the Collateral Agent a completed Perfection Certificate, executed and delivered by an Authorized Officer of the Borrower, together with all attachments contemplated thereby; and

(d) The Guarantee shall be in full force and effect.

6.3. Legal Opinions. The Administrative Agent shall have received the executed legal opinion of Simpson Thacher & Bartlett LLP, special counsel to the Borrower, substantially in the form of Exhibit G. The Borrower, the other Credit Parties and the Administrative Agent hereby instruct such counsel to deliver such legal opinion.

6.4. Equity Investments. Equity Investments, which, to the extent constituting Stock other than common Stock, shall be on terms and conditions and pursuant to documentation reasonably satisfactory to the Joint Lead Arrangers and Bookrunners to the extent material to the interests of the Lenders, in an amount not less than the Minimum Equity Amount shall have been made.
6.5. **Closing Certificates.** The Administrative Agent shall have received a certificate of the Credit Parties, dated the Closing Date, substantially in the form of Exhibit H, with appropriate insertions, of each Credit Party, executed by the President or any Vice President and the Secretary or any Assistant Secretary of each Credit Party, and attaching the documents referred to in Section 6.6.

6.6. **Authorization of Proceedings of Each Credit Party; Corporate Documents.** The Administrative Agent shall have received (i) a copy of the resolutions, in form and substance satisfactory to the Administrative Agent, of the board of directors or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrower, the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement or other comparable organizational documents, as applicable, of each Credit Party and (iii) signature and incumbency certificates of the Authorized Officers of each Credit Party executing the Credit Documents to which it is a party.

6.7. **Fees.** The Agents and Lenders shall have received the fees in the amounts previously agreed in writing to be received on the Closing Date and all expenses (including the reasonable fees, disbursements and other charges of counsel) payable by the Credit Parties for which invoices have been presented prior to the Closing Date shall have been paid.

6.8. **Representations and Warranties.** On the Closing Date, (x) the Specified Representations and (y) the representations and warranties with respect to Holdings and the Borrower set forth in Sections 8.1(a), 8.2, 8.3(c), 8.5, 8.7, 8.17 and 8.18 of this Agreement and in Section 3.2(a) and (b) of the Security Agreement, shall be true and correct in all material respects (or if qualified by "materiality," "material adverse effect" or similar language, in all respects (after giving effect to such qualification)).

6.9. **Solvency Certificate.** On the Closing Date, the Administrative Agent shall have received a certificate from the Chief Executive Officer, President, the Chief Financial Officer, the Treasurer, the Vice President-Finance or any other senior financial officer of the Borrower to the effect that after giving effect to the consummation of the Transactions, the Borrower on a consolidated basis with its Subsidiaries is Solvent.

6.10. **Merger.** Concurrently with the initial Credit Event hereunder, the Merger shall have been consummated in accordance with the terms of the Acquisition Agreement (or the Joint Lead Arrangers and Bookrunners shall be reasonably satisfied with the arrangements in place for the consummation of the Merger reasonably promptly after the initial Credit Event hereunder and shall have received confirmation from representatives of the Borrower that such actions shall be taken promptly after the initial Credit Event hereunder), without giving effect to any modifications, amendments or express waivers thereto that are materially adverse to the Lenders (it being understood and agreed that any reduction in the purchase price of the Acquisition shall not be deemed to be materially adverse to the Lenders so long as 75% of such reduction serves to reduce the principal amount of Senior Notes and 25% to reduce the Equity Investments) without the reasonable consent of the Joint Lead Arrangers and Bookrunners.

6.11. **Patriot Act.** The Joint Lead Arrangers and Bookrunners shall have received such documentation and information as is reasonably requested in writing at least 10 days prior to the Closing Date by the Administrative Agent about the Borrower and the Guarantors to the extent the Administrative Agent and the Borrower in good faith mutually agree is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.
6.12. **Pro Forma Balance Sheet.** The Administrative Agent shall have received a pro forma consolidated balance sheet and related pro forma consolidated statements of income of the Borrower as of and for the twelve-month period ending October 31, 2010, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or as of May 4, 2009 (in the case of such other statements of income).

6.13. **No Material Adverse Change.** No Material Adverse Change shall have occurred since May 2, 2010.

**SECTION 7. [Reserved]**

**SECTION 8. Representations, Warranties and Agreements**

In order to induce the Lenders to enter into this Agreement and to make the Loans as provided for herein, the Borrower and Holdings make the following representations and warranties to, and agreements with, the Lenders, all of which shall survive the execution and delivery of this Agreement and the making of the Loans (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

8.1. **Corporate Status.** Holdings, the Borrower and each Material Subsidiary (a) is a duly organized and validly existing corporation or other entity in good standing under the laws of the jurisdiction of its organization and has the corporate or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

8.2. **Corporate Power and Authority.** Each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and each such Credit Document constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms (provided, that, with respect to the creation and perfection of security interests with respect to Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent enforceability of such obligation with respect to which Stock and Stock Equivalents of Foreign Subsidiaries is governed by the Uniform Commercial Code), except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally and subject to general principles of equity.

8.3. **No Violation.** Neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the consummation of the Merger and the other transactions contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) except as set forth in Schedule 8.3, result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of the Restricted Subsidiaries (other than Liens created under the Credit Documents) pursuant to, the terms of any material indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other material instrument to which such Credit Party or any of the Restricted Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a “Contractual Requirement”) other than any such breach, default or
Lien that could not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws or other organizational documents of such Credit Party or any of the Restricted Subsidiaries.

8.4. **Litigation.** Except as set forth on Schedule 8.4, there are no actions, suits or proceedings pending or, to the knowledge of Holdings or the Borrower, threatened with respect to Holdings, the Borrower or any of the Subsidiaries that could reasonably be expected to result in a Material Adverse Effect.

8.5. **Margin Regulations.** Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

8.6. **Governmental Approvals.** The execution, delivery and performance of the Acquisition Agreement or any Credit Document do not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings and recordings in respect of the Liens created pursuant to the Security Documents and (iii) such licenses, approvals, authorizations or consents the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

8.7. **Investment Company Act.** None of Holdings, the Borrower or any Restricted Subsidiary is an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

8.8. **True and Complete Disclosure.**

(a) None of the written factual information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of Holdings, the Borrower, any of the Subsidiaries or any of their respective authorized representatives to the Administrative Agent, any Joint Lead Arranger, and/or any Lender on or before the Closing Date (including all such information and data contained in (i) the Confidential Information Memorandum (as updated prior to the Closing Date and including all information incorporated by reference therein) and (ii) the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein contained any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not misleading at such time in light of the circumstances under which such information or data was furnished, it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections or estimates (including financial estimates, forecasts and other forward-looking information) and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results.

8.9. **Financial Condition; Financial Statements.**

(a) The unaudited historical consolidated financial information of the Borrower as set forth in the Confidential Information Memorandum, and (b) the Historical Financial Statements, in each case present fairly in all material respects the consolidated financial position of the Borrower at the respective
dates of said information, statements and results of operations for the respective periods covered thereby. The unaudited pro forma consolidated balance sheet of the Borrower and its Subsidiaries as at October 31, 2010 (including the notes thereto) (the "Pro Forma Balance Sheet") and the unaudited pro forma consolidated statement of operations of the Borrower and its Subsidiaries for the 12-month period ending on such date (together with the Pro Forma Balance Sheet, the "Pro Forma Financial Statements"), copies of which have heretofore been furnished to the Administrative Agent, have been prepared based on (x) the Historical Financial Statements and (y) the unaudited historical consolidated financial information described in clause (a) of this Section 8.9 and have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a Pro Forma Basis the estimated financial position of the Borrower and its Subsidiaries as at October 31, 2010 and their estimated results of operations as if the Transactions had been consummation on May 4, 2009. The financial statements referred to in clause (b) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements. Since May 2, 2010, there has been no Material Adverse Effect.

8.10. Compliance with Laws; No Default. Each Credit Party is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

8.11. Tax Matters. Except as could not reasonably be expected to have a Material Adverse Effect, (a) each of Holdings, the Borrower and the Subsidiaries has filed all federal income tax returns and all other tax returns, domestic and foreign, required to be filed by it and has timely paid all taxes payable by it (whether or not shown on a tax return) that have become due, (b) each of Holdings, the Borrower and the Subsidiaries have paid, or have provided adequate reserves (in the good faith judgment of management of Holdings, the Borrower or such Subsidiary) in accordance with GAAP for the payment of, all federal, state, provincial and foreign taxes applicable for the current fiscal year to the Closing Date and (c) each of Holdings, the Borrower and the Subsidiaries has withheld amounts from their respective employees for all periods in compliance with the tax, social, security and unemployment withholding provisions of applicable law and timely paid such withholdings to the respective Governmental Authorities.

8.12. Compliance with ERISA.

(a) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Credit Party and each of their respective ERISA Affiliates is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Pension Plans and the regulations and published interpretations thereunder; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) all amounts required by applicable law with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Credit Party or any ERISA Affiliate or to which any Credit Party or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with Statement of Financial Accounting Standards No. 106. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the present value of all accumulated benefit obligations under each Pension Plan (based on the assumptions used for purposes of Accounting Standards Codification No. 715: Compensation-Retirement Benefits) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Pension Plan allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Pension Plans did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Pension Plans.
(b) Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

8.13. Subsidiaries. Schedule 8.12 lists each Subsidiary of Holdings and the Borrower (and the direct and indirect ownership interest of Holdings and the Borrower therein), in each case existing on the Closing Date.

8.14. Intellectual Property. Each of Holdings, the Borrower and each of the Restricted Subsidiaries owns or has the right to use all Intellectual Property that is necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, except where the failure of the foregoing could not reasonably be expected to have a Material Adverse Effect.

8.15. Environmental Laws.

(a) Except as could not reasonably be expected to have a Material Adverse Effect: (i) each of Holdings, the Borrower and each of the Subsidiaries and their respective operations and properties are in compliance with all Environmental Laws; (ii) neither Holdings, the Borrower nor any Subsidiary is subject to any Environmental Claim or any other liability under any Environmental Law; (iii) neither Holdings, the Borrower nor any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) to the knowledge of the Borrower, no underground or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by Holdings, the Borrower or any of its Subsidiaries.

(b) Neither Holdings, the Borrower nor any of the Subsidiaries has treated, stored, transported, Released or disposed or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of Borrower, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that could reasonably be expected to have a Material Adverse Effect.

8.16. Properties. (a) Each of Holdings, the Borrower and the Subsidiaries have good and valid record title to or valid leasehold interests in all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title could not reasonably be expected to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such Act has been obtained in accordance with Section 9.3(b).

8.17. Solvency. On the Closing Date (after giving effect to the Transactions), immediately following the making of each Loan and after giving effect to the application of the proceeds of such Loans, the Borrower on a consolidated basis with its Subsidiaries will be Solvent.

8.18. Patriot Act. On the Closing Date, each of Holdings, the Borrower and its Restricted Subsidiaries is in compliance in all material respects with the Patriot Act, and Holdings and the Borrower have provided to the Administrative Agent all information related to Holdings, the Borrower and the Restricted Subsidiaries (including but not limited to names, addresses and tax identification numbers (if applicable)) reasonably requested in writing by the Administrative Agent and mutually agreed to be required by the Patriot Act to be obtained by the Administrative Agent or any Lender.
SECTION 9. Affirmative Covenants

Each of Holdings and the Borrower hereby covenants and agrees that until the Commitments have terminated and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

9.1. Information Covenants. The Borrower will furnish to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) Annual Financial Statements. As soon as available and in any event within 5 days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 90 days after the end of each such fiscal year (120 days in the case of the fiscal year ending May 1, 2011)), the consolidated balance sheets of the Borrower and the Subsidiaries and, if different, the Borrower and the Restricted Subsidiaries, in each case as at the end of such fiscal year, and the related consolidated statements of operations and cash flows for such fiscal year, setting forth comparative consolidated figures for the preceding fiscal years (or, in lieu of such audited financial statements of the Borrower and the Restricted Subsidiaries, a detailed reconciliation, reflecting such financial information for the Borrower and the Restricted Subsidiaries, on the one hand, and the Borrower and the Subsidiaries, on the other hand), all in reasonable detail and prepared in accordance with GAAP, and, in each case, certified by independent certified public accountants of recognized national standing whose opinion shall not be qualified as to the scope of audit or as to the status of the Borrower or any of the Material Subsidiaries (or group of Subsidiaries that together would constitute a Material Subsidiary) as a going concern.

(b) Quarterly Financial Statements. As soon as available and in any event within 5 days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Borrower (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days after the end of each such quarterly accounting period (60 days for the fiscal quarter ended January 30, 2011)), the consolidated balance sheets of the Borrower and the Subsidiaries and, if different, the Borrower and the Restricted Subsidiaries, in each case as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and setting forth comparative consolidated figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the prior fiscal year (or, in lieu of such unaudited financial statements of the Borrower and the Restricted Subsidiaries, a detailed reconciliation reflecting such financial information for the Borrower and the Restricted Subsidiaries, on the one hand, and the Borrower and the Subsidiaries, on the other hand), all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject to changes resulting from normal year-end adjustments.

(c) Budgets. Within 90 days after the commencement of each fiscal year of the Borrower, a budget of the Borrower in reasonable detail on a quarterly basis for such fiscal year as customarily prepared by management of the Borrower for its internal use consistent in scope with the financial statements provided pursuant to Section 9.1(a), setting forth the principal assumptions upon which such budget is based (collectively, the "Projections"), which Projections shall in each case be accompanied by
a certificate of an Authorized Officer stating that such Projections have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such Projections, it being understood that actual results may vary from such Projections.

(d) Officer's Certificates. At the time of the delivery of the financial statements provided for in Sections 9.1 (a) and (b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth (i) a specification of any change in the identity of the Restricted Subsidiaries and Unrestricted Subsidiaries as at the end of such fiscal year or period, as the case may be, from the Restricted Subsidiaries and Unrestricted Subsidiaries, respectively, provided to the Lenders on the Closing Date or the most recent fiscal year or period, as the case may be and (ii) the amount of any Pro Forma Adjustment not previously set forth in a Pro Forma Adjustment Certificate or any change in the amount of a Pro Forma Adjustment previously provided and, in either case, in reasonable detail, the calculations and basis therefor. At the time of the delivery of the financial statements provided for in Section 9.1(a), a certificate of an Authorized Officer of the Borrower setting forth the information required pursuant to Section 1(a) of the Perfection Certificate or confirming that there has been no change in such information since the Closing Date or the date of the most recent certificate delivered pursuant to this clause (d), as the case may be.

(e) Notice of Default or Litigation. Promptly after an Authorized Officer of the Borrower or any of the Subsidiaries obtains knowledge thereof, the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto and (ii) any litigation or governmental proceeding pending against the Borrower or any of the Subsidiaries that could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect.

(f) Environmental Matters. Promptly after an Authorized Officer of the Borrower or any of the Subsidiaries obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not, individually or when aggregated with all other such matters, be reasonably expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate;

(ii) any condition or occurrence on any Real Estate that (x) could reasonably be expected to result in noncompliance by any Credit Party with any applicable Environmental Law or (y) could reasonably be anticipated to form the basis of an Environmental Claim against any Credit Party or any Real Estate;

(iii) any condition or occurrence on any Real Estate that could reasonably be anticipated to cause such Real Estate to be subject to any restrictions on the ownership, occupancy, use or transferability of such Real Estate under any Environmental Law; and

(iv) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, release or threatened release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and the response thereto. The term "Real Estate"
shall mean land, buildings, facilities and improvements owned or leased by any Credit Party, but excluding all operating fixtures and equipment, whether or not incorporated into improvements.

(g) Other Information. Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by the Borrower or any of the Restricted Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices and reports that the Borrower or any of the Restricted Subsidiaries shall send to the holders of any publicly issued debt of the Borrower and/or any of the Restricted Subsidiaries (including the Senior Notes (whether publicly issued or not)), in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent on its own behalf or on behalf of any Lender (acting through the Administrative Agent) may reasonably request in writing from time to time.

(h) Pro Forma Adjustment Certificate. Not later than any date on which financial statements are delivered with respect to any Test Period in which a Pro Forma Adjustment is made as a result of the consummation of the acquisition of any Acquired Entity or Business by the Borrower or any Restricted Subsidiary for which there shall be a Pro Forma Adjustment, a certificate of an Authorized Officer of the Borrower setting forth the amount of such Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Borrower and the Restricted Subsidiaries by furnishing (A) the applicable financial statements of any direct or indirect parent of the Borrower or (B) the Borrower's (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, with respect to each of subclauses (A) and (B) of this paragraph, to the extent such information relates to a parent of the Borrower, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand.

9.2. Books, Records and Inspections. The Borrower will, and will cause each Restricted Subsidiary to, permit officers and designated representatives of the Administrative Agent or the Required Lenders to visit and inspect any of the properties or assets of the Borrower and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of the Borrower and any such Subsidiary and discuss the affairs, finances and accounts of the Borrower and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, all at such reasonable times and intervals and to such reasonable extent as the Administrative Agent or the Required Lenders may desire (and subject, in the case of any such meetings or advice from such independent accountants, to such accountants' customary policies and procedures); provided that, excluding any such visits and inspections during the continuation of an Event of Default (a) only the Administrative Agent on behalf of the Required Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 9.2, (b) the Administrative Agent shall not exercise such rights more than two times in any calendar year and (c) only one such visit shall be at the Borrower's expense; provided further that when an Event of Default exists, the Administrative Agent (or any of its respective representatives or independent contractors) or any representative of the Required Lenders may do any of the
foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Required Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants.

9.3. **Maintenance of Insurance.** (a) The Borrower will, and will cause each Material Subsidiary to, at all times maintain in full force and effect, pursuant to self-insurance arrangements or with insurance companies that the Borrower believes (in the good faith judgment of the management of the Borrower) are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts (after giving effect to any self-insurance which the Borrower believes (in the good faith judgment of management of the Borrower) is reasonable and prudent in light of the size and nature of its business) and against at least such risks (and with such risk retentions) as the Borrower believes (in the good faith judgment of management of the Borrower) is reasonable and prudent in light of the size and nature of its business; and will furnish to the Administrative Agent, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried and (b) with respect to each Mortgaged Property, Borrower will obtain flood insurance in such total amount as may reasonably be required by the Collateral Agent, if at any time the area in which any improvements located on any Mortgaged Property is designated a “flood hazard area” in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), and otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended from time to time. All such insurance shall name the Collateral Agent as mortgagee/loss payee (in the case of property insurance) or additional insured on behalf of the Secured Parties (in the case of liability insurance) and all such insurance shall otherwise be in form and substance reasonably satisfactory to the Collateral Agent.

9.4. **Payment of Taxes.** The Borrower will pay and discharge, and will cause each of the Subsidiaries to pay and discharge, all material taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, could reasonably be expected to become a material Lien upon any properties of the Borrower or any of the Restricted Subsidiaries, provided that neither the Borrower, nor any of the Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim that is being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of management of the Borrower) with respect thereto in accordance with GAAP and the failure to pay could not reasonably be expected to result in a Material Adverse Effect.

9.5. **Preservation of Existence; Consolidated Corporate Franchises.** The Borrower will, and will cause each Material Subsidiary to, take all actions necessary (a) to preserve and keep in full force and effect its existence, corporate rights and authority and (b) to maintain its rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable in the normal conduct of its business, in each case, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided, however, that the Borrower and its Subsidiaries may consummate any transaction permitted under “Permitted Investments” and Sections 10.3, 10.4 or 10.5.

9.6. **Compliance with Statutes, Regulations, Etc.** The Borrower will, and will cause each Subsidiary to, (a) comply with all applicable laws, rules, regulations and orders applicable to it or its property, including all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws and
(c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except in each case of (a), (b) and (c) of this Section 9.6, where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

9.7. ERISA. (i) The Borrower will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided, that if the Credit Parties or any of their ERISA Affiliates have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, the Credit Parties and/or their ERISA Affiliates shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof and (ii) the Borrower will notify the Administrative Agent promptly following the occurrence of any ERISA Event and/or Foreign Plan Event that, alone or together with any other ERISA Events and/or Foreign Plan Events that have occurred, could reasonably be expected to result in liability of any Credit Party or any of its ERISA Affiliates in an aggregate amount exceeding $10,000,000.

9.8. Maintenance of Properties. The Borrower will, and will cause each of the Restricted Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.9. Transactions with Affiliates. The Borrower will conduct, and cause each of the Restricted Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Borrower and the Restricted Subsidiaries) on terms that are substantially as favorable to the Borrower or such Restricted Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, provided that the foregoing restrictions shall not apply to (a) the payment of customary fees to the Sponsors for management, consulting and financial services rendered to the Borrower and the Restricted Subsidiaries pursuant to the Sponsor Management Agreement and customary investment banking fees paid to the Sponsors for services rendered to the Borrower and the Subsidiaries in connection with divestitures, acquisitions, financings and other transactions which payments are approved by a majority of the board of directors of the Borrower in good faith, (b) transactions permitted by Section 10.5, (c) the payment of the Transaction Expenses, (d) the issuance of Stock or Stock Equivalents of Holdings to the management of the Borrower (or any direct or indirect parent thereof) or any of its Subsidiaries in connection with the Transactions or pursuant to arrangements described in clause (f) of this Section 9.9, (e) loans, advances and other transactions between or among the Borrower, any Subsidiary or any joint venture, (f) employment and severance arrangements between the Borrower and the Restricted Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business, (g) payments by the Borrower (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among the Borrower (and any such parent) and the Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of the amount received from Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such

-81-
direct or indirect parent company of the Borrower, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Borrower (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and the Subsidiaries, (i) transactions undertaken pursuant to membership in a purchasing consortium and (j) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 9.9 or any amendment thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect.

9.10. End of Fiscal Years; Fiscal Quarters. The Borrower will, for financial reporting purposes, cause (a) each of its, and each of its Restricted Subsidiaries’, fiscal years to end on the Sunday closest to April 30 of each year and (b) each of its, and each of its Restricted Subsidiaries’, fiscal quarters to end on dates consistent with such fiscal year-end and the Borrower’s past practice; provided, however, that the Borrower may, upon written notice to the Administrative Agent change the financial reporting convention specified above to any other financial reporting convention reasonably acceptable to the Administrative Agent, in which case the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

9.11. Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Security Documents, the Borrower will cause each direct or indirect Domestic Subsidiary (other than any Excluded Subsidiary) formed or otherwise purchased or acquired after the Closing Date (including pursuant to a Permitted Acquisition), and each other Domestic Subsidiary that ceases to constitute an Excluded Subsidiary, within 45 days from the date of such formation, acquisition or cessation, and each other Domestic Subsidiary that ceases to constitute an Excluded Subsidiary, within 45 days from the date of such formation, acquisition or cessation, as applicable (or such longer period as the Administrative Agent may agree in its reasonable discretion), and Borrower may at its option cause any Subsidiary to execute a supplement to each of the Guarantee, the Pledge Agreement and the Security Agreement in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent reasonably requested by the Collateral Agent, enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to such Collateral Agent and take all other action reasonably requested by the Collateral Agent to grant a perfected security interest in its assets to substantially the same extent as created by the Credit Parties on the Closing Date.

9.12. Pledge of Additional Stock and Evidence of Indebtedness. Subject to any applicable limitations set forth in the Security Documents and other than (x) when in the reasonable determination of the Administrative Agent and the Borrower (as agreed to in writing), the cost or other consequences of doing so would be excessive in view of the benefits to be obtained by the Lenders therefrom or (y) to the extent doing so would result in adverse tax consequences as reasonably determined by the Borrower, the Borrower will cause (i) all certificates representing Stock and Stock Equivalents of any Subsidiary (other than (x) any Excluded Stock and Stock Equivalents and (y) any Stock and Stock Equivalents issued by any Subsidiary for so long as such Subsidiary does not (on a consolidated basis with its Restricted Subsidiaries) constitute a Material Subsidiary) constitute a Material Subsidiary, held directly by the Borrower or any Guarantor, (ii) all evidences of Indebtedness in excess of $10,000,000 received by the Borrower or any of the Guarantors in connection with any disposition of assets pursuant to Section 10.4(b) and (iii) any promissory notes executed after the Closing Date evidencing Indebtedness in excess of $10,000,000 of the Borrower or any Subsidiary that is owing to the Borrower or any Guarantor, in each case, to be delivered to the Collateral Agent as security for the Obligations under the Pledge Agreement.
9.13. Use of Proceeds. The Borrower will use the proceeds of the Initial Term Loans, the Senior Notes Offering and a portion of the proceeds of borrowings under the ABL Facility to effect the Transactions.


(a) The Borrower will, and will cause each other Credit Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents) that may be required under any applicable law, or that the Collateral Agent or the Required Lenders may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrower and the Restricted Subsidiaries.

(b) Subject to any applicable limitations set forth in the Security Documents and other than (x) when in the reasonable determination of the Administrative Agent and the Borrower (as agreed to in writing), the cost or other consequences of doing so would be excessive in view of the benefits to be obtained by the Lenders therefrom or (y) to the extent doing so would result in adverse tax consequences as reasonably determined by the Borrower, if any assets (including any real estate or improvements thereto or any interest therein but excluding Stock and Stock Equivalents of any Subsidiary) with a book value or fair market value in excess of $10,000,000 are acquired by the Borrower or any other Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute real property, the Borrower will notify the Collateral Agent, and, if requested by the Collateral Agent, the Borrower will cause such assets to be subjected to a Lien securing the applicable Obligations and will take, and cause the other applicable Credit Parties to take, such actions as shall be necessary or reasonably requested by the Collateral Agent, as soon as commercially reasonable but in no event later than 90 days, unless extended by the Administrative Agent in its sole discretion, to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage delivered to the Collateral Agent in accordance with the preceding clause (b) shall, if requested by the Collateral Agent, be received as soon as commercially reasonable but in no event later than 90 days, unless extended by the Administrative Agent in its sole discretion and accompanied by (x) a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a nationally recognized title insurance company, in such amounts as reasonably acceptable to the Collateral Agent not to exceed the fair market value of the applicable Mortgaged Property, insuring the Lien on each Mortgage as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Collateral Agent and otherwise in form and substance reasonably acceptable to the Collateral Agent, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided in no event shall the Collateral Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, (y) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Collateral Agent, (z) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if such Mortgaged Property is located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) certificates of insurance evidencing the insurance required by Section 9.3 in form and substance satisfactory to the Collateral Agent and (aa) an ALTA survey in a form and substance reasonably acceptable to the Collateral Agent or such existing survey together with a no-change affidavit sufficient for the title company to remove...
all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (x) above.

(d) Real Property Requirements. The Collateral Agent shall have received, within 90 days after the Closing Date (unless waived or extended by Administrative Agent in its sole discretion), to the extent such items have not been delivered as of the Closing Date, the following:

(i) a Mortgage encumbering each Mortgaged Property in favor of the Collateral Agent, for the benefit of the Secured Parties, duly executed and acknowledged by each Credit Party that is the owner of or holder of any interest in such Mortgaged Property, and otherwise in form for recording in the recording office of each applicable political subdivision where each such Mortgaged Property is situated, together with such certificates, affidavits, questionnaires or returns as shall be required in connection with the recording or filing thereof to create a lien under applicable Requirements of Law, and such financing statements and any other instruments necessary to grant a mortgage lien under the laws of any applicable jurisdiction, all of which shall be in form and substance reasonably satisfactory to Collateral Agent;

(ii) with respect to each Mortgage, a policy of title insurance (or an unconditional binding commitment therefor to be replaced by a final title policy) insuring the Lien of such Mortgage as a valid first mortgage Lien on the Mortgaged Property and fixtures described therein, free of any other Liens except as permitted by Section 10.2 or as otherwise permitted by the Collateral Agent, in amounts reasonably acceptable to the Collateral Agent not to exceed the net book value or tax assessed value (whichever is higher) of the applicable Mortgaged Property, which policy (or such commitment) (each, a "Title Policy") shall (A) be issued by a nationally recognized title insurance company, (B) together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided in no event shall the Collateral Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, and (C) contain no exceptions to title other than Liens permitted by Section 10.2 or as otherwise permitted by the Collateral Agent;

(iii) with respect to each Mortgaged Property, such affidavits (including a so-called "gap" indemnification) as are customarily required to induce the title company to issue the Title Policy/ies and endorsements contemplated above;

(iv) evidence reasonably acceptable to the Collateral Agent of payment by Borrower of all Title Policy premiums, search and examination charges, escrow charges and related charges, mortgage recording taxes, fees, charges, costs and expenses required for the recording of the Mortgages and issuance of the Title Policies referred to above;

(v) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property and if such Mortgaged Property is located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Party and (ii) certificates of insurance evidencing the insurance required by Section 9.3 in form and substance satisfactory to the Collateral Agent;

(vi) an ALTA survey in a form and substance reasonably acceptable to the Collateral Agent or such existing survey together with a no-change affidavit sufficient for the title company to remove all standard survey exceptions from the Title Policy related to such Mortgaged Property and issue the endorsements required in (ii) above; and
(vii) an opinion of counsel to the Borrower or applicable Credit Parties with respect to the Mortgages, which shall include opinions as to (i) the enforceability of the Mortgages, (ii) the power and authority of Borrower or the applicable Credit Parties to execute the Mortgages, (iii) the due execution and delivery of the Mortgages and shall otherwise be in form and substance reasonably acceptable to the Collateral Agent.

(e) The Borrower agrees that it will, or will cause its relevant Subsidiaries to, complete each of the actions described on Schedule 9.14(e) as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14(e) with respect to such action or such later date as the Administrative Agent may reasonably agree.

9.15. Maintenance of Ratings. The Borrower will use commercially reasonable efforts to obtain and maintain a corporate family and/or corporate credit rating, as applicable, and ratings in respect of the credit facilities provided pursuant to this Agreement, in each case, from each of S&P and Moody's.

9.16. Lines of Business. The Borrower and the Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Borrower and the Subsidiaries, taken as a whole, on the Closing Date and other business activities incidental or reasonably related to any of the foregoing.

SECTION 10. Negative Covenants

Each of Holdings and the Borrower hereby covenants and agrees that on the Closing Date (immediately after consummation of the Merger) and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full:

10.1. Limitation on Indebtedness. The Borrower will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness) and the Borrower will not issue any shares of Disqualified Equity Interests and will not permit any Restricted Subsidiary to issue any shares of Disqualified Equity Interests or preferred stock; provided that the Borrower may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Equity Interests, and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Equity Interests and issue shares of preferred stock, if, after giving effect thereto, the Fixed Charge Coverage Ratio of the Borrower and the Restricted Subsidiaries would be at least 2.00 to 1.00; provided further that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Equity Interests and preferred stock that may be incurred pursuant to the foregoing together with any amounts incurred under Section 10.1(n)(x) by Restricted Subsidiaries that are not Guarantors shall not exceed $200,000,000 at any one time outstanding.

The foregoing limitations will not apply to:

(a) (x) Indebtedness incurred pursuant to the ABL Facility by the Borrower or any Restricted Subsidiary; provided that immediately after giving effect to any such incurrence, the then-outstanding aggregate principal amount of all Indebtedness incurred under this clause (x) does not exceed the greater of (A) $750,000,000 and (B) the Borrowing Base, and (y) Indebtedness incurred pursuant to this Agreement;

-85-
(b) Indebtedness represented by the Senior Notes (including any guarantee thereof) and exchange notes issued in respect of such notes and any
guarantee thereof in an aggregate amount not to exceed $1,300,000,000;

(c) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and the Existing Notes (provided substantially all or all of the Existing
Notes are purchased by a Credit Party, repurchased, redeemed or defeased within 90 days after the Closing Date);

(d) Indebtedness (including Capital Lease Obligations), Disqualified Equity Interests and preferred stock incurred by the Borrower or any
Restricted Subsidiary, to finance the purchase, lease, construction, installation or improvement of property (real or personal) or equipment that is used or
useful in a Similar Business, whether through the direct purchase of assets or the Stock of any Person owning such assets and Indebtedness arising from the
conversion of the obligations of the Borrower or any Restricted Subsidiary under or pursuant to the “synthetic lease” transactions to on-balance sheet
Indebtedness of the Borrower or such Restricted Subsidiary, in an aggregate principal amount which, when aggregated with the principal amount of all other
Indebtedness, Disqualified Equity Interests and preferred stock then outstanding and incurred pursuant to this clause (d) and all Refinancing Indebtedness
incurred to Refinance any other Indebtedness, Disqualified Equity Interests and preferred stock incurred pursuant to this clause (d), does not exceed the
greater of (x) $175,000,000 and (y) 2.25% of Consolidated Total Assets at the time of incurrence;

(e) Indebtedness incurred by the Borrower or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit
issued in the ordinary course of business, including letters of credit in respect of workers’ compensation claims, performance or surety bonds, health, disability
or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement type obligations
regarding workers’ compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance
or self-insurance; provided that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30
days following such drawing or incurrence;

(f) Indebtedness arising from agreements of the Borrower or a Restricted Subsidiary providing for indemnification, adjustment of purchase price,
earnout or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than
guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such
acquisition; provided that such Indebtedness is not reflected on the balance sheet of the Borrower or any Restricted Subsidiary (contingent obligations referred
to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes
of this clause (f));

(g) Indebtedness of the Borrower to a Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a
Guarantor is subordinated in right of payment to the Obligations; provided further that any subsequent issuance or transfer of any Stock or any other event
which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the
Borrower or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(h) Indebtedness of a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary; provided that if a Guarantor incurs such
Indebtedness owing to a Restricted Subsidiary that is not a Guarantor, such Indebtedness is subordinated in right of payment to the Guarantee of such
Guarantor; provided further that any subsequent transfer of any such Indebtedness (except to the
Borrower or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(i) shares of preferred stock of a Restricted Subsidiary issued to the Borrower or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of preferred stock (except to the Borrower or another Restricted Subsidiary) shall be deemed in each case to be an issuance of such shares of preferred stock not permitted by this clause;

(j) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to this Agreement, exchange rate risk or commodity pricing risk;

(k) obligations in respect of self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by the Borrower or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business;

(l) (a) Indebtedness, Disqualified Equity Interests and preferred stock of the Borrower or any Restricted Subsidiary in an aggregate principal amount or liquidation preference up to 100% of the net cash proceeds received by the Borrower since immediately after the Closing Date from the issue or sale of Equity Interests of the Borrower or cash contributed to the capital of the Borrower (in each case, other than Excluded Contributions or proceeds of Disqualified Equity Interests or sales of Equity Interests to the Borrower or any of its Subsidiaries) as determined in accordance with Sections 10.5(a)(iii)(2) and 10.5(a)(iii)(3) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 10.5(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (a) and (c) of the definition thereof) and (b) Indebtedness, Disqualified Equity Interests or preferred stock of the Borrower or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Equity Interests and preferred stock then outstanding and incurred pursuant to this clause (l)(b), does not at any one time outstanding exceed $225,000,000 (it being understood that any Indebtedness, Disqualified Equity Interests or preferred stock incurred pursuant to this clause (l)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (l)(b) but shall be deemed incurred for the purposes of the first paragraph of this Section 10.1 from and after the first date on which the Borrower or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Equity Interests or preferred stock under the first paragraph of this Section 10.1 without reliance on this clause (l)(b));

(m) the incurrence by the Borrower or any Restricted Subsidiary of Indebtedness, Disqualified Equity Interests or preferred stock which serves to Refinance any Indebtedness, Disqualified Equity Interests or preferred stock incurred as permitted under the first paragraph of this Section 10.1 and clauses (b) and (c) above, clause (l)(a) and, this clause (m) and clause (n) below or any Indebtedness, Disqualified Equity Interests or preferred stock issued to so Refinance such Indebtedness, Disqualified Equity Interests or preferred stock including additional Indebtedness, Disqualified Equity Interests or preferred stock incurred to pay premiums (including reasonable tender premiums), defeasance costs and fees in connection therewith (the "Refinancing Indebtedness") prior to its respective maturity; provided, that such Refinancing Indebtedness (1) has a weighted average life to maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining weighted average life to maturity of the Indebtedness, Disqualified Equity Interests or preferred stock being refinanced, (2) to the extent such Refinancing
Indebtedness Refinances (i) Indebtedness that is unsecured or secured by a Lien ranking junior to the Liens securing the Obligations, such Refinancing Indebtedness is unsecured or secured by a Lien ranking junior to the Liens securing the Obligations or (ii) Disqualified Equity Interests or preferred stock, such Refinancing Indebtedness must be Disqualified Equity Interests or preferred stock, respectively, and (3) shall not include (x) Indebtedness, Disqualified Equity Interests or preferred stock of a Subsidiary of the Borrower that is not a Guarantor that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of the Borrower, (y) Indebtedness, Disqualified Equity Interests or preferred stock of a Subsidiary of the Borrower that is not a Guarantor that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of a Guarantor, or (z) Indebtedness, Disqualified Equity Interests or preferred stock of the Borrower or a Restricted Subsidiary that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of an Unrestricted Subsidiary;

(n) Indebtedness, Disqualified Equity Interests or preferred stock of (x) the Borrower or a Restricted Subsidiary incurred or issued to finance an acquisition; provided that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Equity Interests and preferred stock that may be incurred pursuant to the foregoing, together with any amounts incurred under the first paragraph of Section 10.1 by Restricted Subsidiaries that are not Guarantors shall not exceed $200,000,000 at any one time outstanding, or (y) Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms hereof; provided that after giving effect to such acquisition or merger, either: (1) the Borrower would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 10.1 or (2) the Fixed Charge Coverage Ratio of the Borrower and the Restricted Subsidiaries is greater than immediately prior to such acquisition, merger or consolidation;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(p) Indebtedness of the Borrower or any Restricted Subsidiary supported by a letter of credit issued pursuant to any ABL Facility, in a principal amount not in excess of the stated amount of such letter of credit;

(q) (1) any guarantee by the Borrower or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as, in the case of a guarantee by a Restricted Subsidiary that is not a Guarantor, such Indebtedness could have been incurred directly by the Restricted Subsidiary providing such guarantee, or (2) any guarantee by a Restricted Subsidiary of Indebtedness of the Borrower;

(r) Indebtedness of Foreign Subsidiaries of the Borrower in an amount not to exceed, in the aggregate, at any one time outstanding 5.0% of the Consolidated Total Assets of the Foreign Subsidiaries at the time of incurrence;

(s) [Reserved]

(t) Indebtedness of the Borrower or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take or pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business;

(u) Indebtedness of the Borrower or any of its Restricted Subsidiaries undertaken in connection with cash management and related activities with respect to any Subsidiary or joint venture in the ordinary course of business;
(v) Indebtedness consisting of Indebtedness issued by the Borrower or any of its Restricted Subsidiaries to future current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Borrower or any direct or indirect parent company of the Borrower to the extent described in clause (4) of Section 10.5(b);

(w) guarantees furnished by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business of Indebtedness of another Person in an aggregate amount not to exceed $50,000,000 at any time outstanding;

(x) Indebtedness incurred in connection with any Sale Leaseback; provided that the aggregate Indebtedness incurred pursuant to this clause shall not exceed $50,000,000 at any time outstanding.

(y) Indebtedness in respect of (i) Permitted Additional Debt to the extent that the Net Cash Proceeds therefrom are, immediately after the receipt thereof, applied to the prepayment of Term Loans in accordance with Section 5.2(a)(i) and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above, provided that, except to the extent otherwise permitted hereunder, (w) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension, (x) the direct and contingent obligors with respect to such Indebtedness are not changed, (y) if the Indebtedness being refinanced, or any guarantee thereof, constituted Subordinated Indebtedness, then such replacement or refinancing Indebtedness, or such guarantee, respectively, shall be subordinated to the Obligations to substantially the same extent and (z) such Indebtedness otherwise complies with the definition of "Permitted Additional Debt;"

(z) [Reserved]

(aa) Indebtedness in respect of (i) Permitted Other Indebtedness to the extent that the Net Cash Proceeds therefrom are applied to the prepayment of Term Loans in the manner set forth in Section 5.2(a)(i); and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; provided that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing) and (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness;"

(bb) Indebtedness in respect of (i) Permitted Other Indebtedness; provided that either (a) the aggregate principal amount of all such Permitted Other Indebtedness issued or incurred pursuant to this clause (i)(a) shall not exceed the Maximum Incremental Facilities Amount or (b) if such Permitted Other Indebtedness is unsecured or secured by a Lien ranking junior to the Lien securing the Obligations, the Net Cash Proceeds thereof shall be applied no later than ten (10) Business Days after the receipt thereof to repurchase, repay, redeem or otherwise defease Senior Notes and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; provided that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing), (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness," and (z) in the case of a refinancing of Permitted Other Indebtedness incurred pursuant to clause (i)(b) above with other Permitted Other Indebtedness ("Refinancing Permitted..."
Other Indebtedness\textsuperscript{(*)}, such Refinancing Permitted Other Indebtedness, if secured, may only be secured by a Lien ranking junior to the Lien securing the Obligations; and

\textit{(cc)} (i) Indebtedness in respect of Permitted Debt Exchange Notes incurred pursuant to a Permitted Debt Exchange in accordance with Section 2.15 (and which does not generate any additional proceeds) and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; \textit{provided} that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing) and (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness."

For purposes of determining compliance with this Section 10.1: (i) in the event that an item of Indebtedness, Disqualified Equity Interests or preferred stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Equity Interests or preferred stock described in clauses (a) through (cc) above or is entitled to be incurred pursuant to the first paragraph of this Section 10.1, the Borrower, in its sole discretion, will classify or reclassify such item of Indebtedness, Disqualified Equity Interests or preferred stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness, Disqualified Equity Interests or preferred stock in one of the above clauses or paragraphs; \textit{provided} that all Indebtedness outstanding under the ABL Facility on the Closing Date after giving effect to the Transactions will be treated as incurred on the Closing Date under Section 10.1(a)(x); and (ii) at the time of incurrence, the Borrower will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in this Section 10.1. Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Equity Interests or preferred stock will not be deemed to be an incurrence of Indebtedness, Disqualified Equity Interests or preferred stock for purposes of this covenant. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; \textit{provided} that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the principal amount of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses incurred in connection with such refinancing. The principal amount of any Indebtedness incurred to Refinance other Indebtedness, if incurred in a different currency from the Indebtedness being Refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

10.2. Limitation on Liens.

(a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of the Borrower or any Restricted Subsidiary, whether now owned or hereafter acquired (except Permitted Liens) (each, a "\textit{Subject Lien}\textsuperscript{(*)}") that secures obligations under any Indebtedness on any asset or property of the Borrower or any Restricted Subsidiary, except:
(i) in the case of Subject Liens on any Collateral, such Subject Lien is a Permitted Lien; and

(ii) in the case of any other asset or property, any Subject Lien if (i) the Obligations are equally and ratably secured with (or on a senior basis to, in the case such Subject Lien secures any Junior Debt) the obligations secured by such Subject Lien or (ii) such Subject Lien is a Permitted Lien.

(b) Any Lien created for the benefit of the Secured Parties pursuant to the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally be released and discharged upon the release and discharge of the Subject Lien that gave rise to the obligation to so secure the Obligations.

10.3. Limitation on Fundamental Changes. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except that:

(a) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, any Subsidiary of the Borrower or any other Person may be merged, amalgamated or consolidated with or into the Borrower, provided that (A) the Borrower shall be the continuing or surviving corporation or (B) if the Person formed by or surviving any such merger, amalgamation or consolidation is not the Borrower (such other Person, the "Successor Borrower"), (1) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory thereof, (2) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Credit Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (3) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guarantee confirmed that its guarantee thereunder shall apply to any Successor Borrower's obligations under this Agreement, (4) each Subsidiary grantor and each Subsidiary pledgor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement or the Pledge Agreement, as applicable, affirmed that its obligations thereunder shall apply to its Guarantee as reaffirmed pursuant to clause (3), (5) each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have affirmed that its obligations under the applicable Mortgage shall apply to its Guarantee as reaffirmed pursuant to clause (3) and (6) the Successor Borrower shall have delivered to the Administrative Agent (x) an officer's certificate stating that such merger or consolidation and such supplements preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the applicable Security Documents and (y) if requested by the Administrative Agent, an opinion of counsel to the effect that such merger or consolidation does not violate this Agreement or any other Credit Document and that the provisions set forth in the preceding clauses (2) through (5) preserve the enforceability of the Guarantee and the perfection of the Liens created under the applicable Security Documents (it being understood that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement);

(b) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, any Subsidiary of the Borrower or any other Person (in each case, other than the Borrower) may be merged, amalgamated or consolidated with or into any one or more Subsidiaries of the Borrower, provided that (i) in the case of any merger, amalgamation or consolidation involving one or more Restricted Subsidiaries, (A) a Restricted Subsidiary shall be the continuing or surviving Person or (B) the Borrower shall take all steps necessary to cause the Person formed by or surviving any such merger, amalgamation or consolidation (if other than a Restricted Subsidiary) to become a Restricted Subsidiary,
(ii) in the case of any merger, amalgamation or consolidation involving one or more Guarantors, a Guarantor shall be the continuing or surviving Person or the Person formed by or surviving any such merger, amalgamation or consolidation (if other than a Guarantor) shall execute a supplement to the Guarantee Agreement and the relevant Security Documents in form and substance reasonably satisfactory to the Administrative Agent in order to become a Guarantor and pledgor, mortgagor and grantor, as applicable, thereunder for the benefit of the Secured Parties, (iii) no Default or Event of Default has occurred and is continuing or would result from the consummation of such merger, amalgamation or consolidation and (iv) Borrower shall have delivered to the Administrative Agent an officers' certificate stating that such merger, amalgamation or consolidation and any such supplements to any Security Document preserve the enforceability of the Guarantees and the perfection and priority of the Liens under the applicable Security Documents;

(c) the Merger may be consummated;

(d) any Restricted Subsidiary that is not a Credit Party may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any other Restricted Subsidiary;

(e) any Subsidiary may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to any Credit Party, provided that the consideration for any such disposition by any Person other than a Guarantor shall not exceed the fair value of such assets;

(f) any Restricted Subsidiary may liquidate or dissolve if (i) the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (ii) to the extent such Restricted Subsidiary is a Credit Party, any assets or business of such Restricted Subsidiary not otherwise disposed of or transferred in accordance with Section 10.4 or 10.5 or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, a Credit Party after giving effect to such liquidation or dissolution;

(g) to the extent that no Default or Event of Default would result from the consummation of such disposition or investment, the Borrower and the Restricted Subsidiaries may consummate a merger, dissolution, liquidation, consolidation, investment or disposition, the purpose of which is to effect a disposition permitted pursuant to Section 10.4 or an investment permitted pursuant to Section 10.5 or an investment that constitutes a "Permitted Investment" and

(h) the Borrower and the Restricted Subsidiaries may consummate a Disposition constituting the sale of manufacturing facilities and related assets, in connection with establishing outsourcing arrangements providing substantially similar functionality.

10.4. Limitation on Sale of Assets. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, (i) convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including receivables, Stock and Stock Equivalents of any other Person) and leasehold interests), whether now owned or hereafter acquired or (ii) sell to any Person (other than the Borrower or a Guarantor) any shares owned by it of any Restricted Subsidiary's Stock and Stock Equivalents, except that:

(a) the Borrower and the Restricted Subsidiaries may sell, transfer or otherwise dispose of (i) inventory, used or surplus equipment, vehicles and other assets in the ordinary course of business, and (ii) Cash Equivalents and Investment Grade Securities;
the Borrower and the Restricted Subsidiaries may sell, transfer or otherwise dispose of assets (each of the foregoing, a "Disposition") for fair value, provided that (i) to the extent required, the Net Cash Proceeds thereof to the Borrower and the Restricted Subsidiaries are promptly applied to the prepayment of Term Loans as provided for in Section 5.2; (ii) after giving effect to any such sale, transfer or disposition, no Default or Event of Default shall have occurred and be continuing and (iii) with respect to any Disposition pursuant to this clause (b) for a purchase price in excess of $10,000,000, the Person making such Disposition shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; provided that for the purposes of this subclause (iii) the following shall be deemed to be cash: (A) any liabilities (as shown on the Borrower’s or such Restricted Subsidiary’s most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms (1) subordinated to the payment in cash of the Obligations or (2) not secured by the assets that are the subject of such Disposition, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities received by the Person making such Disposition from the purchaser that are converted by such Person into cash (to the extent of the cash received) within 180 days following the closing of the applicable Disposition, (C) any Designated Non-Cash Consideration received by the Person making such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 10.4(b) that is at that time outstanding, not in excess of the greater of $150,000,000 and 2.0% of Consolidated Total Assets and with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value;

(c) (i) the Borrower and the Restricted Subsidiaries may make Dispositions to the Borrower or any other Credit Party and (ii) any Restricted Subsidiary that is not a Credit Party may make Dispositions to the Borrower or any other Subsidiary, provided that with respect to any such Dispositions, such sale, transfer or disposition shall be for fair value;

(d) the Borrower and any Restricted Subsidiary may effect any transaction permitted by Section 10.3 or 10.5;

(e) the Borrower and the Restricted Subsidiaries may lease, sublease, license or sublicense real, personal or Intellectual Property in the ordinary course of business;

(f) the Borrower and the Restricted Subsidiaries may make Dispositions of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are applied to the purchase price of such replacement property, in each case under Section 1031 of the Code or otherwise;

(g) the Borrower and the Restricted Subsidiaries may make Dispositions of property pursuant to Permitted Sale Leaseback transactions;

(h) the Borrower and the Restricted Subsidiaries may make Dispositions of Investments in joint ventures (regardless of the form of legal entity) to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(i) [Reserved];

(j) customary Dispositions in connection with any Receivables Facilities;
(k) the Borrower and the Restricted Subsidiaries may make Dispositions listed on Schedule 10.4 ("Scheduled Dispositions");

(l) transfers of property subject to a Casualty Event upon receipt of the Net Cash Proceeds of such Casualty Event;

(m) the Borrower and the Restricted Subsidiaries may make Dispositions of accounts receivable or other obligations owing to the Borrower or any Restricted Subsidiary in connection with the collection, compromise or realization thereof;

(n) the Borrower and the Restricted Subsidiaries may effect the unwinding of any Hedge Agreement;

(o) [Reserved];

(p) the Borrower and any Restricted Subsidiaries may make Dispositions of any Foreign Subsidiary to any other Foreign Subsidiary;

(q) the Borrower and the Restricted Subsidiaries may allow the lapse or abandonment of Intellectual Property in the ordinary course of business; and

(r) the Borrower and the Restricted Subsidiaries may make Dispositions of any assets between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to clauses (a) through (q) above.

10.5. Limitation on Restricted Payments.

(a) The Borrower will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend or make any payment or distribution on account of the Borrower's or any Restricted Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

   (A) dividends or distributions by the Borrower payable in Equity Interests (other than Disqualified Equity Interests) of the Borrower or in options, warrants or other rights to purchase such Equity Interests, or

   (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Subsidiary other than a wholly-owned Subsidiary, the Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

(2) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Borrower or Holdings or any other direct or indirect parent company of the Borrower, including in connection with any merger or consolidation (together with the payments and distributions described in the foregoing clause (1), "dividends");
(3) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Junior Debt of the Borrower or any Restricted Subsidiary, other than (A) Indebtedness permitted under clauses (g) and (h) of Section 10.1 or (B) the purchase, repurchase or other acquisition of Junior Debt purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(4) make any Restricted Investment

(all such payments and other actions set forth in clauses (1) through (4) above (other than any exception thereto) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

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

(ii) immediately after giving effect to such transaction on a pro forma basis, the Borrower could incur $1.00 of additional Indebtedness under the provisions of the first paragraph of Section 10.1; and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Borrower and the Restricted Subsidiaries after the Closing Date (including Restricted Payments permitted by clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock pursuant to clause (b) thereof only), (6)(C) and (9) of Section 10.5(b) below, but excluding all other Restricted Payments permitted by Section 10.5(b)), is less than the sum of (without duplication):

(1) 50% of the Consolidated Net Income of the Borrower for the period (taken as one accounting period) from the first day of the fiscal quarter during which the Closing Date occurs to the end of the Borrower's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit, plus

(2) 100% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Borrower since immediately after the Closing Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Equity Interests or preferred stock pursuant to clause (l)(a) of Section 10.1) from the issue or sale of (x) Equity Interests of the Borrower, including Retired Capital Stock (as defined below), but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of (A) Equity Interests to any employee, director or consultant of the Borrower, any direct or indirect parent company of the Borrower and the Borrower's Subsidiaries after the Closing Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 10.5(b) below, and (B) Designated Preferred Stock, and, to the extent such net cash proceeds are actually contributed to the Borrower, Equity Interests of Holdings or any other direct or indirect parent company of the Borrower (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have
been applied to Restricted Payments made in accordance with clause (4) of Section 10.5(b) below or (y) debt securities of the Borrower or a Restricted Subsidiary that have been converted into or exchanged for such Equity Interests of the Borrower or Holdings or any other direct or indirect parent company of the Borrower, provided that this clause (2) shall not include the proceeds from (a) Refunding Capital Stock (as defined below), (b) Equity Interests or convertible debt securities of the Borrower sold to a Restricted Subsidiary or the Borrower, as the case may be, (c) Disqualified Equity Interests or debt securities that have been converted into Disqualified Equity Interests or (d) Excluded Contributions, plus

(3) 100% of the aggregate amount of cash and the fair market value of marketable securities or other property contributed to the capital of the Borrower following the Closing Date (other than net cash proceeds to the extent such net cash proceeds (i) have been used to incur Indebtedness, Disqualified Equity Interests or preferred stock pursuant to clause (l)(a) of Section 10.1), (ii) are contributed by a Restricted Subsidiary or (iii) constitute Excluded Contributions, plus

(4) to the extent not already included in Consolidated Net Income, 100% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by means of (A) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of Restricted Investments made by the Borrower and the Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Borrower and the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments made by the Borrower or its Restricted Subsidiaries, in each case, after the Closing Date; or (B) the sale (other than to the Borrower or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Borrower or a Restricted Subsidiary pursuant to clause (7) of Section 10.5(b) below or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Closing Date, plus

(5) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary after the Closing Date, the fair market value of the Investment in such Unrestricted Subsidiary at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary, other than to the extent the Investment in such Unrestricted Subsidiary was made by the Borrower or a Restricted Subsidiary pursuant to clause (7) of Section 10.5(b) below or to the extent such Investment constituted a Permitted Investment.

(b) The foregoing provisions of Section 10.5(a) will not prohibit:

(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration thereof or the giving of such irrevocable notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Agreement;

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock") or Junior Debt of the Borrower, or any Equity Interests of Holdings or any other direct or indirect parent company of the Borrower, in exchange for, or out of the proceeds of the
substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Borrower or any direct or indirect parent company of the Borrower to the extent contributed to the Borrower (in each case, other than any Disqualified Equity Interests) ("Refunding Capital Stock") and (b) if immediately prior to the retirement of Retired Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this Section 10.5(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of Holdings or any other direct or indirect parent company of the Borrower) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that was declarable and payable on such Retired Capital Stock immediately prior to such retirement;

(3) the prepayment, redemption, defeasance, repurchase or other acquisition or retirement for value (other than any Disqualified Equity Interests) of Junior Debt of the Borrower or a Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Borrower, or a Guarantor, as the case may be, which is incurred in compliance with Section 10.1 so long as: (A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on the Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired for value, plus the amount of any reasonable premium (including reasonable tender premiums), defeasance costs and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness, (B) such new Indebtedness is subordinated to the Obligations or the applicable Guarantee at least to the same extent as such Junior Debt so purchased, exchanged, redeemed, repurchased, acquired or retired for value, (C) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired, (D) if such Junior Debt so purchased, exchanged, redeemed, repurchased, acquired or retired for value is (i) unsecured then such new Indebtedness shall be unsecured (provided that Senior Notes may be refinanced with the Net Cash Proceeds of Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b)(ii)) or (ii) Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b) and is secured by a Lien ranking junior to the Liens securing the Obligations then such new Indebtedness shall be unsecured or secured by a Lien ranking junior to the Liens securing the Obligations and (E) such new Indebtedness has a weighted average life to maturity equal to or greater than the remaining weighted average life to maturity of the Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Equity Interests) of the Borrower or Holdings or any other direct or indirect parent company of the Borrower held by any future, present or former employee, director or consultant of the Borrower, any of its Subsidiaries, Holdings or any other direct or indirect parent company of the Borrower pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any stock subscription or shareholder agreement (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Borrower or any direct or indirect parent company of the Borrower in connection with such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management of the Borrower or any direct or indirect parent company of the Borrower in connection with the Transactions; provided that the aggregate Restricted Payments made under this clause (4) do not exceed in any calendar year $40,000,000 (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of $60,000,000 in any calendar year); provided further that such amount in any calendar year may be increased by an amount not to exceed: (A) the cash proceeds from the sale of Equity Interests (other than Disqualified Equity Interests) of the Borrower and, to the extent contributed to the Borrower, the cash proceeds from the sale of Equity Interests of Holdings or any other direct or indirect parent company of
the Borrower, in each case to any future, present or former employees, directors or consultants of the Borrower, any of its Subsidiaries, Holdings or any other direct or indirect parent company of the Borrower that occurs after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (iii) of Section 10.5(a), plus (B) the cash proceeds of key man life insurance policies received by the Borrower and the Restricted Subsidiaries after the Closing Date, less (C) the amount of any Restricted Payments previously made pursuant to clauses (A) and (B) of this clause (4); and provided further that cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employees, directors or consultants of the Borrower, Holdings, any other direct or indirect parent company of the Borrower or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Borrower, Holdings or any other direct or indirect parent company of the Borrower will not be deemed to constitute a Restricted Payment for purposes of this Section 10.5 or any other provision of this Agreement;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Equity Interests of the Borrower or any Restricted Subsidiary or any class or series of preferred stock of any Restricted Subsidiary, in each case, issued in accordance with Section 10.1 to the extent such dividends are included in the definition of Fixed Charges;

(6) (A) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Equity Interests) issued by the Borrower after the Closing Date; (B) the declaration and payment of dividends to Holdings or any other direct or indirect parent company of the Borrower, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Equity Interests) of such parent company issued after the Closing Date; provided that the amount of dividends paid pursuant to this clause (B) shall not exceed the aggregate amount of cash actually contributed to the Borrower from the sale of such Designated Preferred Stock, or (C) the declaration and payment of dividends on Refunding Capital Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 10.5(b); provided that, in the case of each of (A), (B) and (C) of this clause (6), for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock, after giving effect to such issuance or declaration on a pro forma basis, the Borrower and the Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) Investments in Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed $100,000,000 at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(8) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable upon exercise of Equity Interests by any future, present or former employee, director or consultant and repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(9) the declaration and payment of dividends on the Borrower's common stock (or the payment of dividends to Holdings or any other direct or indirect parent company of the Borrower to fund a payment of dividends on such company's common stock), following consummation of the first
public offering of the Borrower's common stock or the common stock of Holdings or any other direct or indirect parent company of the Borrower after the Closing Date, of up to 6.0% per annum of the net cash proceeds received by or contributed to the Borrower in or from any such public offering, other than public offerings with respect to the Borrower's common stock registered on Form S-8 and other than any public sale constituting an Excluded Contribution;

(10) Restricted Payments in an amount equal to the amount of Excluded Contributions made since the Closing Date;

(11) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause not to exceed $125,000,000 at the time made;

(12) distributions or payments of Receivables Fees;

(13) (i) any Restricted Payment made in connection with the Transactions and the fees and expenses related thereto or used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Borrower to permit payment by such parent of such amount), in each case to the extent permitted by Section 9.9;

(14) [Reserved]

(15) the declaration and payment of dividends by the Borrower to, or the making of loans to, Holdings or any other direct or indirect parent company of the Borrower in amounts required for such parent company to pay: (A) franchise and excise taxes and other fees, taxes and expenses required to maintain its corporate existence, (B) foreign, federal, state and local income and similar taxes, to the extent such income taxes are attributable to the income, revenue, receipts, capital or margin of the Borrower and the Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Borrower and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Borrower, its Restricted and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such direct or indirect parent company of the Borrower, (C) customary salary, bonus and other benefits payable to officers, employees and directors of Holdings or any other direct or indirect parent company of the Borrower to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries, including the Borrower's proportionate share of such amount relating to such parent company being a public company, (D) general corporate operating (including, without limitation, expenses related to auditing or other accounting matters) and overhead costs and expenses of Holdings or any other direct or indirect parent company of the Borrower to the extent such costs and expenses are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries, including the Borrower's proportionate share of such amount relating to such parent company being a public company, (E) amounts required for any direct or indirect parent company of the Borrower to pay fees and expenses incurred by any direct or indirect parent company of the Borrower related to (i) the maintenance by such parent entity of its corporate or other entity existence and (ii) any unsuccessful equity or debt offering of such parent company of the Borrower, (F) taxes with respect to income of any direct or indirect parent company of the Borrower derived from funding made available to the Borrower and its Restricted Subsidiaries by such direct or indirect parent company, and (G) 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 any such direct or indirect parent company of the Borrower;
(16) the repurchase, redemption or other acquisition for value of Equity Interests of the Borrower deemed to occur in connection with paying cash in lieu of fractional shares of such Equity Interests in connection with a share dividend, distribution, share split, reverse share split, merger, consolidation, amalgamation or other business combination of the Borrower, in each case, permitted under this Agreement;

(17) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents);

(18) Restricted Payments made in connection with the repurchase, redemption, defeasance or other acquisition of the Existing Notes, in each case, made within 90 days after the Closing Date; and

(19) the prepayment, redemption, defeasance, repurchase or other acquisition or retirement for value of Senior Notes or any Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b) of the Borrower or any Restricted Subsidiary in an aggregate amount pursuant to this clause (19) not to exceed $100,000,000 in the aggregate;

provided that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11), (17) and (19), no Default shall have occurred and be continuing or would occur as a consequence thereof.

The Borrower will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of “Unrestricted Subsidiary.” For purposes of Designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Borrower and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of “Investment.” Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to Section 10.5(a) or under clauses (7), (10) or (11) of Section 10.5(b), or pursuant to the definition of “Permitted Investments,” and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Agreement.

(c) [Reserved]

(d) Prior to the Initial Term Loan Maturity Date, to the extent any Permitted Debt Exchange Notes are issued pursuant to Section 10.1(cc) for the purpose of consummating a Permitted Debt Exchange, (i) the Borrower will not, and will not permit any Restricted Subsidiary to, prepay, repurchase, redeem or otherwise defease or acquire any Permitted Debt Exchange Notes unless the Borrower shall concurrently voluntarily prepay Term Loans pursuant to Section 5.1(a) on a pro rata basis among the Term Loans, in an amount not less than the product of (a) a fraction, the numerator of which is the aggregate principal amount (calculated on the face amount thereof) of such Permitted Debt Exchange Notes that are proposed to be prepaid, repurchased, redeemed, defeased or acquired and the denominator of which is the aggregate principal amount (calculated on the face amount thereof) of all Permitted Debt Exchange Notes in respect of the relevant Permitted Debt Exchange then outstanding (prior to giving effect to such proposed prepayment, repurchase, redemption, defeasance or acquisition) and (b) the aggregate principal amount (calculated on the face amount thereof) of Term Loans then outstanding and (ii) the Borrower will not waive, amend or modify the terms of any Permitted Debt Exchange Notes or any indenture pursuant to which such Permitted Debt Exchange Notes have been issued in any manner inconsistent with the terms of Section 2.15(a), 10.1(cc) or the definition of “Permitted Other Indebtedness” or that would
result in a Default hereunder if such Permitted Debt Exchange Notes (as so amended or modified) were then being issued or incurred.

10.6. Limitations on Amendments. The Borrower will not waive, amend, modify, terminate or release any Junior Debt to the extent that any such waiver, amendment, modification, termination or release would be adverse to the Lenders in any material respect.

10.7. Holding Company. Holdings shall not conduct, transact or otherwise engage in any business or operations other than (i) the ownership and/or acquisition of the Stock of the Borrower, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters as a member of the consolidated group of Holdings and the Borrower, (iv) the performance of its obligations under and in connection with the Credit Documents, any documentation governing Permitted Other Indebtedness or Refinancing Permitted Other Indebtedness, the Acquisition Agreement, the other agreements contemplated by the Acquisition Agreement and the other agreements contemplated hereby and thereby, (v) any public offering of its common stock or any other issuance or registration of its Stock for sale or resale not prohibited by Section 10, including the costs, fees and expenses related thereto, (vi) the making of any dividend or the holding of any cash received in connection with dividends made by the Borrower in accordance with Section 10.5 pending application thereof, (vii) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes, (vii) providing indemnification to officers and directors and as otherwise permitted hereunder, (viii) activities incidental to the consummation of the Transactions, (ix) financing activities, including the issuance of securities, incurrence of debt, payment of dividends, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries and (x) activities incidental to the businesses or activities described in clauses (i) to (ix) of this Section 10.7.

10.8. Restrictive Agreements. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of Holdings, the Borrower or any other Credit Party to create, incur or permit to exist any Lien upon any of its property or assets to secure the Obligations or (b) the ability of any Restricted Subsidiary that is not a Credit Party to pay dividends or other distributions with respect to its Stock or to make or repay loans or advances to any Restricted Subsidiary; provided that the foregoing clauses (a) and (b) shall not apply to any such restrictions that (i) (x) exist on the date hereof and (y) any renewal or extension of a restriction permitted by clause (i)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, (ii) (x) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such restrictions were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary and (y) any renewal or extension of a restriction permitted by clause (ii)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, (iii) represent Indebtedness of a Restricted Subsidiary that is not a Credit Party that is permitted by Section 10.1, (iv) are customary restrictions that arise in connection with any Disposition permitted by Section 10.4 applicable pending such Disposition solely to the assets subject to such Disposition, (v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 10.5 or "Permitted Investments," (vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 10.1 and any synthetic lease obligation but solely to the extent any negative pledge relates to the property financed by or securing such Indebtedness (and excluding in any event any Indebtedness constituting any Junior Debt, provided that such restrictions are taken as a whole no more onerous than those imposed by this Agreement), (vii) are imposed by any Requirement of Law, (viii) are customary restrictions contained in leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate only to the assets subject thereto,
(ix) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 10.1(d) to the extent that such restrictions apply only to the property or assets securing such Indebtedness, (x) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Holdings, the Borrower or any Restricted Subsidiary, (xi) are customary provisions restricting assignment of any license, lease or other agreement, (xii) are restrictions on cash, Cash Equivalents or deposits imposed by customers under contracts entered into in the ordinary course of business (or otherwise constituting Permitted Liens on such cash or Cash Equivalents or deposits) or (xiii) are customary net worth provisions contained in real property leases or licenses of Intellectual Property entered into by the Borrower or any Restricted Subsidiary, so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the Borrower and its subsidiaries to meet their ongoing obligation.

SECTION 11. Events of Default

Upon the occurrence of any of the following specified events (each an "Event of Default"):  

11.1. Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default, and such default shall continue for five or more days, in the payment when due of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

11.2. Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which made or deemed made; or

11.3. Covenants. Any Credit Party shall:

(a) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(e), 9.5 (solely with respect to the Borrower) or Section 10; or

(b) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in Section 11.1 or 11.2 or clause (a) of this Section 11.3) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after receipt of written notice by the Borrower from the Administrative Agent or the Required Lenders; or

11.4. Default Under Other Agreements. (a) The Borrower or any of the Restricted Subsidiaries shall (i) default in any payment with respect to any Indebtedness (other than the Obligations) in excess of $50,000,000 in the aggregate (provided that such $50,000,000 minimum shall not apply in the case of any Permitted Debt Exchange Notes), for the Borrower and such Restricted Subsidiaries, beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created or (ii) default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist (other than, with respect to Indebtedness consisting of any Hedge Agreements, termination events or equivalent events pursuant to the terms of such Hedge Agreements (it being understood that clause (i) shall apply to any failure to make any payment in excess of $50,000,000 that is required as a result of any such termination or similar event and that is not otherwise being contested in good faith)), the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or
holders) to cause, any such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; or (b) without limiting the provisions of clause (a) above, any such Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment or as a mandatory prepayment (and, with respect to Indebtedness consisting of any Hedge Agreements, other than due to a termination event or equivalent event pursuant to the terms of such Hedge Agreements (it being understood that clause (a)(i) above shall apply to any failure to make any payment in excess of $50,000,000 that is required as a result of any such termination or equivalent event and that is not otherwise being contested in good faith)), prior to the stated maturity thereof; provided that this clause (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or

11.5. Bankruptcy, Etc. Holdings, the Borrower or any Material Subsidiary shall commence a voluntary case, proceeding or action concerning itself under (a) Title 11 of the United States Code entitled "Bankruptcy," or (b) in the case of any Foreign Subsidiary that is a Material Subsidiary, any domestic or foreign law relating to bankruptcy, judicial management, insolvency, reorganization, administration or relief of debtors in effect in its jurisdiction of incorporation, in each case as now or hereafter in effect, or any successor thereto (collectively, the "Bankruptcy Code"); or an involuntary case, proceeding or action is commenced against Holdings, the Borrower or any Material Subsidiary and the petition is not controverted within 30 days after commencement of the case, proceeding or action; or an involuntary case, proceeding or action is commenced against Holdings, the Borrower or any Material Subsidiary and the petition is not dismissed within 60 days after commencement of the case, proceeding or action; or a custodian (as defined in the Bankruptcy Code), judicial manager, receiver, receiver manager, trustee, administrator or similar person is appointed for, or takes charge of, all or substantially all of the property of Holdings, the Borrower or any Material Subsidiary; or Holdings, the Borrower or any Material Subsidiary commences any other voluntary proceeding or action under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency, administration or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to Holdings, the Borrower or any Material Subsidiary; or there is commenced against Holdings, the Borrower or any Material Subsidiary any such proceeding or action that remains undismissed for a period of 60 days; or Holdings, the Borrower or any Material Subsidiary is adjudicated insolvent or bankrupt; or any order of relief or other order approving any such case or proceeding or action is entered; or Holdings, the Borrower or any Material Subsidiary suffers any appointment of any custodian receiver, receiver manager, trustee, administrator or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 60 days; or Holdings, the Borrower or any Material Subsidiary makes a general assignment for the benefit of creditors; or any corporate action is taken by Holdings, the Borrower or any Material Subsidiary for the purpose of effecting any of the foregoing; or

11.6. ERISA. (a) An ERISA Event or Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States district court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e) above, such event or condition, together with all other such events or conditions, if any, could, in the sole judgment of the Required Lenders, reasonably be expected to result in a Material Adverse Effect; or
11.7. **Guarantee.** Any Guarantee provided by any Credit Party or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof and thereof) or any such Guarantor thereunder or any other Credit Party shall deny or disaffirm in writing any such Guarantor's obligations under the Guarantee; or

11.8. **Pledge Agreement.** Any Pledge Agreement pursuant to which the Stock or Stock Equivalents of the Borrower or any Subsidiary is pledged or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof and thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any pledgor thereunder or any Credit Party shall deny or disaffirm in writing any pledgor's obligations under any Pledge Agreement; or

11.9. **Security Agreement.** The Security Agreement or any other Security Document pursuant to which the assets of the Borrower or any Subsidiary are pledged as Collateral or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof and thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any grantor thereunder or any Credit Party shall deny or disaffirm in writing any grantor's obligations under the Security Agreement or any other Security Document; or

11.10. **Mortgages.** Any Mortgage or any material provision of any Mortgage relating to any material portion of the Collateral shall cease to be in full force or effect (other than pursuant to the terms hereof and thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any mortgagor thereunder or any Credit Party shall deny or disaffirm in writing any mortgagor's obligations under any Mortgage; or

11.11. **Judgments.** One or more judgments or decrees shall be entered against the Borrower or any of the Restricted Subsidiaries involving a liability of $50,000,000 or more in the aggregate for all such judgments and decrees for the Borrower and the Restricted Subsidiaries (to the extent not paid or covered by insurance provided by a carrier not disputing coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 60 days after the entry thereof; or

11.12. **Change of Control.** A Change of Control shall occur; then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent may and, upon the written request of the Required Lenders, shall, by written notice to the Borrower, take any or all of the following actions, without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrower, except as otherwise specifically provided for in this Agreement (provided that, if an Event of Default specified in **Section 11.5** shall occur with respect to the Borrower or Holdings, the result that would occur upon the giving of written notice by the Administrative Agent as specified below shall occur automatically without the giving of any such notice): declare the principal of and any accrued interest and fees in respect of all Loans and all Obligations owing hereunder and thereunder to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

11.13. **Application of Proceeds.** Subject to the terms of the ABL Intercreditor Agreement, if executed, the First Lien Intercreditor Agreement and, if executed, the Second Lien Intercreditor Agreement, any amount received by the Administrative Agent or the Collateral Agent from any Credit Party (or from proceeds of any Collateral) following any acceleration of the Obligations under this Agreement or any Event of Default with respect to the Borrower under **Section 11.5** shall be applied:
(i) *first*, to the payment of all reasonable and documented costs and expenses incurred by the Administrative Agent or Collateral Agent in connection with any collection or sale or otherwise in connection with any Credit Document, including all court costs and the reasonable fees and expenses of its agents and legal counsel, the repayment of all advances made by the Administrative Agent or the Collateral Agent hereunder or under any other Credit Document on behalf of any Credit Party and any other reasonable and documented costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Credit Document;

(ii) *second*, to the Secured Parties, an amount equal to all Obligations owing to them on the date of any distribution, and, if such moneys shall be insufficient to pay such amounts in full, then ratably (without priority of any one over any other) to such Secured Parties in proportion to the unpaid amounts thereof; and

(iii) *third*, any surplus then remaining shall be paid to the applicable Credit Parties or their successors or assigns or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

SECTION 12. The Agents

12.1. Appointment.

(a) Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Credit Documents and irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Section 12 (other than Section 12.1(c) with respect to the Joint Lead Arrangers and Bookrunners and Section 12.9 with respect to the Borrower) are solely for the benefit of the Agents and the Lenders, and the Borrower shall not have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent.

(b) The Administrative Agent and each Lender hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent and the Lenders, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each of the Syndication Agent, Joint Lead Arrangers and Bookrunners, the Co-Documentation Agents, the Joint Manager and the Joint Arrangers each in its capacity as such, shall not
have any obligations, duties or responsibilities under this Agreement but shall be entitled to all benefits of this Section 12.

12.2. Delegation of Duties. The Administrative Agent and the Collateral Agent may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither the Administrative Agent nor the Collateral Agent shall be responsible for the negligence or misconduct of any agents, subagents or attorneys-in-fact selected by it in the absence of gross negligence or willful misconduct (as determined in the final judgment of a court of competent jurisdiction).

12.3. Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person's own gross negligence or willful misconduct, as determined in the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Lenders or any participant for any recitals, statements, representations or warranties made by any of the Borrower, any Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of the Borrower, any Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party.

12.4. Reliance by Agents. The Administrative Agent and the Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Administrative Agent or the Collateral Agent. The Administrative Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent and the Collateral Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent and the Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans; provided that the Administrative Agent and Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Credit Document or
applicable law. For purposes of determining compliance with the conditions specified in Sections 6 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

12.5. Notice of Default. Neither the Administrative Agent nor the Collateral Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent or Collateral Agent has received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

12.6. Non-Reliance on Administrative Agent, Collateral Agent and Other Lenders. Each Lender expressly acknowledges that neither the Administrative Agent nor the Collateral Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent or Collateral Agent hereinafter taken, including any review of the affairs of the Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent or Collateral Agent to any Lender. Each Lender represents to the Administrative Agent and the Collateral Agent that it has, independently and without reliance upon the Administrative Agent, Collateral Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower, Guarantor and other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent, Collateral Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, neither the Administrative Agent nor the Collateral Agent shall have any duty or responsibility to provide any Lender with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects or creditworthiness of the Borrower, any Guarantor or any other Credit Party that may come into the possession of the Administrative Agent or Collateral Agent any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7. Indemnification. The Lenders agree to severally indemnify each Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective portions of the Total Credit Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments,
suggests, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Administrative Agent or the Collateral Agent under or in connection with any of the foregoing, provided that no Lender shall be liable to an Agent for the payment of 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 as determined by a final judgment of a court of competent jurisdiction; provided, further, that no action taken by the Administrative Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrower, provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto. 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 pro rata portion 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 resulting from such Agent's gross negligence or willful misconduct. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder.

12.8. **Agents in Their Individual Capacities.** Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Borrower, any Guarantor, and any other Credit Party as though such Agent were not an Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender" and "Lenders" shall include each Agent in its individual capacity.

12.9. **Successor Agents.** Each of the Administrative Agent and Collateral Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (not to be unreasonably withheld or delayed) so long as no Default under Section 11.1 or 11.5 is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above. Upon the acceptance of a successor's appointment as the
Administrative Agent or Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Section 12 (including 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

12.10. Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.11. Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or Collateral Agent, as applicable, may execute any documents or instruments necessary to in connection with a sale or disposition of assets permitted by this Agreement, (i) release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets, or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.1) have otherwise consented or (ii) release any Guarantor from the Guarantee, or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.1) have otherwise consented.

12.12. Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrower, the Agents and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, 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, 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.

SECTION 13. Miscellaneous

13.1. Amendments, Waivers and Releases. Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. The Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (a) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (b) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (i) forgive or reduce any portion of any Loan or extend the final scheduled maturity date of any Loan or reduce the stated rate (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender's Commitment, or increase the aggregate amount of the Commitments of any Lender, or amend or modify any provisions of Section 5.3(a) (with respect to the ratable allocation of any payments only) and 13.8(a) and 13.20, or make any Loan, interest, Fee or other amount payable in any currency other than expressly provided herein, in each case without the written consent of each Lender directly and adversely affected thereby, or (ii) amend, modify or waive any provision of this Section 13.1, consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3) or alter the order of application set forth in Section 11.13, in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of Section 12 without the written consent of the then-current Administrative Agent and Collateral Agent in a manner that directly and adversely affects such Person, or (iv) change any Term Loan Commitment to a revolving credit commitment without the prior written consent of each Lender directly and adversely affected thereby, or (v) release all or substantially all of the Guarantors under the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (vi) amend Section 2.9 so as to permit Interest Period intervals greater than six months without regard to availability to Lenders, without the written consent of each Lender directly and adversely affected thereby, or (vii) decrease the amount or allocation of any mandatory prepayment to be received by any Initial Term Loan Lender without the written consent of the Required Initial Term Loan Lenders, (viii)(A) decrease the Initial Term Loan Repayment Amount applicable to Initial Term Loans, extend any scheduled Initial Term Loan Repayment Date applicable to Initial Term Loans, in each case without the written consent of the Required Initial Term Loan Lenders and (B) decrease the amount or allocation of any mandatory prepayment to be received by any Initial Term Loan Lender in a manner disproportionately adverse to the interests of the Initial Term Loan Lenders in relation to the Lenders of any other Class of Term Loans, in each case without the written consent of the Required Initial Term Loan Lenders or (ix) reduce the percentages specified in the definitions of

-110-
the terms “Required Lenders” or “Required Initial Term Loan Lenders” or amend, modify or waive any provision of this Section 13.1 that has the effect of altering the number of Lenders that must approve any amendment, modification or waiver, in each case without the written consent of each Lender.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon the Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

Notwithstanding the foregoing, in addition to any credit extensions and related Joinder Agreement(s) effectuated without the consent of Lenders in accordance with Section 2.14, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Credit Documents with the Term Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and other definitions related to such new Term Loans.

In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term Loans of any Class (“Refinanced Term Loans”) with a replacement term loan tranche (“Replacement Term Loans”) hereunder; provided that (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans, (b) the Applicable ABR Margin and Applicable LIBOR Margin for such Replacement Term Loans shall not be higher than the Applicable ABR Margin and Applicable LIBOR Margin for such Refinanced Term Loans, (c) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the applicable Term Loans) and (d) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Term Loans of such Class in effect immediately prior to such refinancing.

The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations hereunder (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in
writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with this Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the following sentence) and (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Collateral Documents. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Restricted Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender.

13.2. Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to the Borrower, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrower, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, three (3) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

13.3. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

-112-
13.4. Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5. Payment of Expenses; Indemnification. The Borrower agrees (a) to pay or reimburse the Agents for all their reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation and execution and delivery of, and any amendment, supplement or modification to, this Agreement and the other Credit Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees, disbursements and other charges of Cahill Gordon & Reindel LLP, as counsel to the Agents, or such other counsel retained with the Borrower's consent (such consent not to be unreasonably withheld), (b) to pay or reimburse each Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of Cahill Gordon & Reindel LLP, as counsel to the Agents, or such other counsel retained with the Borrower's consent (such consent not to be unreasonably withheld), (c) to pay, indemnify, and hold harmless each Lender and Agent from, any and all recording and filing fees and (d) to pay, indemnify, and hold harmless each Lender and Agent and their respective Affiliates, directors, officers, employees, trustees, investment advisors and agents from and against any and all other liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable and documented fees, disbursements and other charges of one primary counsel and one local counsel in each relevant jurisdiction to such indemnified Persons (unless there is an actual or perceived conflict of interest or the availability of different claims or defenses in which case each such Person may retain its own counsel), related to the Transactions (including, without limitation, the Merger) or, with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Credit Documents and any such other documents, including, without limitation, any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law, in each case, applicable to the Borrower or any of its Subsidiaries or to any actual or alleged presence, Release or threatened Release of Hazardous Materials involving or attributable to the Borrower or any of its Subsidiaries (all the foregoing in this clause (d), collectively, the "indemnified liabilities"), provided that the Borrower shall have no obligation hereunder to any Agent or any Lender or any of their respective Affiliates, officers, directors, employees or agents with respect to indemnified liabilities to the extent it has been determined by a final non-appealable judgment of a court of competent jurisdiction to have resulted from (i) the gross negligence, bad faith or willful misconduct of the party to be indemnified or any of its Affiliates, or any of its or its Affiliates' officers, directors, employees, members or agents, (ii) any breach of any Credit Document by the party to be indemnified or (iii) disputes between and among Persons otherwise entitled to indemnification; provided that the Administrative Agent (and its related affiliates, officers, directors, employees, agents, controlling persons, advisors and other representatives), to the extent acting in its capacity as such, shall remain indemnified in respect of such disputes to the extent otherwise entitled to be so indemnified hereunder. No Person entitled to indemnification under clause (d) of this Section 13.5 shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, nor shall any such Person have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.5 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Credit Party, its directors, stockholders or creditors or any other Person, whether or not any Person entitled to indemnification under clause (d) of this Section 13.5 is otherwise a party thereto. All amounts
payable under this Section 13.5 shall be paid within ten Business Days of receipt by the Borrower of an invoice relating thereto setting forth such expense in reasonable retail. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to any claims for Taxes, which shall be governed exclusively by Section 5.4.

13.6. Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. 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, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Subject to the conditions set forth in clause (b)(ii) below, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not be unreasonably withheld or delayed; it being understood that, without limitation, the Borrower shall have the right to withhold or delay its consent to any assignment if, in order for such assignment to comply with applicable law, the Borrower would be required to obtain the consent of, or make any filing or registration with, any Governmental Authority) of:

(A) the Borrower, provided that no consent of the Borrower shall be required for (1) an assignment of Term Loans to (X) a Lender, (Y) an Affiliate of a Lender, or (Z) an Approved Fund or (2) an assignment of Loans or Commitments to any other assignee if an Event of Default under Section 11.1 or Section 11.5 (with respect to Holdings or the Borrower) has occurred and is continuing; and

(B) the Administrative Agent (which consent shall not be unreasonably withheld or delayed), provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

Notwithstanding the foregoing, no such assignment shall be made to a natural person.

(i) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 and increments of $1,000,000 in excess thereof, unless each of the Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld or delayed); provided that no such consent of the Borrower shall be required if an Event of Default under Section 11.1 or Section 11.5 has occurred and is continuing; provided further that contemporaneous
assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) 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, provided that this clause 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;

(C) The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "Administrative Questionnaire") and applicable tax forms; and

(E) any assignment to Holdings, the Borrower, any Subsidiary or an Affiliated Lender shall also be subject to the requirements of Section 13.6(h).

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(iv) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). Further, each Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by
clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it), provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (i) of the second proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.4 to the same extent as if it were a Lender and provided that such Participant agrees to be subject to the requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, and provided further that such Participant shall be entitled to the benefits of Section 5.4 only if such Participant complies with clause (e) of Section 5.4 as if it were a Lender. Subject to clause (c)(ii) of this Section 13.6, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.4 to the same extent as if it were a Lender and provided that such Participant agrees to be subject to the requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, and provided further that such Participant shall be entitled to the benefits of Section 5.4 only if such Participant complies with clause (e) of Section 5.4 as if it were a Lender. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 5.4 as though it were a Lender, provided such Participant agrees to be subject to Section 13.8(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11 or 5.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld). Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary. Any such Participant Register shall be available for inspection by the Administrative Agent and by the Borrower, at any reasonable time and from time to time upon reasonable prior notice.

(d) Any Lender may, without the consent of the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. The Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Borrower has made its initial borrowing hereunder, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit I evidencing the Initial Term Loans and New Term Loans, respectively, owing to such Lender.

(e) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective
Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) **SPV Lender**. Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (a "**SPV**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPV to make any Loan and (ii) if an SPV elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPV hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPV, it shall not institute against, or join any other person in instituting against, such SPV any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 13.6, any SPV may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Borrower and Administrative Agent) providing liquidity and/or credit support to or for the account of such SPV to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPV. This Section 13.6(g) may not be amended without the written consent of the SPV. Notwithstanding anything to the contrary in this Agreement, (x) no SPV shall be entitled to any greater rights under Sections 2.10, 2.11 and 5.4 than its Granting Lender would have been entitled to absent the use of such SPV and (y) each SPV agrees to be subject to the requirements of Sections 2.10, 2.11 and 5.4 as though it were a Lender and has acquired its interest by assignment pursuant to clause (b) of this Section 13.6.

(h) Notwithstanding anything to the contrary contained herein, (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Loans or Commitments to Holdings, the Borrower, any Subsidiary or an Affiliated Lender and (y) Holdings, the Borrower and any Subsidiary may, from time to time, purchase or prepay Loans, in each case, on a non-pro rata basis through (x) Dutch auction procedures open to all applicable Lenders on a pro rata basis in accordance with customary procedures to be agreed between the Borrower and the Administrative Agent (or other applicable agent managing such auction) or (y) open market purchases; provided that:
(i) any Loans or Commitments acquired by Holdings, the Borrower or any Subsidiary shall be retired and cancelled promptly upon the acquisition thereof;

(ii) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (i) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Borrower are not then present, (ii) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among Administrative Agent and one or more Lenders, except to the extent such information or materials have been made available to the Borrower or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Article II), or (iii) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a Lender, against Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Credit Documents;

(B) except with respect to any amendment, modification, waiver, consent or other action described in clause (i) or (ii) of the second proviso of Section 13.1 or that adversely affects such Affiliated Lender in any material respect differently from other Lenders, the Loans held by an Affiliated Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote; and

(C) if a case under Title 11 of the United States Code is commenced against any Credit Party, such Credit Party shall seek (and each Affiliated Lender shall consent) to provide that the vote of any Affiliated Lender (in its capacity as a Lender) with respect to any plan of reorganization of such Credit Party shall not be counted except that such Affiliated Lender's vote (in its capacity as a Lender) may be counted to the extent any such plan of reorganization proposes to treat the Obligations held by such Affiliated Lender in a manner that is less favorable to such Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower; each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Loans and participations therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (C);

(iii) the aggregate principal amount of Term Loans held at any one time by Affiliated Lenders may not exceed 30% of the aggregate principal amount of all Term Loans outstanding at such time under this Agreement; and

(iv) any such Loans acquired by an Affiliated Lender may, with the consent of the Borrower, be contributed to the Borrower and exchanged for debt or equity securities that are otherwise permitted to be issued at such time.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders.
13.7. **Replacements of Lenders Under Certain Circumstances.**

(a) The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.10 or 5.4 or (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, with a replacement bank or other financial institution, provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 or 11.5 shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank or institution shall purchase, at par) all Loans and other amounts pursuant to Section 2.10, 2.11 or 5.4, as the case may be, owing to such replaced Lender prior to the date of replacement, (iv) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein) and (vi) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

(b) If any Lender (such Lender, a "Non-Consenting Lender") has failed to consent to a proposed amendment, waiver, discharge or termination that pursuant to the terms of Section 13.1 requires the consent of either (i) all of the Lenders affected or (ii) all of the Lenders and, in each case, with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans, and its Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent, provided that (a) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and (c) the Borrower shall pay to such Non-Consenting Lender the amount, if any, owing to such Lender pursuant to Section 5.1(b). In connection with any such assignment, the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.6.

13.8. **Adjustments; Set-off.**

(a) Except as contemplated in Section 13.6(h), if any Lender (a "benefited Lender") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.5, or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits in the same manner as if it were a Lender hereunder and had received the benefit of such payment or collateral; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any amount becoming due and payable by the Borrower hereunder
whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

13.9. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

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

13.11. Integration. This Agreement and the other Credit Documents represent the agreement of the Borrower, the Collateral Agent, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrower, the Administrative Agent, the Collateral Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.


13.13. Submission to Jurisdiction; Waivers. The Borrower irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding shall be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.2;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and
(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.13 any special, exemplary, punitive or consequential damages.

13.14. **Acknowledgments.** The Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Credit Documents;

(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrower, on the one hand, and the Administrative Agent, the Lenders and the other Agents on the other hand, and the Borrower and the other Credit Parties are capable of evaluating and understanding and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Administrative Agent and the other Agents, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for the Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Administrative Agent nor any other Agent has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent or other Agent has advised or is currently advising the Borrower, the other Credit Parties or their respective Affiliates on other matters) and neither the Administrative Agent or any other Agent has any obligation to the Borrower, the other Credit Parties or their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; (iv) the Administrative Agent, each other Agent and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent nor any other Agent has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) neither the Administrative Agent nor any other Agent has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent or any other Agent with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Borrower, on the one hand, and any Lender, on the other hand.

13.15. **Waivers of Jury Trial.** The Borrower, each Agent and each Lender hereby irrevocably and unconditionally waive trial by jury in any legal action or proceeding relating to this Agreement or any other Credit Document and for any counterclaim therein.

13.16. **Confidentiality.** The Administrative Agent, each other Agent and each Lender shall hold all non-public information furnished by or on behalf of the Borrower or any of its Subsidiaries in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by
such Lender, the Administrative Agent or such other Agent pursuant to the requirements of this Agreement ("Confidential Information"), confidential in accordance with its customary procedure for handling confidential information of this nature and (in the case of a Lender that is a bank) in accordance with safe and sound banking practices and in any event may make disclosure as required or requested by any governmental, regulatory or self-regulatory agency or representative thereof or pursuant to legal process or applicable law or regulation or (a) to such Lender's or the Administrative Agent's or other Agent's attorneys, professional advisors, independent auditors, trustees or Affiliates, (b) to an investor or prospective investor in a Securitization that agrees its access to information regarding the Credit Parties, the Loans and the Credit Documents is solely for purposes of evaluating an investment in a Securitization and who agrees to treat such information as confidential, (c) to a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in connection with the administration, servicing and reporting on the assets serving as collateral for a Securitization and who agrees to treat such information as confidential and (d) to a nationally recognized ratings agency that requires access to information regarding the Credit Parties, the Loans and Credit Documents in connection with ratings issued with respect to a Securitization; provided that unless specifically prohibited by applicable law or court order, each Lender, the Administrative Agent and each other Agent shall use commercially reasonable efforts to notify the Borrower of any request made to such Lender, the Administrative Agent or such other Agent by any governmental, regulatory or self regulatory agency or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender by such agency) for disclosure of any such non-public information prior to disclosure of such information, and provided further that in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Borrower or any Subsidiary. Each Lender, the Administrative Agent and each other Agent agrees that it will not provide to prospective Transferees or to any pledgee referred to in Section 13.6 or to prospective direct or indirect contractual counterparties in swap agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by the provisions of this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16.

13.17. Direct Website Communications.

(a) The Borrower may, at its option, provide to the Administrative Agent any information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded communications being referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) 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. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Borrower, the Administrative Agent, any other Agent
The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(b) The Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the "Platform"), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(c) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. 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 PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES (COLLECTIVELY, THE "AGENT PARTIES" AND EACH AN "AGENT PARTY") HAVE ANY LIABILITY TO THE BORROWER, ANY LENDER OR ANY OTHER PERSON FOR LOSSES, CLAIMS, DAMAGES, LIABILITIES OR EXPENSES OF ANY KIND (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF BORROWER MATERIALS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY AGENT PARTY RESULTED FROM SUCH AGENT PARTY'S (OR ANY OF ITS RELATED PARTIES' (OTHER THAN ANY TRUSTEE OR ADVISOR)) GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OR MATERIAL BREACH OF THE CREDIT DOCUMENTS.

(d) The Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to the Borrower, its Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrower has indicated contains only publicly available information with respect to the Borrower may 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 contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Borrower, its Subsidiaries and their securities. Notwithstanding the foregoing, the Borrower shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information.

13.18. **USA PATRIOT Act.** Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies each Credit Party.
which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the Patriot Act.

13.19. Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

13.20. Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent 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 such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding 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 severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any 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 applicable Overnight Rate from time to time in effect.
IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

DEL MONTE FOODS COMPANY,
as Borrower
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer,
Chief Accounting Officer, and Controller

[Signature Page to Credit Agreement]
BLUE ACQUISITION GROUP, INC.,
as Holdings
By: /s/ Richard L. French
    Name: Richard L. French
    Title: Senior Vice President, Treasurer,
           Chief Accounting Officer, and Controller

[Signature Page to Credit Agreement]
JPMORGAN CHASE BANK, N.A.,
as Administrative Agent, Collateral Agent and Lender
By: /s/ Barry K. Bergman
   Name: Barry K. Bergman
   Title: Managing Director

[Signature Page to Credit Agreement]
Guarantee

This Guarantee dated as of March 8, 2011, by each of the signatories listed on the signature pages hereto and each of the other entities that becomes a party hereto pursuant to Section 19 (the “Guarantors” and individually, a “Guarantor”), in favor of the Collateral Agent for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, reference is made to that certain Credit Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the “Credit Agreement”) among Del Monte Foods Company, a Delaware corporation (the “Company”), Blue Acquisition Group, Inc. (“Holdings”), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A, as Administrative Agent and as Collateral Agent, pursuant to which, among other things, the Lenders have severally agreed to make Loans to the Company upon the terms and subject to the conditions set forth therein and one or more Hedge Banks may from time to time enter into Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, the Company is a direct wholly-owned Subsidiary of Holdings and whereas each other Guarantor is a direct or indirect wholly-owned Subsidiary of the Company;

WHEREAS, the proceeds of the Loans will be used in part to enable valuable transfers to the Guarantors in connection with the operation of their respective businesses;

WHEREAS, each Guarantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loans to the Company under the Credit Agreement that the Guarantors shall have executed and delivered this Guarantee to the Collateral Agent for the benefit of the Secured Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Hedge Banks to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries, the Guarantors hereby agree with the Collateral Agent, for the ratable benefit of the Secured Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.
(b) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Guarantee shall refer to this Guarantee as a whole and not to any particular provision of this Guarantee, and Section references are to Sections of this Guarantee unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(c) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Guarantee.

(a) Subject to the provisions of Section 2(b), each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees, as primary obligor and not merely as surety, to the Collateral Agent, for the benefit of the Secured Parties, the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations of anyone other than such Guarantor (including amounts that would become due for operation of the automatic stay under 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)).

(b) Anything herein or in any other Credit Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Credit Documents shall in no event exceed the amount that can be guaranteed by such Guarantor under the Bankruptcy Code or any applicable laws relating to fraudulent conveyances, fraudulent transfers or the insolvency of debtors.

(c) Each Guarantor further agrees to pay any and all expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by the Administrative Agent or the Collateral Agent or any other Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Guarantor under this Guarantee.

(d) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing this Guarantee or affecting the rights and remedies of the Collateral Agent or any other Secured Party hereunder.

(e) No payment or payments made by the Company, any of the Guarantors, any other guarantor or any other Person or received or collected by the Collateral Agent, the Administrative Agent or any other Secured Party from the Company, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder, which shall, notwithstanding any such payment or payments, other than payments made by such Guarantor in respect of the Obligations or payments received or collected from such Guarantor in respect of the Obligations, remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations under the Credit Documents are paid in full and the Commitments are terminated.
(f) Each Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to the Collateral Agent or any other Secured Party on account of its liability hereunder, it will notify the Collateral Agent in writing that such payment is made under this Guarantee for such purpose.

3. Right of Contribution. Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder (including by way of set-off rights being exercised against it), such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 5 hereof. The provisions of this Section 3 shall in no respect limit the obligations and liabilities of any Guarantor to the Collateral Agent and the other Secured Parties, and each Guarantor shall remain liable to the Collateral Agent and the other Secured Parties up to the maximum liability of such Guarantor hereunder.

4. Right of Set-off. In addition to any rights and remedies of the Secured Parties provided by law, each Guarantor hereby irrevocably authorizes each Secured Party at any time and from time to time following the occurrence and during the continuance of an Event of Default, without notice to such Guarantor or any other Guarantor, any such notice being expressly waived by each Guarantor, upon any amount becoming due and payable by such Guarantor hereunder (whether at stated maturity, by acceleration or otherwise), to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Secured Party to or for the credit or the account of such Guarantor. Each Secured Party shall notify such Guarantor promptly of any such set-off and the appropriation and application made by such Secured Party, provided that the failure to give such notice shall not affect the validity of such set-off and application.

5. No Subrogation. Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation and application of funds of any of the Guarantors by the Collateral Agent or any other Secured Party, no Guarantor shall be entitled to be subrogated to any of the rights (or if subrogated by operation of law, such Guarantor hereby waives such rights to the extent permitted by applicable law) of the Collateral Agent or any other Secured Party against the Company or any Guarantor or any collateral security or guarantee or right of offset held by the Collateral Agent or any other Secured Party for the payment of any of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Company or any Guarantor or other guarantor in respect of payments made by such Guarantor hereunder, in each case, until all amounts owing to the Collateral Agent and the other Secured Parties on account of the Obligations under the Credit Documents are paid in full and the Commitments are terminated. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all the Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Collateral Agent and the other Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Collateral Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Collateral Agent, if required), to be applied
against the Obligations, whether due or to become due, in such order as the Collateral Agent may determine.

6. Amendments, etc. with Respect to the Obligations; Waiver of Rights. Each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, (a) any demand for payment of any of the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit Agreement and the other Credit Documents and any other documents executed and delivered in connection therewith and the Secured Hedge Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Secured Hedge Agreement, Hedge Bank party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of any of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Obligations or for this Guarantee or any property subject thereto. When making any demand hereunder against any Guarantor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on the Company or any Guarantor or any other person, and any failure by the Collateral Agent or any other Secured Party to make any such demand or to collect any payments from the Company or any Guarantor or any other person or any release of the Company or any Guarantor or any other person shall not relieve any Guarantor in respect of which a demand or collection is not made or any Guarantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Collateral Agent or any other Secured Party against any Guarantor. For the purposes hereof “demand” shall include the commencement and continuance of any legal proceedings.


(a) Each Guarantor waives any and all notice of the creation, contraction, incurrence, renewal, extension, amendment, waiver or accrual of any of the Obligations, and notice of or proof of reliance by the Collateral Agent or any other Secured Party upon this Guarantee or acceptance of this Guarantee. All Obligations shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, waived or accrued, in reliance upon this Guarantee, and all dealings between the Company and any of the Guarantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guarantee. To the fullest extent permitted by applicable law, each Guarantor waives diligence, promptness, presentment, protest and notice of protest, demand for payment or performance, notice of default or nonpayment, notice of acceptance and any other notice in respect of the Obligations or any part of them, and any defense arising by reason of any disability or other defense of the
Company or any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that this Guarantee shall be construed as a
continuing, absolute and unconditional guarantee of payment without regard to (a) the validity, regularity or enforceability of the Credit Agreement, any other
Credit Document, any Secured Hedge Agreement, any of the Obligations or any collateral security therefor or guarantee or right of offset with respect thereto
at any time or from time to time held by the Collateral Agent or any other Secured Party, (b) any defense, set-off or counterclaim (other than a defense of
payment or performance) that may at any time be available to or be asserted by the Company against the Collateral Agent or any other Secured Party or
(c) any other circumstance whatsoever (with or without notice to or knowledge of the Company or such Guarantor) that constitutes, or might be construed to
constitute, an equitable or legal discharge of the Company for the Obligations, or of such Guarantor under this Guarantee, in bankruptcy or in any other
instance. When pursuing its rights and remedies hereunder against any Guarantor, the Collateral Agent and any other Secured Party may, but shall be under no
obligation to, pursue such rights and remedies as it may have against the Company or any other Person or against any collateral security or guarantee for the
Obligations or any right of offset with respect thereto, and any failure by the Collateral Agent or any other Secured Party to pursue such other rights or
remedies or to collect any payments from the Company or any such other Person or to realize upon any such collateral security or guarantee or to exercise any
such right of offset, or any release of the Company or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve such
Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the
Collateral Agent and the other Secured Parties against such Guarantor.

(b) This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Guarantor and
the successors and assigns thereof and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors,
indorsees, transferees and assigns until all Obligations (other than any contingent indemnity obligations not then due) shall have been satisfied by payment in
full and the Commitments thereunder shall be terminated, notwithstanding that from time to time during the term of the Credit Agreement and any Secured
Hedge Agreement the Credit Parties may be free from any Obligations.

(c) A Guarantor shall automatically be released from its obligations hereunder and the Guarantee of such Guarantor shall be automatically
released under the circumstances described in Section 13.1 of the Credit Agreement.

8. Reinstatement. This Guarantee shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof,
of any of the Obligations is rescinded or must otherwise be restored or returned by the Collateral Agent or any other Secured Party upon the insolvency,
bankruptcy, dissolution, liquidation or reorganization of the Company or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or
conservator of, or trustee or similar officer for, the Company or any Guarantor or any substantial part of its property, or otherwise, all as though such
payments had not been made.

9. Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Collateral Agent without set-off or counterclaim in
U.S. Dollars (based on the Dollar Equivalent amount of such Obligations on the date of payment) at the Collateral Agent's
office. Each Guarantor agrees that the provisions of Sections 5.4 and 13.19 of the Credit Agreement shall apply to such Guarantor's obligations under this Guarantee.

10. Representations and Warranties; Covenants.

(a) Each Guarantor hereby represents and warrants that the representations and warranties set forth in Section 8 of the Credit Agreement as they relate to such Guarantor and in the other Credit Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects as of the Closing Date (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date), and the Collateral Agent and each other Secured Party shall be entitled to rely on each of them as if they were fully set forth herein.

(b) Each Guarantor hereby covenants and agrees with the Collateral Agent and each other Secured Party that, from and after the date of this Guarantee until the Obligations are paid in full and the Commitments are terminated, such Guarantor shall take, or shall refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that no violation of any provision, covenant or agreement contained in Section 9 or Section 10 of the Credit Agreement and so that no Default or Event of Default, is caused by any act or failure to act of such Guarantor or any of its Subsidiaries.

11. Authority of the Collateral Agent.

(a) The Collateral Agent enters into this Guarantee in its capacity as agent for the Secured Parties from time to time. The rights and obligations of the Collateral Agent under this Guarantee at any time are the rights and obligations of the Secured Parties at that time. Each of the Secured Parties has (subject to the terms of the Credit Documents) a several entitlement to each such right, and a several liability in respect of each such obligation, in the proportions described in the Credit Documents. The rights, remedies and discretions of the Secured Parties, or any of them, under this Guarantee may be exercised by the Collateral Agent. No party to this Guarantee is obliged to inquire whether an exercise by the Collateral Agent of any such right, remedy or discretion is within the Collateral Agent's authority as agent for the Secured Parties.

(b) Each party to this Guarantee acknowledges and agrees that any changes (in accordance with the provisions of the Credit Documents) in the identity of the persons from time to time comprising the Secured Parties gives rise to an equivalent change in the Secured Parties, without any further act. Upon such an occurrence, the persons then comprising the Secured Parties are vested with the rights, remedies and discretions and assume the obligations of the Secured Parties under this Guarantee. Each party to this Guarantee irrevocably authorizes the Collateral Agent to give effect to the change in Lenders contemplated in this Section 11(b) by countersigning an Assignment and Acceptance.

12. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to any Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.
13. **Counterparts.** This Guarantee may be executed by one or more of the parties to this Guarantee on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guarantee signed by all the parties shall be lodged with the Collateral Agent and the Company.

14. **Severability.** Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

15. **Integration.** This Guarantee, together with the other Credit Documents and each other document in respect of any Secured Hedge Agreement, represents the agreement of each Guarantor and the Collateral Agent with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents or each other document in respect of any Secured Hedge Agreement.

16. **Amendments in Writing; No Waiver; Cumulative Remedies.**

(a) None of the terms or provisions of this Guarantee may be waived, amended, supplemented or otherwise modified except in accordance with Section 13.1 of the Credit Agreement.

(b) Neither the Collateral Agent nor any other Secured Party shall by any act (except by a written instrument pursuant to Section 16(a)), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or any other Secured Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.
17. Section Headings. The Section headings used in this Guarantee are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

18. Successors and Assigns. This Guarantee shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors and assigns except that no Guarantor may assign, transfer or delegate any of its rights or obligations under this Guarantee without the prior written consent of the Collateral Agent.

19. Additional Guarantors. Each Subsidiary of the Company that is required to become a party to this Guarantee pursuant to Section 9.11 of the Credit Agreement shall become a Guarantor, with the same force and effect as if originally named as a Guarantor herein, for all purposes of this Guarantee, upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Guarantor as a party to this Guarantee shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Guarantee.

20. Waiver of Jury Trial. EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

21. Submission to Jurisdiction; Waivers; Service of Process. Each Guarantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Guarantee and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Guarantor in care of the Company at the Company’s address set forth in the Credit Agreement, and such Person hereby irrevocably authorizes and directs the Company to accept such service on its behalf;

(d) agrees that nothing herein shall affect the right of the Collateral Agent or any other Secured Party to effect service of process in any other manner permitted by law.
or shall limit the right of the Collateral Agent or any other Secured Party to sue in any other jurisdiction; and

c) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 21 any special, exemplary, punitive or consequential damages.


[Signature pages follow]

-9-
IN WITNESS WHEREOF, each of the undersigned has caused this Guarantee to be duly executed and delivered by its duly authorized officer or other representative as of the day and year first above written.

BLUE ACQUISITION GROUP, INC., as Guarantor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

DEL MONTE CORPORATION, as Guarantor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[SIGNATURE PAGE TO GUARANTEE]
JPMORGAN CHASE BANK, N.A., as Collateral Agent
By: /s/ Barry K. Bergman
Name: Barry K. Bergman
Title: Managing Director

[SIGNATURE PAGE TO GUARANTEE]
SUPPLEMENT NO. [   ] dated as of [   ] to the GUARANTEE dated as of March 8, 2011, among each of the Guarantors listed on the signature pages thereto (each such subsidiary individually, a "Guarantor" and, collectively, the "Guarantors"), and JPMorgan Chase Bank, N.A., as Collateral Agent for the Lenders from time to time parties to the Credit Agreement referred to below (the "Guarantee").

A. Reference is made to that certain Credit Agreement, dated as of the date of the Guarantee (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement"), among Del Monte Foods Company, a Delaware corporation (the "Company"), Blue Acquisition Group, Inc. ("Holdings"), the Lenders from time to time parties thereto and JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guarantee.

C. The Guarantors have entered into the Guarantee in order to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Hedge Banks to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. Section 9.11 of the Credit Agreement and Section 19 of the Guarantee provide that additional Subsidiaries may become Guarantors under the Guarantee by execution and delivery of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a "New Guarantor") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guarantee in order to induce one or more Hedge Banks to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries.

Accordingly, the Collateral Agent and each New Guarantor agrees as follows:

SECTION 1. In accordance with Section 19 of the Guarantee, each New Guarantor by its signature below becomes a Guarantor under the Guarantee with the same force and effect as if originally named therein as a Guarantor, and each New Guarantor hereby (a) agrees to all the terms and provisions of the Guarantee applicable to it as a Guarantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct on and as of the date hereof (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date). Each reference to a Guarantor in the Guarantee shall be deemed to include each New Guarantor. The Guarantee is hereby incorporated herein by reference.
SECTION 2. Each New Guarantor represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Company and the Collateral Agent. This Supplement shall become effective as to each New Guarantor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Guarantor and the Collateral Agent.

SECTION 4. Except as expressly supplemented hereby, the Guarantee shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 6. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Guarantee, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to each New Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.
IN WITNESS WHEREOF, each New Guarantor and the Collateral Agent have duly executed this Supplement to the Guarantee as of the day and year first above written.

[NAME OF NEW GUARANTOR] as Guarantor
By:
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Collateral Agent
By:
Name:
Title:
SECURITY AGREEMENT

THIS SECURITY AGREEMENT dated as of March 8, 2011, among Del Monte Foods Company, a Delaware corporation (the "Company"), Blue Acquisition Group, Inc. ("Holdings"), each of the Subsidiaries of the Company listed on the signature pages hereto or that becomes a party hereto pursuant to Section 8.14 (each such entity being a "Subsidiary Grantor" and, collectively, the "Subsidiary Grantors"; the Subsidiary Grantors, Holdings and the Company are referred to collectively as the "Grantors"), and JPMorgan Chase Bank, N.A., as Collateral Agent (in such capacity, the "Collateral Agent") for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, the Company is party to the Credit Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among the Company, Holdings, the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent;

WHEREAS, (a) pursuant to the Credit Agreement, the Lenders have severally agreed to make Loans to the Company upon the terms and subject to the conditions set forth therein and (b) one or more Hedge Banks may from time to time enter into Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, pursuant to the Guarantee dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the "Guarantee"), Holdings and each Subsidiary Grantor party thereto has agreed to unconditionally and irrevocably guarantee, as primary obligor and not merely as surety, to the Collateral Agent for the benefit of the Secured Parties the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations;

WHEREAS, Holdings and each Subsidiary Grantor is a Guarantor;

WHEREAS, the proceeds of the Loans will be used in part to enable the Company to make valuable transfers to the Subsidiary Grantors in connection with the operation of their respective businesses;

WHEREAS, each Grantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loans to the Company under the Credit Agreement that the Grantors shall have executed and delivered this Security Agreement to the Collateral Agent for the benefit of the Secured Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Hedge Agreements with the Company and/or its
Subsidiaries, the Grantors hereby agree with the Collateral Agent, for the benefit of the Secured Parties, as follows:

1. Defined Terms.

   (a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

   (b) Terms used herein without definition that are defined in the UCC have the meanings given to them in the UCC, including the following terms (which are capitalized herein): Account, Chattel Paper, Commercial Tort Claims, Commodity Contract, Deposit Accounts, Documents, Fixtures, Goods, Instruments, Inventory, Letter-of-Credit Right, Securities, Securities Accounts, Security Entitlement, Supporting Obligation and Tangible Chattel Paper.

   (c) The following terms shall have the following meanings:

"Authorized Representative" shall mean the Person appointed to act as trustee, agent or representative for the holders of Pari Passu Obligations pursuant to any Pari Passu Agreement and execute a Pari Passu Secured Party Consent.

"Collateral" shall have the meaning provided in Section 2.

"Collateral Account" shall mean any collateral account established by the Collateral Agent as provided in Section 5.1 or Section 5.3.

"Collateral Agent" shall have the meaning provided in the preamble to this Security Agreement.

"Control" shall mean "control," as such term is defined in Section 9-104 or 9-106, as applicable, of the UCC.

"Copyright License" shall mean any written agreement, now or hereafter in effect, granting any right to any third party under any Copyright now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting any right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of any Grantor under any such agreement, including those material inbound exclusive licenses in third party owned U.S. registered Copyrights listed on Schedule 1.

"Copyrights" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (i) 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 (ii) 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 U.S. registered copyrights owned by any Grantor and listed on Schedule 2.

"Default" or "Event of Default" shall mean a "default" or "event of default" under the Credit Agreement or under any Pari Passu Agreement.

"Discharge" shall have the meaning assigned to such term in the Intercreditor Agreement.
“Equipment” shall mean all “equipment,” as such term is defined in Article 9 of the UCC, now or hereafter owned by any Grantor or to which any Grantor has rights and, in any event, shall include all machinery, equipment, furnishings, moveable trade fixtures and vehicles now or hereafter owned by any Grantor or to which any Grantor has rights and any and all Proceeds, additions, substitutions and replacements of any of the foregoing, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto; but excluding equipment to the extent it is subject to a Lien permitted pursuant to clauses (6) (solely with respect to clause (d) of Section 10.1 of the Credit Agreement) and (9) of the definition of “Permitted Liens” in the Credit Agreement and the terms of the Indebtedness secured by such Lien prohibit assignment of, or granting of a security interest in, such Grantor's rights and interests therein (other than to the extent that any such prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law), provided, that immediately upon the repayment of all Indebtedness secured by such Lien, such Grantor shall be deemed to have granted a Security Interest in all the rights and interests with respect to such equipment.

“Excluded Property” shall mean all (i) any Vehicles and other assets subject to certificates of title, (ii) Letter-of-Credit Rights, (iii) any property that is subject to a Lien permitted pursuant to clauses (6) (solely with respect to clause (d) of Section 10.1 of the Credit Agreement) and (9) of the definition of “Permitted Liens” in the Credit Agreement if the contract or other agreement in which such Lien is granted (or the documentation providing for such Indebtedness) validly prohibits the creation of any other Lien on such property; provided that such property shall be Excluded Property only to the extent and for so long as such prohibition is in effect and (iv) proceeds and products from any and all of the of the foregoing unless such proceeds would otherwise constitute Collateral.

“General Intangibles” shall mean all "general intangibles" as such term is defined in Article 9 of the UCC and, in any event, including with respect to any Grantor, all contracts, agreements, instruments and indentures in any form, and portions thereof, to which such Grantor is a party or under which such Grantor has any right, title or interest or to which such Grantor or any property of such Grantor is subject, as the same may from time to time be amended, supplemented or otherwise modified, including (a) all rights of such Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (b) all rights of such Grantor to receive proceeds of any insurance, indemnity, warranty or guarantee with respect thereto, (c) all claims of such Grantor for damages arising out of any breach of or default thereunder and (d) all rights of such Grantor to terminate, amend, supplement, modify or exercise rights or options thereunder, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder, in each case to the extent the grant by such Grantor of a Security Interest pursuant to this Security Agreement in its right, title and interest in any such contract, agreement, instrument or indenture (i) is not prohibited by such contract, agreement, instrument or indenture without the consent of any other party thereto (other than a Credit Party), (ii) would not give any other party (other than a Credit Party) to any such contract, agreement, instrument or indenture the right to terminate its obligations thereunder or (iii) is permitted with consent if all necessary consents to such grant of a Security Interest have been obtained from the other parties thereto (other than to the extent that any such prohibition referred to in clauses (i), (ii) and (iii) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate such Grantor to obtain such consents), provided that the foregoing limitation shall not affect, limit, restrict or impair the grant by such Grantor of a Security Interest pursuant to this Security Agreement in any Account or any money or other amounts due or to become due under any such contract, agreement, instrument or indenture.

“Grantor” shall have the meaning assigned to such term in the recitals hereto.
"Intellectual Property" shall mean all U.S. and foreign intellectual property, including all (i) (a) Patents, inventions, processes, developments, technology and know-how; (b) Copyrights including Copyrights in graphics, advertising materials, labels, package designs and photographs; (c) Trademarks; (d) trade secrets, confidential, proprietary or non-public information, (ii) all Patent Licenses, Trademark Licenses and Copyright Licenses and (iii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all Proceeds therefrom. In each case to the extent the grant by such Grantor of a Security Interest pursuant to this Security Agreement in any such rights, priorities and privileges relating to such Intellectual Property (A) does not constitute or result in the abandonment, termination, acceleration, invalidation of or rendering unenforceable any right, title or interest therein or result in a breach of the terms of, or constitute a breach or default under such Intellectual Property, including any "intent to use" Trademark application filed in the United States Patent and Trademark Office unless and until an amendment to allege use or a statement of use has been filed under 15 U.S.C. §1501(d) and accepted by the United States Patent and Trademark Office, to the extent that granting a Security Interest therein before such time would invalidate or terminate, or adversely affect the enforceability or validity of, such "intent-to-use" Trademark application, (B) is not prohibited by any contract, agreement or other instrument governing such rights, priorities and privileges without the consent of any other party thereto (other than a Credit Party), (C) would not give any other party (other than a Credit Party) to any such contract, agreement, license or other instrument the right to terminate its obligations thereunder or (D) is permitted with consent if all necessary consents to such grant of a Security Interest have been obtained from the relevant parties (other than to the extent that any such prohibition referred to in clauses (A), (B), (C) and (D) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate such Grantor to obtain such consents).

"Intercreditor Agreement" shall have the meaning assigned to such term in Section 8.1.

"Investment Property" shall mean all Securities (whether certificated or uncertificated), Security Entitlements and Commodity Contracts of any Grantor (other than (i) as pledged pursuant to the Pledge Agreement and (ii) solely with respect to the Obligations, any Stock or Stock Equivalents issued by any Foreign Subsidiary in excess of 65% of the outstanding voting class of such Stock or Stock Equivalents), whether now or hereafter acquired by any Grantor, except, in each case, to the extent the grant by a Grantor of a Security Interest therein pursuant to this Security Agreement in its right, title and interest in any such Investment Property (i) is prohibited by any contract, agreement, instrument or indenture governing such Investment Property without the consent of any other party thereto (other than a Credit Party) unless such consent has been expressly obtained, or (ii) would give any other party (other than a Credit Party) the right to terminate its obligations thereunder (other than to the extent that any such prohibition referred to in clauses (i) and (ii) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate any Grantor to obtain any such consents referred to in clauses (i) or (ii) above).

"Obligations" shall mean the Obligations (as defined in the Credit Agreement) and any Pari Passu Obligations.

"Pari Passu Agreement" shall mean any indenture, credit agreement or other agreement, if any, pursuant to which any Grantor has or will incur Pari Passu Obligations; provided that, in each case, the Indebtedness thereunder has been designated as Pari Passu Obligations pursuant to and in accordance with Section 8.16.
"Pari Passu Obligations" shall mean any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding with respect to any Grantor, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium, penalties, fees, indemnnifications, reimbursements, damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnnifications, reimbursements, damages and other liabilities payable under any Pari Passu Agreement, in each case, that have been designated as Pari Passu Obligations pursuant to and in accordance with Section 8.16; provided that for the avoidance of doubt, no obligations in respect of Pari Passu Obligations shall constitute "Obligations" hereunder unless the Authorized Representative for the holders of such Pari Passu Obligations has executed a Pari Passu Secured Party Consent and has become a party to the Intercreditor Agreement.

"Pari Passu Secured Parties" shall mean the holders from time to time of Pari Passu Obligations.

"Pari Passu Secured Party Consent" shall mean a consent in the form of Annex B to this Security Agreement executed by the Authorized Representative of any holders of Pari Passu Obligations pursuant to Section 8.16.

"Patent License" shall mean 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 Grantor or that any Grantor otherwise has the right to license, is in existence, or granting to any Grantor 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 Grantor under any such agreement, including those material inbound exclusive licenses in third party owned U.S. Patents and applications therefor listed on Schedule 3.

"Patents" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (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, 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, including those U.S. patents and applications therefor owned by any Grantor and listed on Schedule 4.

"Proceeds" shall mean all "proceeds" as such term is defined in Article 9 of the UCC and, in any event, shall include with respect to any Grantor, any consideration received from the sale, exchange, license, lease or other disposition of any asset or property that constitutes Collateral, any value received as a consequence of the possession of any Collateral and any payment received from any insurer or other Person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property that constitutes Collateral, and shall include (a) all cash and negotiable instruments received by or held on behalf of the Collateral Agent, (b) any claim of any Grantor against any third party for (and the right to sue and recover for) and the rights to damages or profits due or accrued arising out of or in connection with: (i) past, present or future infringement of any Patent now or hereafter owned by any Grantor, or licensed under a Patent License, (ii) past, present or future infringement or dilution of any Trademark now or hereafter owned by any Grantor or licensed under a Trademark License or injury to the goodwill associated with or symbolized thereby, (iii) past, present or future infringement of any Copyright now or hereafter owned by any Grantor or licensed under a Copyright License.
"Registered Intellectual Property" shall mean all Copyrights, Patents and Trademarks issued by, registered with, renewed by or the subject of a pending application before the United States Patent and Trademark Office or the United States Copyright Office (or any successor office).

"Secured Parties" shall mean the "Secured Parties" as defined in the Credit Agreement and the Pari Passu Secured Parties.

"Security Agreement" shall mean this Security Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

"Security Interest" shall have the meaning provided in Section 2.

"Short-form Intellectual Property Security Agreement" shall have the meaning assigned to such term in Section 3.2(b).

"Trademark License" shall mean 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 Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement, including those material inbound exclusive licenses in third party owned U.S. registered Trademarks and applications therefor listed on Schedule 5.

"Trademarks" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (i) 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, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof (if any), 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 and (ii) all goodwill associated therewith or symbolized thereby, including those U.S. registered trademarks and applications therefor owned by any Grantor and listed on Schedule 6 hereto.

"UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

(d) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import when used in this Security Agreement shall refer to this Security Agreement as a whole and not to any particular provision of this Security Agreement, and Section, subsection, clause and Schedule references are to this Security Agreement unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

-6-
(e) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(f) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor's Collateral or the relevant part thereof.

"Vehicles" shall mean all cars, trucks, trailers, and other vehicles covered by a certificate of title law of any state and all tires and other appurtenances to any of the foregoing.

2. Grant of Security Interest.

(a) Each Grantor hereby bargains, sells, conveys, assigns, sets over, mortgages, pledges, hypothecates and transfers to the Collateral Agent, for the benefit of the Secured Parties, and grants to the Collateral Agent, for the benefit of the Secured Parties, a lien on and security interest in (the "Security Interest"), all of its right, title and interest in, to and under all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations:

(i) all Accounts;
(ii) all Chattel Paper;
(iii) all Commercial Tort Claims described on Schedule 7 (as such Schedule may be amended from time to time);
(iv) all Documents;
(v) all Equipment, Fixtures and Goods;
(vi) all General Intangibles;
(vii) all Instruments;
(viii) all Intellectual Property;
(ix) all Inventory;
(x) all Investment Property;
(xi) all Supporting Obligations;
(xii) all cash, Deposit Accounts, Securities Accounts and Collateral Accounts;
(xiii) all books and records pertaining to the Collateral; and
(xiv) the extent not otherwise included, all Proceeds and products of any and all of the foregoing;
provided, that (x) the Collateral for any Obligations shall not include any (A) Excluded Stock and Stock Equivalents with respect to such Obligations, (B) Excluded Property or (C) any assets with respect to which, (1) in the reasonable judgment of the Collateral Agent and the Company (as agreed in writing), the cost or other consequences of granting a security interest in favor of the Secured Parties under the Security Documents shall be excessive in view of the benefits to be obtained by the Lenders therefrom, or (2) granting a security interest in such assets in favor of the Secured Parties under the Security Documents would result in adverse tax consequences as reasonably determined by the Borrower, and (y) none of the items included in clauses (i) through (xiii) above shall constitute Collateral to the extent (and only to the extent) that the grant of the Security Interest therein would violate any Requirement of Law applicable to such Collateral. No Grantor shall be required to take actions to perfect security interests in Commercial Tort Claims except to the extent perfection of a security interest therein may be accomplished by filing of financing statements in appropriate form in the applicable jurisdiction under the UCC and no Grantor shall be required to take any action to perfect by Control a security interest in Deposit Accounts except to the extent set forth in Section 4.5.

(b) Each Grantor hereby irrevocably authorizes the Collateral Agent and its Affiliates, counsel and other representatives, at any time and from time to time, to file or record financing statements, amendments to financing statements and, with notice to the Company, and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Collateral Agent reasonably determines appropriate to perfect the Security Interests of the Collateral Agent under this Security Agreement, and such financing statements and amendments may describe the Collateral covered thereby as "all assets excluding Excluded Property, as defined on Schedule A hereto", "all personal property now owned or hereafter acquired excluding Excluded Property, as defined on Schedule A hereto" or words of similar effect, provided that with respect to fixtures the Collateral Agent shall only file or record financing statements in the jurisdiction of organization of a Grantor, except in connection with a Mortgage. Each Grantor hereby also authorizes the Collateral Agent and its Affiliates, counsel and other representatives, at any time and from time to time, to file continuation statements with respect to previously filed financing statements.

Each Grantor hereby agrees to provide to the Collateral Agent, promptly upon request, any information reasonably necessary to effectuate the filings or recordings authorized by this Section 2(b).

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), with the signature of each applicable Grantor, such documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted hereunder by each Grantor and naming any Grantor or the Grantors as debtors and the Collateral Agent, as the case may be, as secured party.

The Security Interests are 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 Grantor with respect to or arising out of the Collateral.

3. Representations and Warranties.

Each Grantor hereby represents and warrants to the Collateral Agent and each Secured Party on the date hereof that:
3.1 Title: No Other Liens. Except for (a) the Security Interest granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Security Agreement, (b) the Liens permitted by the Credit Agreement and (c) any Liens securing Indebtedness which is no longer outstanding or any Liens with respect to commitments to lend which have been terminated, such Grantor owns each item of the Collateral free and clear of any and all Liens or claims of others. No security agreement, financing statement or other public notice with respect to all or any part of the Collateral that evidences a Lien securing any material Indebtedness is on file or of record in any public office, except such as (i) have been filed in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to this Security Agreement or (ii) are permitted by the Credit Agreement and each Pari Passu Agreement.

3.2 Perfected Liens.

(a) This Security Agreement is effective to create in favor of the Collateral Agent, for its benefit and for the benefit of the Secured Parties, legal, valid and enforceable Security Interests in the Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the enforceability of such Security Interest is governed by the UCC), subject to the effects of bankruptcy, insolvency or similar laws affecting creditors' rights generally and general equitable principles.

(b) Subject to the limitations set forth in clause (c) of this Section 3.2, the Security Interests granted pursuant to this Security Agreement (i) will constitute valid and perfected Security Interests in the Collateral (to the extent perfection may be obtained by the filings or other actions described in clause (A), (B) or (C) of this paragraph) in favor of the Collateral Agent, for the benefit of the Secured Parties, as collateral security for the Obligations, upon (A) the filing in the applicable filing offices of all financing statements, in each case, naming each Grantor as “debtor” and the Collateral Agent as “secured party” and describing the Collateral, (B) delivery to the Collateral Agent (or its bailee) of all Instruments, Chattel Paper, Certificated Securities and negotiable Documents in each case, properly endorsed for transfer in blank and (C) completion of the filing of a fully executed agreement substantially in the form of Annex C hereof (the “Short-form Intellectual Property Security Agreement”) and containing a description of all Collateral constituting Registered Intellectual Property in the United States Patent and Trademark Office, with respect to U.S. registered and applied for Patents and Trademarks, within 90 days from the execution date of such Short-form Intellectual Property Security Agreement or in the United States Copyright Office, with respect to U.S. registered Copyrights, within 30 days from the execution date of such Short-form Intellectual Property Security Agreement, as applicable and (ii) are prior to all other Liens on the Collateral other than Liens permitted pursuant to Section 10.2 of the Credit Agreement.

(c) Notwithstanding anything to the contrary herein, no Grantor shall be required to perfect the Security Interests granted by this Security Agreement by any means other than by (i) filings pursuant to the Uniform Commercial Code of the relevant State(s), (ii) filings approved by United States federal government offices with respect to Registered Intellectual Property, (iii) delivery to the Collateral Agent (or its bailee) to be held in its possession of all Collateral consisting of Tangible Chattel Paper, Instruments or Certificated Securities with a fair market value in excess of $10,000,000 individually and (iv) actions to perfect by Control a security interest in deposit accounts to the extent set forth in Section 4.5.

(d) It is understood and agreed that the Security Interests in cash and Investment Property created hereunder shall not prevent the Grantors from using such assets in the ordinary course of their respective businesses.

4. Covenants.
Each Grantor hereby covenants and agrees with the Collateral Agent and the Secured Parties that, from and after the date of this Security Agreement until the Obligations are paid in full and the Commitments are terminated:

4.1 Maintenance of Perfected Security Interest; Further Documentation.

(a) Such Grantor shall maintain the Security Interest created by this Security Agreement as a perfected Security Interest having at least the priority described in Section 3.1 and shall defend such Security Interest against the claims and demands of all Persons whomsoever, in each case subject to Section 3.2(c).

(b) Such Grantor will furnish to the Collateral Agent and the Lenders from time to time statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as the Collateral Agent may reasonably request.

(c) Such Grantor will furnish to the Collateral Agent at the time of the delivery of the financial statements provided for in Sections 9.1(a) and (b) of the Credit Agreement (or, if the Credit Agreement is no longer in effect, on a quarterly basis), a schedule setting forth any additional (i) Registered Intellectual Property owned by any Grantor or (ii) material Registered Intellectual Property exclusively licensed from a third party to any Grantor, in each case, which has not been previously disclosed to the Collateral Agent, following the Closing Date (or following the date of the last supplement provided to the Collateral Agent pursuant to this Section 4.1(c)), all in reasonable detail.

(d) Subject to clause (e) below and Section 3.2(c), each Grantor agrees that at any time and from time to time, at the expense of such Grantor, it will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents, including all applicable documents required under Section 3.2(b)(C)), which may be required under any applicable law, or which, subject to the terms of the Intercreditor Agreement, the Collateral Agent may reasonably request, in order (i) to grant, preserve, protect and perfect the validity and priority of the Security Interests created or intended to be created hereby or (ii) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral, including the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the Security Interests created hereby and all applicable documents required under Section 3.2(b)(C), all at the expense of such Grantor.

(e) Notwithstanding anything in this Section 4.1 to the contrary, (i) with respect to any assets acquired by such Grantor after the date hereof that are required by the Credit Agreement to be subject to the Lien created hereby or (ii) with respect to any Person that, subsequent to the date hereof, becomes a Subsidiary that is required by the Credit Agreement to become a party hereto, the relevant Grantor after the acquisition or creation thereof shall promptly take all actions required by the Credit Agreement, this Section 4.1 and any Pari Passu Agreements.

4.2 Damage or Destruction of Collateral. The Grantors agree promptly to notify the Collateral Agent if any material portion of the Collateral is damaged or destroyed in any manner which could reasonably be expected to have a Material Adverse Effect.

4.3 Notices. Each Grantor will advise the Collateral Agent and the Lenders promptly, in reasonable detail, of any Lien of which it has knowledge (other than the Security Interests created hereby or Liens permitted under the Credit Agreement and each Pari Passu Agreement) on any of
the Collateral which would adversely affect, in any material respect, the ability of the Collateral Agent to exercise any of its remedies hereunder.

4.4 Changes in Locations, Name, etc. Each Grantor will furnish to the Collateral Agent promptly (and in any event within 30 days (or such longer period as the Collateral Agent may reasonably agree) of such change) a written notice of any change (i) in its legal name, (ii) in its jurisdiction of organization or location for purposes of the UCC, (iii) in its identity or type of organization or corporate structure or (iv) in its Federal Taxpayer Identification Number or organizational identification number. Each Grantor agrees promptly to provide the Collateral Agent with certified organizational documents reflecting any of the changes described in the first sentence of this paragraph and take all other action reasonably necessary to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral and take all other action reasonably necessary to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral.

4.5 Blocked Accounts. To the extent a Grantor is required to enter into blocked account agreements under the ABL Facility, each such Grantor shall, within the time period required for entry into blocked account agreements under the ABL Facility, enter into a blocked account agreement in favor of the Collateral Agent (each, a "Blocked Account"), in form and substance reasonably satisfactory to the Collateral Agent, with respect to any deposit account for which such Grantor is required to enter into a blocked account agreement pursuant to the ABL Facility. The Collateral Agent hereby agrees that it will not deliver a notice exercising exclusive control over a Blocked Account except after the occurrence and during the continuance of an Event of Default (subject, in any event, to the Intercreditor Agreement).


5.1 Certain Matters Relating to Accounts.

(a) At any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, and after giving reasonable notice to the Company and any other relevant Grantor, the Administrative Agent shall have the right, but not the obligation, to instruct the Collateral Agent to (and upon such instruction, the Collateral Agent shall) make test verifications of the Accounts in any manner and through any medium that the Administrative Agent reasonably considers advisable, and each Grantor shall furnish all such assistance and information as the Collateral Agent may require in connection with such test verifications. The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party.

(b) The Collateral Agent hereby authorizes each Grantor to collect such Grantor's Accounts and the Collateral Agent may curtail or terminate said authority at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement. If required in writing by the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, any payments of Accounts, when collected by any Grantor, (i) shall be forthwith (and, in any event, within two Business Days) deposited by such Grantor in the exact form received, duly endorsed by such Grantor to the Collateral Agent if required, in a Collateral Account maintained under the sole dominion and control of and on terms and conditions reasonably satisfactory to the Collateral Agent, subject to withdrawal by the Collateral Agent for the account of the Secured Parties only as provided in Section 5.5, and (ii) until so turned over, shall be held by such Grantor in trust for the Collateral Agent and the Secured Parties, segregated from other funds of such Grantor. Each such deposit of
Proceeds of Accounts shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit.

(c) At the Collateral Agent's request at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall deliver to the Collateral Agent all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Accounts, including all original orders, invoices and shipping receipts.

(d) Upon the occurrence and during the continuance of an Event of Default, a Grantor shall not grant any extension of the time of payment of any of the Accounts, 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 if the Collateral Agent shall have instructed the Grantors not to grant or make any such extension, credit, discount, compromise or settlement under any circumstances during the continuance of such Event of Default.

(e) At the direction of the Collateral Agent, solely upon the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall grant to the Collateral Agent to the extent assignable, a non-exclusive, fully paid-up, royalty-free, worldwide license to use, assign, license or sublicense any of the Intellectual Property included in the Collateral and now owned or hereafter acquired by such Grantor (subject to the rights of any person or entity under any pre-existing Copyright License, Patent License, Trademark License or other agreements). Such license shall include access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof; provided, however, that nothing in this Section 5.01 shall require any Grantor to grant any license that is prohibited by any rule of law, statute or regulation or is prohibited by, or constitutes a breach of default under or results in the termination of or gives rise to any right of acceleration, modification or cancellation under any contract, license, agreement, instrument or other document evidencing, giving rise to a right to use or theretofore granted with respect to such property, provided, further, that such licenses to be granted hereunder with respect to Trademarks shall be subject to the quality control standards applicable to each such Trademark as in effect as of the date such licenses hereunder are granted.

5.2 Communications with Credit Parties; Grantors Remain Liable.

(a) The Collateral Agent in its own name or in the name of others may at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, after giving reasonable notice to the relevant Grantor of its intent to do so, communicate with obligors under the Accounts to verify with them to the Collateral Agent's satisfaction the existence, amount and terms of any Accounts. The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party.

(b) Upon the written request of the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall notify obligors on the Accounts that the Accounts have been assigned to the Collateral Agent for the benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Collateral Agent.

(c) Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Accounts to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. Neither
the Collateral Agent nor any Secured Party shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Security Agreement or the receipt by the Collateral Agent or any Secured Party of any payment relating thereto, nor shall the Collateral Agent or any Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

5.3 Proceeds to be Turned Over To Collateral Agent. In addition to the rights of the Collateral Agent and the Secured Parties specified in Section 5.1 with respect to payments of Accounts, if an Event of Default shall occur and be continuing, subject to the terms of the Intercreditor Agreement, and the Collateral Agent so requires by notice in writing to the relevant Grantor (it being understood that the exercise of remedies by the Secured Parties in connection with an Event of Default under Section 11.5 of the Credit Agreement shall be deemed to constitute a request by the Collateral Agent for the purposes of this sentence and in such circumstances, no such written notice shall be required), all Proceeds received by any Grantor consisting of cash, checks and other near cash items shall be held by such Grantor in trust for the Collateral Agent and the Secured Parties, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Collateral Agent in the exact form received by such Grantor (duly endorsed by such Grantor to the Collateral Agent, if required). All Proceeds received by the Collateral Agent hereunder shall be held by the Collateral Agent in a Collateral Account maintained under its dominion and control and on terms and conditions reasonably satisfactory to the Collateral Agent. All Proceeds while held by the Collateral Agent in a Collateral Account (or by such Grantor in trust for the Collateral Agent and the Secured Parties) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in Section 5.4.

5.4 Application of Proceeds. The Collateral Agent shall apply the proceeds of any collection or sale of the Collateral as well as any Collateral consisting of cash, at any time after receipt in the order set forth below:

(i) first, to the payment of all reasonable and documented costs and expenses incurred by the Administrative Agent or Collateral Agent in connection with any collection or sale or otherwise in connection with any Credit Document, including all court costs and the reasonable fees and expenses of its agents and legal counsel, the repayment of all advances made by the Administrative Agent or the Collateral Agent hereunder or under any other Credit Document on behalf of any Credit Party and any other reasonable and documented costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under any other Credit Document;

(ii) second, ratably to the Administrative Agent to be applied as provided in the Credit Agreement and each Authorized Representative to be applied as provided in the applicable Pari Passu Agreement, to the payment in full of all Obligations owing to the Secured Parties on the date of any distribution.

In making the determination and allocations required by this Section 5.4, the Collateral Agent may conclusively rely upon information supplied by the applicable Authorized Representative as to the amounts of unpaid principal and interest and other amounts outstanding with respect to such Pari Passu Obligations and the Collateral Agent shall have no liability to any of the Secured Parties for actions taken in reliance on such information. If, despite the provisions of this Agreement, any Secured Party shall receive
any payment or other recovery in excess of its portion of payments on account of the Obligations to which it is then entitled in accordance with this Agreement, such Secured Party shall hold such payment or other recovery in trust for the benefit of all Secured Parties hereunder for distribution in accordance with this Section 5.4.

5.5 Code and Other Remedies. Subject to the terms of the Intercreditor Agreement, if an Event of Default shall occur and be continuing, the Collateral Agent may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party upon default under the UCC or any other applicable law and also may with notice to the relevant Grantor, sell the Collateral or any part thereof in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Collateral Agent or any Secured Party or elsewhere for cash or on credit or for future delivery at such price or prices and upon such other terms as are commercially reasonable irrespective of the impact of any such sales on the market price of the Collateral. The Collateral Agent shall be authorized at any such sale (if it deems it advisable to do so) to restrict the prospective bidders or purchasers of Collateral 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 purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and, each Grantor hereby waives (to the extent permitted by law) all rights of redemption, stay and/or appraisal that it 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 and any Secured Party shall have the right upon any such public sale, and, to the extent permitted by law, upon any such private sale, to purchase the whole or any part of the Collateral so sold, and the Collateral Agent or such Secured Party may pay the purchase price by credit of the amount thereof against the Obligations. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the extent permitted by law, each Grantor hereby waives any claim against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Each Grantor further agrees, at the Collateral Agent's request to assemble the Collateral and make it available to the Collateral Agent, at places which the Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. The Collateral Agent shall apply the net proceeds of any action taken by it pursuant to this Section 5.5 in accordance with the provisions of Section 5.4.

5.6 Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by the Collateral Agent or any Secured Party to collect such deficiency.

5.7 Amendments, etc, with Respect to the Obligations; Waiver of Rights. Each Grantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Grantor and without notice to or further assent by any Grantor, (a) any demand for payment of any of the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for
any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed,
extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit
Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith and the Secured Hedge Agreements and any
other documents executed and delivered in connection therewith and the Pari Passu Agreements and any other documents executed and delivered in
connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as
the case may be, or, in the case of any Secured Hedge Agreement, the Hedge Bank party thereto, or, in the case of any Pari Passu Agreement, the holders of
the applicable Pari Passu Obligations) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by
the Collateral Agent or any other Secured Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the
Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the
Obligations or for this Security Agreement or any property subject thereto. When making any demand hereunder against any Grantor, the Collateral Agent or
any other Secured Party may, but shall be under no obligation to, make a similar demand on any Grantor or any other Person, and any failure by the Collateral
Agent or any other Secured Party to make any such demand or to collect any payments from the Company or any Grantor or any other Person or any release
of the Company or any Grantor or any other Person shall not relieve any Grantor in respect of which a demand or collection is not made or any Grantor not so
released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of
the Collateral Agent or any other Secured Party against any Grantor. For the purposes hereof "demand" shall include the commencement and continuance of
any legal proceedings.

6. The Collateral Agent.

6.1 Collateral Agent's Appointment as Attorney-in-Fact, etc.

(a) Each Grantor hereby appoints, which appointment is irrevocable and coupled with an interest, effective upon the occurrence and during the
continuance of an Event of Default, the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact
with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, for the purpose of carrying out
the terms of this Security Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or
desirable to accomplish the purposes of this Security Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the
Collateral Agent the power and right, on behalf of such Grantor, either in the Collateral Agent's name or in the name of such Grantor or otherwise, without
assent by such Grantor, to do any or all of the following, in each case after the occurrence and during the continuance of an Event of Default and after written
notice by the Collateral Agent of its intent to do so:

(i) take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under
any Account or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise
deemed appropriate by the Collateral Agent for the purpose of collecting any and all such moneys due under any Account or with respect to any other
Collateral whenever payable;

(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as
the Collateral Agent may reasonably
request to evidence the Collateral Agent's and the Secured Parties' Security Interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral;

(iv) execute, in connection with any sale provided for in Section 5.5, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral;

(v) obtain and adjust insurance required to be maintained by such Grantor pursuant to Section 9.3 of the Credit Agreement;

(vi) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Collateral Agent or as the Collateral Agent shall direct;

(vii) ask or demand for, collect and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral;

(viii) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral;

(ix) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral;

(x) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral (with such Grantor's consent to the extent such action or its resolution could materially affect such Grantor or any of its Affiliates in any manner other than with respect to its continuing rights in such Collateral);

(xi) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Agent may deem appropriate (with such Grantor's consent to the extent such action or its resolution could materially affect such Grantor or any of its Affiliates in any manner other than with respect to its continuing rights in such Collateral);

(xii) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Collateral Agent shall in its sole discretion determine; and

(xiii) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things that the Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's and
the Secured Parties' Security Interests therein and to effect the intent of this Security Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section 6.1(a) to the contrary notwithstanding and subject to the terms of the Intercreditor Agreement, the Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 6.1(a) unless an Event of Default shall have occurred and be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Collateral Agent incurred in connection with actions undertaken as provided in this Section 6.1, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due ABR Loans under the Credit Agreement, from the date of payment by the Collateral Agent to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Collateral Agent on demand.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Security Agreement are coupled with an interest and are irrevocable until this Security Agreement is terminated and the Security Interests created hereby are released.

6.2 Duty of Collateral Agent. The Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Collateral Agent deals with similar property for its own account. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property. Neither the Collateral Agent, any Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Collateral Agent and the Secured Parties hereunder are solely to protect the Collateral Agent's and the Secured Parties' interests in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers. The Collateral Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

6.3 Authority of Collateral Agent. Each Grantor acknowledges that the rights and responsibilities of the Collateral Agent under this Security Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Security Agreement shall, as between the Collateral Agent and the Secured Parties, be governed by the Intercreditor Agreement and the Credit Agreement, and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Grantors, the Collateral Agent shall be conclusively presumed to be acting as agent for the applicable Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.
6.4 **Security Interest Absolute.** All rights of the Collateral Agent hereunder, the Security Interest and all obligations of the Grantors hereunder shall be absolute and unconditional.

6.5 **Continuing Security Interest; Assignments Under the Credit Agreement; Release.**

(a) This Security Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Grantor and the successors and assigns thereof and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, indorsees, transferees and assigns until all Obligations under the Credit Documents and each Pari Passu Agreement (other than, in each case, any contingent indemnity obligations not then due) shall have been satisfied by payment in full and the Commitments shall be terminated, notwithstanding that from time to time during the term of the Credit Agreement, the Credit Parties may be free from any Obligations.

(b) Subject to the terms of the Intercreditor Agreement, a Grantor shall automatically be released from its obligations hereunder (x) as it relates to the Obligations (as defined in the Credit Agreement) if it ceases to be a Credit Party in accordance with Section 13.1 of the Credit Agreement and (y) as it relates to any Pari Passu Obligations, if it ceases to be a guarantor under such Pari Passu Agreement pursuant to the applicable provision(s) of such Pari Passu Agreement.

(c) Subject to any applicable terms of the Intercreditor Agreement, the Security Interest granted hereby in any Collateral shall automatically be released (A) as it relates to the Obligations (as defined in the Credit Agreement) (i) to the extent provided in Section 13.1 of the Credit Agreement and (ii) upon the effectiveness of any written consent to the release of the Security Interest granted hereby in such Collateral pursuant to Section 13.1 of the Credit Agreement and (B) as it relates to any Pari Passu Obligations, in whole or in part, as provided in the Pari Passu Agreement governing such obligations. Any such release in connection with any sale, transfer or other disposition of such Collateral permitted under the Credit Agreement and each Pari Passu Agreement shall result in such Collateral being sold, transferred or disposed of, as applicable, free and clear of the Lien and Security Interest created hereby.

(d) In connection with any termination or release pursuant to paragraph (a), (b) or (c), the Collateral Agent shall execute and deliver to any Grantor, at such Grantor's expense, all documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 6.5 shall be without recourse to or warranty by the Collateral Agent.

6.6 **Reinstatement.** Each Grantor further agrees that, if any payment made by any Credit Party or other Person and applied to the Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the proceeds of Collateral are required to be returned by any Secured Party to such Credit Party, its estate, trustee, receiver or any other Person, including any Grantor, under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made or, if prior thereto the Lien granted hereby or other Collateral securing such liability hereunder shall have been released or terminated by virtue of such cancellation or surrender, such Lien or other Collateral shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect any Lien or other Collateral securing the obligations of any Grantor in respect of the amount of such payment.

7. **Collateral Agent As Agent.**
(a) JPMorgan Chase Bank, N.A. has been appointed to act as the Collateral Agent under the Credit Agreement, by the Lenders under the Credit Agreement and, by their acceptance of the benefits hereof, the other Secured Parties. The Collateral Agent shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including the release or substitution of Collateral), solely in accordance with this Security Agreement and the Credit Agreement, provided that the Collateral Agent shall exercise, or refrain from exercising, any remedies provided for in Section 5 in accordance with the instructions of Required Lenders. In furtherance of the foregoing provisions of this Section 7(a), each Secured Party, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, except to the extent specifically set forth in Section 4 of the Guarantee, it being understood and agreed by such Secured Party that all rights and remedies hereunder may be exercised solely by the Collateral Agent for the ratable benefit of the applicable Lenders and Secured Parties in accordance with the terms of this Section 7(a).

(b) The Collateral Agent shall at all times be the same Person that is the Collateral Agent under the Credit Agreement. Written notice of resignation by the Collateral Agent pursuant to Section 12.9 of the Credit Agreement shall also constitute notice of resignation as Collateral Agent under this Security Agreement; removal of the Collateral Agent shall also constitute removal under this Security Agreement; and appointment of a Collateral Agent pursuant to Section 12.9 of the Credit Agreement shall also constitute appointment of a successor Collateral Agent under this Security Agreement. Upon the acceptance of any appointment as Collateral Agent under Section 12.9 of the Credit Agreement by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent under this Security Agreement, and the retiring or removed Collateral Agent under this Security Agreement shall promptly (i) transfer to such successor Collateral Agent all sums, securities and other items of Collateral held hereunder, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Security Agreement, and (ii) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the Security Interests created hereunder, whereupon such retiring or removed Collateral Agent shall be discharged from its duties and obligations under this Security Agreement. After any retiring or removed Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Security Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it under this Security Agreement while it was Collateral Agent hereunder.

(c) The Applicable Authorized Representative shall direct the Collateral Agent in exercising any right, power, discretionary duty or other remedy available to the Collateral Agent under this Agreement or any Security Document and the other Secured Parties shall not have a right to take any actions with respect to the Collateral. If the Collateral Agent shall not have received appropriate instruction within 10 days of a request therefor from the Applicable Authorized Representative (or such shorter period as reasonably may be specified in such notice or as may be necessary under the circumstances) it may, but shall be under no duty to, take or refrain from taking such action as it shall deem to be in the best interests of the Secured Parties and the Collateral Agent shall have no liability to any Person for such action or inaction. "Applicable Authorized Representative" shall mean (i) the Administrative Agent so long as the Obligations (as defined in the Credit Agreement) constitute Obligations hereunder, and (ii) thereafter, the Authorized Representative representing the series of Indebtedness secured hereby with the greatest outstanding aggregate principal amount.

8. Miscellaneous.
8.1 **Intercreditor Agreement.** Notwithstanding anything herein to the contrary, the liens and security interests granted to the Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent hereunder, are subject to the provisions of the Intercreditor Agreement and the 1989 Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern and control. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary, all rights and remedies of the Collateral Agent (and the other Secured Parties) shall be subject to the terms of the Intercreditor Agreement, dated as of March 8, 2011 (as amended, restated, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among the Administrative Agent and Collateral Agent, as Initial Fixed Asset Administrative Agent and Initial Fixed Asset Collateral Agent, and Bank of America, N.A., as the Revolving Credit Administrative Agent and the Revolving Credit Collateral Agent. Until the Discharge of Revolving Credit Obligations, the delivery of any ABL Priority Collateral to, or the control of any ABL Priority Collateral by, the Revolving Credit Collateral Agent pursuant to the Revolving Credit Documents shall be deemed to satisfy any delivery or control requirement hereunder or under any other Security Document with respect to ABL Priority Collateral.

8.2 **Amendments in Writing.** None of the terms or provisions of this Security Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the affected Grantor and the Collateral Agent in accordance with Section 13.1 of the Credit Agreement and the equivalent provision of each Pari Passu Agreement.

8.3 **Notices.** All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to (i) any Subsidiary Grantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement or (ii) any Authorized Representative shall be given to it and the address set forth in the applicable Pari Passu Secured Party Consent.

8.4 **No Waiver by Course of Conduct; Cumulative Remedies.** Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 8.2), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such other Secured Party would otherwise have on any future occasion. The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

8.5 **Enforcement Expenses; Indemnification.**

(a) Each Grantor agrees to pay any and all reasonable out of pocket expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by any Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Grantor under this Security Agreement.

(b) Each Grantor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any
and all stamp, excise, sales or other taxes that may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Security Agreement.

(c) Each Grantor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Security Agreement to the extent the Company would be required to do so pursuant to Section 13.5 of the Credit Agreement.

(d) The agreements in this Section 8.5 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Credit Documents.

8.6 Successors and Assigns. The provisions of this Security Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Grantor may assign, transfer or delegate any of its rights or obligations under this Security Agreement without the prior written consent of the Collateral Agent except pursuant to a transaction permitted by the Credit Agreement.

8.7 Counterparts. This Security Agreement may be executed by one or more of the parties to this Security Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Security Agreement signed by all the parties shall be lodged with the Collateral Agent and the Company.

8.8 Severability. Any provision of this Security Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

8.9 Section Headings. The Section headings used in this Security Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

8.10 Integration. This Security Agreement together with the other Credit Documents represents the agreement of each of the Grantors with respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

8.11 GOVERNING LAW. THIS SECURITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREBUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

8.12 Submission To Jurisdiction Waivers. Each party hereto hereby irrevocably and unconditionally:

-21-
(a) submits for itself and its property in any legal action or proceeding relating to this Security Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address referred to in Section 8.3 or at such other address of which such Person shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Secured Party) to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 8.12 any special, exemplary, punitive or consequential damages.

8.13 Acknowledgments. Each party hereto hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Security Agreement and the other Credit Documents to which it is a party;

(b) neither the Collateral Agent nor any other Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Security Agreement or any of the other Credit Documents, and the relationship between the Grantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, in connection therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders and any other Secured Party or among the Grantors and the Lenders and any other Secured Party.

8.14 Additional Grantors. Each Subsidiary of the Company that is required to become a party to this Security Agreement pursuant to Section 9.11 of the Credit Agreement or an equivalent provision of any Pari Passu Agreement shall become a Subsidiary Grantor, with the same force and effect as if originally named as a Grantor herein, for all purposes of this Security Agreement upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Grantor as a party to this Security Agreement shall not require the consent of any other Grantor thereunder. The rights and obligations of each Grantor thereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Security Agreement.
8.15 Waiver of Jury Trial. Each party hereto hereby irrevocably and unconditionally waives trial by jury in any legal action or proceeding relating to this Security Agreement, any other credit document and for any counterclaim therein.

8.16 Pari Passu Obligations. On or after the date hereof and so long as expressly permitted by the Credit Agreement, the Company may from time to time designate indebtedness at the time of incurrence to be secured on a pari passu basis with the Obligations (as defined in the Credit Agreement) as Pari Passu Obligations hereunder by delivering to the Collateral Agent and each other Authorized Representative (a) a certificate signed by an Authorized Officer of the Company (upon which the Collateral Agent may conclusively and exclusively rely) (i) identifying the obligations so designated and the aggregate principal amount or face amount thereof, (ii) stating that such obligations are designated as "Pari Passu Obligations" for purposes hereof, (iii) representing that such designation of such obligations as Pari Passu Obligations complies with the terms of the Credit Agreement and each then extant Pari Passu Agreement, (iv) specifying the name and address of the Authorized Representative for such obligations and (v) stating that Grantors have complied with their obligations hereunder, (b) a fully executed Pari Passu Secured Party Consent (in the form attached as Annex B) and (c) a fully executed joinder to the Intercreditor Agreement. Each Authorized Representative agrees that upon the satisfaction of all conditions set forth in the preceding sentence, the Collateral Agent shall act as agent under and subject to the terms of the Security Documents for the benefit of all Secured Parties, including, without limitation, any Secured Parties that hold any such Pari Passu Obligations, and each Authorized Representative agrees to the appointment, and acceptance of the appointment, of the Collateral Agent as agent for the holders of such Pari Passu Obligations as set forth in each Pari Passu Secured Party Consent and agrees, on behalf of itself and each Secured Party it represents, to be bound by this Security Agreement and the Intercreditor Agreement. Notwithstanding the delivery of the Pari Passu Secured Party Consent set forth above, the Collateral Agent shall not be obligated to act as Collateral Agent for any New Secured Parties (as such term is defined in Exhibit B hereto) whatsoever or to execute any document whatsoever if in the sole judgment of the Collateral Agent doing so would impose, purport to impose or might reasonably be expected to impose upon the Collateral Agent any obligation or liability for which the Collateral Agent is not in its sole discretion adequately protected. In no event shall the Collateral Agent be subject to any document that it has not executed. No Pari Passu Secured Party Consent shall be effective until it has been accepted in writing by the Collateral Agent.

[SIGNATURE PAGES FOLLOW]
IN WITNESS WHEREOF, each of the undersigned has caused this Security Agreement to be duly executed and delivered as of the date first above written.

DEL MONTE FOODS COMPANY, as the Company

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

DEL MONTE CORPORATION, as Grantor

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

BLUE ACQUISITION GROUP, INC., as Grantor

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[SIGNATURE PAGE TO SECURITY AGREEMENT]
JPMORGAN CHASE BANK, N.A., as Administrative Agent and Collateral Agent

By:  

/s/ Barry K. Bergman
Name: Barry K. Bergman
Title: Managing Director

[SIGNATURE PAGE TO SECURITY AGREEMENT]
Schedule 1

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED COPYRIGHTS
Schedule 2

U.S. REGISTERED COPYRIGHTS
Schedule 3

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. PATENTS AND PATENT APPLICATIONS
Schedule 5

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
Schedule 6

U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
Schedule 7

COMMERCIAL TORT CLAIMS
SUPPLEMENT NO. [ ] dated as of [ ], to the Security Agreement dated as of March 8, 2011 (the “Security Agreement”) among Del Monte Foods Company, a Delaware corporation (the “Company”), Blue Acquisition Group, Inc. (“Holdings”), each of the Subsidiaries of the Company listed on the signature pages thereto or that become a party thereto pursuant to Section 8.14 of the Security Agreement (each such subsidiary individually a “Subsidiary Grantor” and, collectively, the “Subsidiary Grantors”; the Subsidiary Grantors, Holdings and the Company are referred to collectively herein as the “Grantors”), JPMorgan Chase Bank, N.A., as Collateral Agent.

A. Reference is made to the Credit Agreement dated as of the date of the Security Agreement (as modified and supplemented and in effect from time to time, the “Credit Agreement”) among the Company, Holdings, the lenders or other financial institutions or entities from time to time parties thereto (the “Lenders”) and JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Security Agreement.

C. The Grantors have entered into the Security Agreement in order to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. Section 9.11 of the Credit Agreement and Section 8.14 of the Security Agreement provide that each Subsidiary of the Company that is required to become a party to the Security Agreement pursuant to Section 9.11 of the Credit Agreement shall become a Grantor, with the same force and effect as if originally named as a Grantor therein, for all purposes of the Security Agreement upon execution and delivery by such Subsidiary of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a “New Grantor”) is executing this Supplement in accordance with the requirements of the Security Agreement to become a Subsidiary Grantor under the Security Agreement in order to induce the Lenders to make Loans.

Accordingly, the Collateral Agent and the New Grantors agree as follows:

SECTION 1. In accordance with Section 8.14 of the Security Agreement, each New Grantor by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor and each New Grantor hereby (a) agrees to all the terms and provisions of the Security Agreement applicable to it as a Grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Grantor thereunder are true and correct on and as of the date hereof. In furtherance of the foregoing, each New Grantor, as security for the payment and performance in full of the Obligations, does hereby bargain, sell, convey, assign, set over, mortgage, pledge, hypothecate and transfer to the Collateral Agent for the benefit of the Secured Parties, and hereby grants to the Collateral Agent for the benefit of the Secured Parties, a Security Interest in all of the Collateral of such New Grantor, in each case whether now or hereafter existing or in which it now has or hereafter acquires an interest. Each reference to a “Grantor” in the
Security Agreement shall be deemed to include each New Grantor. The Security Agreement is hereby incorporated herein by reference.

SECTION 2. Each New Grantor represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency or similar laws affecting creditors' rights generally and general equitable principles.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Collateral Agent and the Company. This Supplement shall become effective as to each New Grantor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Grantor and the Collateral Agent.

SECTION 4. Such New Grantor hereby represents and warrants that (a) set forth on Schedule I hereto is (i) the legal name of such New Grantor, (ii) the jurisdiction of incorporation or organization of such New Grantor, (iii) the identity or type of organization or corporate structure of such New Grantor (iv) the Federal Taxpayer Identification Number and organizational number of such New Grantor and (v) the true and correct location of the chief executive office and principal place of business and any office in which it maintains books of records relating to Collateral owned by it and (b) as of the date hereof (i) Schedule II hereto lists all of each New Grantor's Copyright Licenses, (ii) Schedule III hereto lists all material respects all of each New Grantor's registered Copyrights (and all applications therefor), (iii) Schedule IV hereto lists all of each New Grantor's Patent Licenses, (iv) Schedule V hereto lists in all material respects all of each New Grantor's Patents (and all applications therefor), (v) Schedule VI hereto lists all of each New Grantor's Trademark Licenses and (vi) Schedule VII hereto lists in all material respects all of each New Grantor's registered Trademarks (and all applications therefor).

SECTION 5. Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.


SECTION 7. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Security Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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 8. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to

-2-
each New Grantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.
IN WITNESS WHEREOF, each New Grantor and the Collateral Agent have duly executed this Supplement to the Security Agreement as of the
day and year first above written.

[NAME OF NEW GRANTOR]
By:
   Name:
   Title:

JPMORGAN CHASE BANK, N.A., as
Collateral Agent
By:
   Name:
   Title:

-4-
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<tr>
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<th>Type of Organization or Corporate Structure</th>
<th>Federal Taxpayer Identification Number and Organizational Identification Number</th>
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SCHEDULE II
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED COPYRIGHTS
U.S. REGISTERED COPYRIGHTS

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Registrations:
SCHEDULE IV
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. PATENTS AND PATENT APPLICATIONS
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U.S. PATENTS AND PATENT APPLICATIONS

SCHEDULE V
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT
SCHEDULE VI
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED TRADEMARKS AND TRADEMARKS APPLICATIONS
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SCHEDULE VII
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
[Form of]

PARI PASSU SECURED PARTY CONSENT

[Name of Pari Passu Secured Party]
[Address of Pari Passu Secured Party]

[Date]

The undersigned is the Authorized Representative for Persons wishing to become Secured Parties (the "New Secured Parties") under (i) the Security Agreement dated as of March 8, 2011 (as heretofore amended and/or supplemented, the "Security Agreement" (terms used without definition herein have the meanings assigned to such term by the Security Agreement)) and (ii) the Pledge Agreement dated as of March 8, 2011 (as heretofore amended and/or supplemented, the "Pledge Agreement") among Del Monte Foods Company, the Grantors party thereto and JPMorgan Chase Bank, N.A., as Collateral Agent (the "Collateral Agent").

In consideration of the foregoing, the undersigned hereby:

(i) represents that the Authorized Representative has been duly authorized by the New Secured Parties to become a party to the Security Agreement and the Pledge Agreement on behalf of the New Secured Parties under that [DESCRIBE OPERATIVE AGREEMENT] (the "New Secured Obligation") and to act as the Authorized Representative for the New Secured Parties;

(ii) acknowledges that the New Secured Parties have received copies of the Security Agreement, the Pledge Agreement and the Intercreditor Agreement;

(iii) appoints and authorizes the Collateral Agent to take such action as agent on its behalf and on behalf of all other Secured Parties and to exercise such powers under the Security Agreement, the Pledge Agreement and the Intercreditor Agreement as are delegated to the Collateral Agent by the terms thereof, together with all such powers as are reasonably incidental thereto;

(iv) accepts and acknowledges the terms of the Security Agreement, Pledge Agreement and Intercreditor Agreement applicable to it and the New Secured Parties and agrees to serve as Authorized Representative for the New Secured Parties with respect to the New Secured Obligations and agrees on its own behalf and on behalf of the New Secured Parties to be bound
by the terms thereof applicable to holders of Pari Passu Obligations, with all the rights and obligations of a Secured Party thereunder and bound by all
the provisions thereof) as fully as if it had been a Secured Party on the effective date of the Security Agreement, Pledge Agreement and Intercreditor
Agreement and agrees that its address for receiving notices pursuant to the First Lien Security Documents (as defined in the Intercreditor Agreement)
shall be as follows:

[Address]

The Collateral Agent, by acknowledging and agreeing to this Pari Passu Secured Party Consent, accepts the appointment set forth in clause
(iii) above.

THIS PARI PASSU SECURED PARTY CONSENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN
ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.
IN WITNESS WHEREOF, the undersigned has caused this Pari Passu Secured Party Consent to be duly executed by its authorized officer as of the ___ day _____, of 20__.

[NAME OF AUTHORIZED REPRESENTATIVE]
By: ____________________________
Name: __________________________
Title: __________________________

Acknowledged and Agreed
[ ],
as Collateral Agent
By: ____________________________
Name: __________________________
Title: __________________________

Del Monte Foods Company, a Delaware corporation,
for itself and each other Grantor party to the Security Agreement
By: ____________________________
Name: __________________________
Title: __________________________
This GRANT OF SECURITY INTEREST IN [TRADEMARK/PATENT/COPYRIGHT] RIGHTS ("Agreement"), dated as of March 8, 2011 is made by Del Monte Corporation, a Delaware corporation (the "Grantor"), in favor of JPMorgan Chase Bank, N.A., as collateral agent (the "Agent") for the several banks and other financial institutions (the "Lenders") from time to time parties to the Credit Agreement, dated as of March 8, 2011 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Del Monte Foods Company, a Delaware corporation, (the "Borrower"), Blue Acquisition Group, Inc., a Delaware corporation ("Holdings"), the Lenders, JPMorgan Chase Bank, N.A. as administrative agent and the other agents parties thereto.

WITNESSETH:

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make loans and other extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, in connection with the Credit Agreement, Grantor, Borrower, Holdings and any Subsidiaries of the Borrower that become a party thereto, have executed and delivered a Security Agreement, dated as of March 8, 2011 in favor of the Agent (together with all amendments and modifications, if any, from time to time thereafter made thereto, the "Security Agreement");

WHEREAS, pursuant to the Security Agreement, Grantor has pledged and granted to the Agent for the benefit of the Agent and the Secured Parties continuing security interest in all Intellectual Property, including the [Trademarks/Patents/Copyrights]; and

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in order to induce the Lenders to make loans and other financial accommodations to the Borrower pursuant to the Credit Agreement, Grantor agrees, for the benefit of the Agent and the Secured Parties, as follows:

9. Definitions. Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided or provided by reference in the Credit Agreement and the Security Agreement.
10. **Grant of Security Interest.** Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under the [Trademarks/Patents/Copyrights] (including, without limitation, those items listed on Schedule A hereto), including the right to receive all Proceeds therefrom (collectively, the "Collateral"), to the Agent for the benefit of the Secured Parties to secure payment, performance and observance of the Obligations; provided that, applications in the United States Patent and Trademark Office to register trademarks or service marks on the basis of Grantor's "intent to use" such trademarks or service marks will not be deemed to be Collateral unless and until an amendment to allege use or a statement of use has been filed under 15 U.S.C. §1501(d) and accepted by the United States Patent and Trademark Office, whereupon such application shall be automatically subject to the security interest granted herein and deemed to be included in the Collateral.¹

11. **Purpose.** This Agreement has been executed and delivered by Grantor for the purpose of recording the grant of security interest herein with the United States [Patent and Trademark][Copyright] Office. The security interest granted hereby has been granted to the Secured Parties in connection with the Security Agreement and is expressly subject to the terms and conditions thereof. The Security Agreement (and all rights and remedies of the Secured Parties thereunder) shall remain in full force and effect in accordance with its terms.

12. **Acknowledgment.** Grantor does hereby further acknowledge and affirm that the rights and remedies of the Secured Parties with respect to the security interest in the Collateral granted hereby are more fully set forth in the Credit Agreement and the Security Agreement, the terms and provisions of which (including the remedies provided for therein) are incorporated by reference herein as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

13. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together constitute one and the same original.

14. **Governing Law:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

¹ Language applicable to Grant of Security Interest in Trademark Rights
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

DEL MONTE CORPORATION,
as Grantor
By: ____________________________________________
Name: 
Title: 

Signature page to Grant of Security Interest in [Trademark/Patent/Copyright] Rights
Signature page to Grant of Security Interest in [Trademark/Patent/Copyright] Rights
**SCHEDULE A**

U.S. [Patent/Trademark/Copyright] Registrations and Applications

[For Patents:]

<table>
<thead>
<tr>
<th>OWNER</th>
<th>APPLICATION NUMBER</th>
<th>REGISTRATION NUMBER</th>
<th>TITLE</th>
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[For Trademarks:]

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<th>TRADEMARK</th>
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[For Copyrights:]

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<th>REGISTRATION NUMBER</th>
<th>TITLE</th>
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</table>

Material Inbound Exclusive Licenses in U.S. [Patents/Trademarks/Copyrights]

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<th>OWNER/LICENSOR</th>
<th>GRANTOR/LICENSEE</th>
<th>REGISTRATION NO./APPLICATION NO.</th>
<th>TITLE</th>
<th>NAME OF LICENSE</th>
<th>DATE OF LICENSE</th>
</tr>
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PLEDGE AGREEMENT

PLEDGE AGREEMENT dated as of March 8, 2011 among Del Monte Foods Company, a Delaware corporation (the "Company"), each of the Subsidiaries of the Company listed on the signature pages hereto or that becomes a party hereto pursuant to Section 30 hereof (each such Subsidiary being a "Subsidiary Pledgor" and, collectively, the "Subsidiary Pledgors"), Blue Acquisition Group, Inc., a Delaware corporation ("Holdings"; Holdings, the Subsidiary Pledgors and the Company are referred to collectively as the "Pledgors") and JPMorgan Chase Bank, N.A., as Collateral Agent (in such capacity, the "Collateral Agent") for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, the Company is party to the Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among the Company, Holdings, the Lenders from time to time party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent;

WHEREAS, (a) pursuant to the Credit Agreement, among other things, the Lenders have severally agreed to make Loans to the Company upon the terms and subject to the conditions set forth therein and (b) one or more Hedge Banks may from time to time enter into Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, pursuant to the Guarantee, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the "Guarantee"), each Subsidiary Pledgor and Holdings has agreed to unconditionally and irrevocably guarantee, as primary obligor and not merely as surety, to the Administrative Agent for the benefit of the Secured Parties, the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations (as defined below);

WHEREAS, the proceeds of the Loans will be used in part to enable the Company to make valuable transfers to the Subsidiary Pledgors and Holdings in connection with the operation of their respective businesses;

WHEREAS, each Pledgor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans;

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loans to the Company under the Credit Agreement that the Company, Holdings and the Subsidiary Pledgors shall have executed and delivered this Pledge Agreement to the Collateral Agent for the benefit of the Secured Parties; and

WHEREAS, (a) the Pledgors are the legal and beneficial owners of the Equity Interests, described in Schedule 1 hereto and issued by the entities named therein (such Equity Interests are, together with any Equity Interests of the issuer of such Equity Interests or any other Subsidiary directly held by any Pledgor in the future (the "After-acquired Shares"), in each case, except to the extent excluded from the Collateral for the applicable Obligations pursuant to the last paragraph of Section 2 below, referred to collectively herein as the "Pledged Shares") and (b) each of the Pledgors is the legal and beneficial owner

[Rest of the document continues with the specifics of the agreement, including clauses about the pledge of equity interests and the terms of the agreement.]
of the Indebtedness described in Schedule 1 hereto (together with any other Indebtedness owed to any Pledgor hereafter and required to be pledged pursuant to Section 9.12(a) of the Credit Agreement, the "Pledged Debt");

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective Loans under the Credit Agreement and to induce one or more Lender or Affiliates of Lenders to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries, the Pledgors hereby agree with the Collateral Agent, for the benefit of the Secured Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) "Collateral" shall have the meaning provided in Section 2.

(c) "Discharge" shall have the meaning assigned to such term in the Intercreditor Agreement.

(d) "Equity Interests" shall mean, collectively, Stock and Stock Equivalents.

(e) "Intercreditor Agreement" shall have the meaning provided in Section 26.

(f) "Obligations" shall mean the Obligations (as defined in the Credit Agreement) and any Pari Passu Obligations.

(g) "Pari Passu Agreement" shall mean any indenture, credit agreement or other agreement, if any, pursuant to which any Grantor has or will incur Pari Passu Obligations; provided that, in each case, the Indebtedness thereunder has been designated as Pari Passu Obligations pursuant to and in accordance with Section 27.

(h) "Pari Passu Obligations" shall mean any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding with respect to any Grantor, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium, penalties, fees, indemnifications, reimbursements, damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under any Pari Passu Agreement, in each case, that have been designated as Pari Passu Obligations pursuant to and in accordance with Section 27; provided that for the avoidance of doubt, no obligations in respect of Pari Passu Obligations shall constitute "Obligations" hereunder unless the Authorized Representative for the holders of such Pari Passu Obligations has executed a Pari Passu Secured Party Consent and has become a party to the Intercreditor Agreement.

(i) "Pari Passu Secured Parties" shall mean the holders from time to time of Pari Passu Obligations.

(j) "Pari Passu Secured Party Consent" shall mean a consent in the form of Annex B to this Security Agreement executed by the Authorized Representative of any holders of Pari Passu Obligations pursuant to Section 27.
Proceeds" and any other term used herein or in the Credit Agreement without definition that is defined in the UCC has the meaning given to it in the UCC.

"Secured Parties" shall have the meaning assigned to such term in the Security Agreement.

"UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

The words "hereof", "herein" and "hereunder" and words of similar import when used in this Pledge Agreement shall refer to this Pledge Agreement as a whole and not to any particular provision of this Pledge Agreement, and Section references are to Sections of this Pledge Agreement unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Grant of Security. Each Pledgor hereby transfers, assigns and pledges to the Collateral Agent, for the benefit of the Secured Parties, and grants to the Collateral Agent, for the benefit of the Secured Parties, a lien on and a security interest in (the "Security Interest") all of such Pledgor's right, title and interest in, to and under the following, whether now owned or existing or at any time hereafter acquired or existing (collectively, the "Collateral"):

(a) the Pledged Shares held by such Pledgor and the certificates representing such Pledged Shares and any interest of such Pledgor in the entries on the books of the issuer of the Pledged Shares or any financial intermediary pertaining to the Pledged Shares and all dividends, cash, warrants, rights, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares.

(b) the Pledged Debt and the instruments evidencing the Pledged Debt owed to such Pledgor, and all interest, cash, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Debt; and

(c) to the extent not covered by clauses (a) and (b) above, respectively, all Proceeds of any or all of the foregoing Collateral.

Notwithstanding the foregoing, the Collateral for the Obligations shall not include any Excluded Stock and Stock Equivalents.

3. Security for Obligations. This Pledge Agreement secures the payment of all the Obligations of each Credit Party. Without limiting the generality of the foregoing, this Pledge Agreement secures the payment of all amounts that constitute part of the Obligations and would be owed by any of the Credit Parties to the Secured Parties under the Credit Documents but for the fact that they are unenforceable.
or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving any Credit Party.

4. **Delivery of the Collateral.** All certificates or instruments, if any, representing or evidencing the Collateral shall be promptly delivered to and held by or on behalf of the Collateral Agent pursuant hereto to the extent required by the Credit Agreement and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Collateral Agent. The Collateral Agent shall have the right, at any time after the occurrence and during the continuance of an Event of Default, and with notice to the relevant Pledgor, to transfer to or to register in the name of the Collateral Agent or any of its nominees any or all of the Pledged Shares. Each delivery of Collateral (including any After-acquired Shares) shall be accompanied by a notice to the Collateral Agent describing the securities theretofore and then being pledged hereunder.

5. **Representations and Warranties.** Each Pledgor represents and warrants as follows:

   (a) Schedule 1 hereto (i) correctly represents as of the Closing Date (A) the issuer, the certificate number, the Pledgor and the record and beneficial owner, the number and class and the percentage of the issued and outstanding Equity Interests of such class of all Pledged Shares and (B) the issuer, the initial principal amount, the Pledgor and holder, date of issuance and maturity date of all Pledged Debt and (ii) together with the comparable schedule to each supplement hereto, includes all Equity Interests, debt securities and promissory notes required to be pledged hereunder. Except as set forth on Schedule 1, and except for Excluded Stock and Stock Equivalents, the Pledged Shares represent all (or 65% in the case of pledges of the Voting Stock of Foreign Subsidiaries) of the issued and outstanding Equity Interests of each class of Equity Interests in the issuer on the Closing Date.

   (b) Such Pledgor is the legal and beneficial owner of the Collateral pledged or assigned by such Pledgor hereunder free and clear of any Lien, except for Permitted Liens and the Lien created by this Pledge Agreement.

   (c) As of the Closing Date, the Pledged Shares pledged by such Pledgor hereunder have been duly authorized and validly issued and, in the case of Pledged Shares issued by a corporation, are fully paid and non-assessable.

   (d) The execution and delivery by such Pledgor of this Pledge Agreement and the pledge of the Collateral pledged by such Pledgor hereunder pursuant hereto create a legal, valid and enforceable security interest in such Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation of such Security Interest is governed by the UCC) and, upon delivery of such Collateral to the Collateral Agent in the State of New York, shall constitute a fully perfected Lien on and security interest in the Collateral, securing the payment of the Obligations, in favor of the Collateral Agent for the benefit of the Secured Parties (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation and perfection of such Security Interest is governed by the UCC), except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.

   (e) Such Pledgor has full power, authority and legal right to pledge all the Collateral pledged by such Pledgor pursuant to this Pledge Agreement and this Pledge Agreement constitutes
a legal, valid and binding obligation of each Pledgor (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the
enforceability of such Security Interest is governed by the UCC), enforceable in accordance with its terms, except as enforceability thereof may be
limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.


(a) In the event that any Equity Interests in any Subsidiary that is organized as a limited liability company or limited partnership and pledged
hereunder shall be represented by a certificate, the applicable Pledgor shall cause the issuer of such interests to elect to treat such interests as a "security"
within the meaning of Article 8 of the Uniform Commercial Code of its jurisdiction of organization or formation, as applicable, by including in its
organizational documents language substantially similar to the following and, accordingly, such interests shall be governed by Article 8 of the Uniform
Commercial Code:

"The Partnership/Company hereby irrevocably elects that all membership interests in the Partnership/Company shall be securities governed by Article 8
of the Uniform Commercial Code of [jurisdiction of organization or formation, as applicable]. Each certificate evidencing partnership/membership
interests in the Partnership/Company shall bear the following legend: "This certificate evidences an interest in [name of Partnership/LLC] and shall be a
security for purposes of Article 8 of the Uniform Commercial Code." No change to this provision shall be effective until all outstanding certificates
have been surrendered for cancellation and any new certificates thereafter issued shall not bear the foregoing legend."

(b) Each Pledgor will comply with Section 9.12(b) of the Credit Agreement.

(c) In the event that any Equity Interests in any Foreign Subsidiary pledged hereunder are not represented by a certificate, the Pledgors agree not
to permit such Foreign Subsidiary to issue Equity Interests represented by a certificate to any other Person.

7. Further Assurances. Each Pledgor agrees that at any time and from time to time, at the expense of such Pledgor, it will execute or otherwise
authorize the filing of any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing
and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any applicable law, or
which the Collateral Agent or the Administrative Agent may reasonably request, in order (x) to perfect and protect any pledge, assignment or security interest
granted or purported to be granted hereby (including the priority thereof) or (y) to enable the Collateral Agent to exercise and enforce its rights and remedies
hereunder with respect to any Collateral.

8. Voting Rights; Dividends and Distributions; Etc.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) Each Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Collateral or any part thereof for any
purpose not prohibited by the terms of this Pledge Agreement or the other Credit Documents.
(ii) The Collateral Agent shall execute and deliver (or cause to be executed and delivered) to each Pledgor all such proxies and other instruments as such Pledgor may reasonably request for the purpose of enabling such Pledgor to exercise the voting and other rights that it is entitled to exercise pursuant to paragraph (i) above.

(b) Subject to paragraph (c) below, each Pledgor shall be entitled to receive and retain and use, free and clear of the Lien created by this Pledge Agreement, any and all dividends, distributions, principal and interest made or paid in respect of the Collateral to the extent permitted by the Credit Agreement, as applicable; provided, however, that any and all noncash dividends, interest, principal or other distributions that would constitute Pledged Shares or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Shares or received in exchange for Pledged Shares or Pledged Debt 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 shall be forthwith delivered to the Collateral Agent to hold as, Collateral and shall, if received by such Pledgor, be received in trust for the benefit of the Collateral Agent, be segregated from the other property or funds of such Pledgor and be forthwith delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsement).

(c) Upon written notice to a Pledgor by the Collateral Agent following the occurrence and during the continuance of an Event of Default,

(i) all rights of such Pledgor to exercise or refrain from exercising the voting and other consensual rights that it would otherwise be entitled to exercise pursuant to Section 8(a)(i) shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall thereupon have the sole right to exercise or refrain from exercising such voting and other consensual rights during the continuance of such Event of Default, provided that, unless otherwise directed by the Required Lenders, the Collateral Agent shall have the right from time to time following the occurrence and during the continuance of an Event of Default, to permit the Pledgors to exercise such rights. After all Events of Default have been cured or waived, each Pledgor will have the right to exercise the voting and consensual rights that such Pledgor would otherwise be entitled to exercise pursuant to the terms of Section 8(a)(i) (and the obligations of the Collateral Agent under Section 8(a)(ii) shall be reinstated);

(ii) all rights of such Pledgor to receive the dividends, distributions and principal and interest payments that such Pledgor would otherwise be authorized to receive and retain pursuant to Section 8(b) shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall thereupon have the sole right to receive and hold as Collateral such dividends, distributions and principal and interest payments during the continuance of such Event of Default. After all Events of Default have been cured or waived, the Collateral Agent shall repay to each Pledgor (without interest) all dividends, distributions and principal and interest payments that such Pledgor would otherwise be permitted to receive, retain and use pursuant to the terms of Section 8(b);

(iii) all dividends, distributions and principal and interest payments that are received by such Pledgor contrary to the provisions of Section 8(b) shall be received in trust for the benefit of the Collateral Agent shall be segregated from other property or funds of such Pledgor and shall forthwith be delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsements); and
(iv) in order to permit the Collateral Agent to receive all dividends, distributions and principal and interest payments to which it may be entitled under Section 8(b) above, to exercise the voting and other consensual rights that it may be entitled to exercise pursuant to Section 8(c)(i) above, and to receive all dividends, distributions and principal and interest payments that it may be entitled to under Sections 8(c)(ii) and (c)(iii) above, such Pledgor shall from time to time execute and deliver to the Collateral Agent, appropriate proxies, dividend payment orders and other instruments as the Collateral Agent may reasonably request in writing.

9. Transfers and Other Liens; Additional Collateral; Etc. Each Pledgor shall:

(a) not (i) except as permitted by the Credit Agreement, sell or otherwise dispose of, or grant any option or warrant with respect to, any of the Collateral or (ii) create or suffer to exist any consensual Lien upon or with respect to any of the Collateral, except for the Lien created by this Pledge Agreement provided that in the event such Pledgor sells or otherwise disposes of assets as permitted by the Credit Agreement, and such assets are or include any of the Collateral, upon the request of the applicable Pledgor the Collateral Agent shall release such Collateral to such Pledgor free and clear of the Lien created by this Agreement concurrently with the consummation of such sale; and

(b) defend its and the Collateral Agent's title or interest in and to all the Collateral (and in the Proceeds thereof) against any and all Liens (other than Permitted Liens and the Lien created by this Agreement), however arising, and any and all Persons whomsoever.

10. Collateral Agent Appointed Attorney-in-Fact. Each Pledgor hereby appoints, which appointment is irrevocable and coupled with an interest, the Collateral Agent as such Pledgor's attorney-in-fact, with full authority in the place and stead of such Pledgor and in the name of such Pledgor or otherwise, to take any action and to execute any instrument, in each case after the occurrence and during the continuance of an Event of Default, and with notice to such Pledgor, that the Collateral Agent may deem reasonably necessary or advisable to accomplish the purposes of this Pledge Agreement, including to receive, indorse and collect all instruments made payable to such Pledgor representing any dividend, distribution or principal or interest payment in respect of the Collateral or any part thereof and to give full discharge for the same.

11. The Collateral Agent's Duties. The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Shares, whether or not the Collateral Agent or any other Secured Party has or is deemed to have knowledge of such matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property.

12. Remedies. If any Event of Default shall have occurred and be continuing:

(a) The Collateral Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected
Collateral) and also may with notice to the relevant Pledgor, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange broker's board or at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, at such price or prices and upon such other terms as are commercially reasonable irrespective of the impact of any such sales on the market price of the Collateral. The Collateral Agent shall be authorized at any such sale (if it deems it advisable to do so) to restrict the prospective bidders or purchasers of Collateral 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 purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Pledgor, and each Pledgor hereby waives (to the extent permitted by law) all rights of redemption, stay and/or appraisal that it 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 or any Secured Party shall have the right upon any such public sale, and, to the extent permitted by law, upon any such private sale, to purchase all or any part of the Collateral so sold, and the Collateral Agent or such Secured Party may pay the purchase price by crediting the amount thereof against the Obligations. Each Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to such Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the extent permitted by law, each Pledgor hereby waives any claim against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree.

(b) The Collateral Agent shall apply the Proceeds of any collection or sale of the Collateral in the manner specified in Section 11.13 of the Credit Agreement. Upon any sale of the 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.

(c) The Collateral Agent may exercise any and all rights and remedies of each Pledgor in respect of the Collateral.

(d) All payments received by any Pledgor in respect of the Collateral after the occurrence and during the continuance of an Event of Default, shall be received in trust for the benefit of the Collateral Agent shall be segregated from other property or funds of such Pledgor and shall be forthwith delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsement).

13. Amendments, etc. with Respect to the Obligations; Waiver of Rights. Each Pledgor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Pledgor and without notice to or further assent by any Pledgor, (a) any demand for payment of any of
the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith, the Secured Hedge Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the applicable Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Secured Hedge Agreement, the Hedge Bank party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Obligations or for this Pledge Agreement or any property subject thereto. When making any demand hereunder against any Pledgor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on the Company or any Pledgor or any other person, and any failure by the Collateral Agent or any other Secured Party to make any such demand or to collect any payments from the Company or any Pledgor or any other person or any release of the Company or any Pledgor or any other person shall not relieve any Pledgor in respect of which a demand or collection is not made or any Pledgor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Collateral Agent or any other Secured Party against any Pledgor. For the purposes hereof “demand” shall include the commencement and continuance of any legal proceedings.

14. Continuing Security Interest; Assignments Under the Credit Agreement; Release.

(a) This Pledge Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Pledgor and the successors and assigns thereof, and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, endorsees, transferees and assigns until all the Obligations under the Credit Documents and each Pari Passu Agreement (other than, in each case, any contingent indemnity obligations not then due) shall have been satisfied by payment in full and the Commitments shall be terminated, notwithstanding that from time to time during the term of the Credit Agreement the Credit Parties may be free from any Obligations.

(b) Holdings or a Subsidiary Pledgor, as applicable, shall automatically be released from its obligations hereunder and the Collateral of such Pledgor shall be automatically released (x) as it relates to the Obligations (as defined in the Credit Agreement) upon such Pledgor ceasing to be a Credit Party in accordance with Section 13.1 of the Credit Agreement and (y) as it relates to any Pari Passu Obligations, if it ceases to be a guarantor under such Pari Passu Agreement pursuant to the applicable provisions(s) of such Pari Passu Agreement.

(c) The Collateral shall be automatically released from the Liens of this Agreement (x) as it relates to the Obligations (as defined in the Credit Agreement) (i) to the extent provided for in Section 13.1 of the Credit Agreement and (ii) upon the effectiveness of any written consent to the release of the security interest granted in such Collateral pursuant to Section 13.1 of the Credit Agreement and (y) as it relates to the Obligations securing any Pari Passu Obligations of any series will be released, in whole or in part, as provided in any Pari Passu Agreement governing such obligations. Any such release
in connection with any sale, transfer or other disposition of such Collateral shall result in such Collateral being sold, transferred or disposed of, as applicable, free and clear of the Liens of this Agreement.

(d) In connection with any termination or release pursuant to the foregoing paragraph (a), (b) or (c), the Collateral Agent shall execute and deliver to any Pledgor or authorize the filing of, at such Pledgor's expense, all documents that such Pledgor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 14 shall be without recourse to or warranty by the Collateral Agent.

15. **Reinstatement.** Each Pledgor further agrees that, if any payment made by any Credit Party or other Person and applied to the Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the Proceeds of Collateral are required to be returned by any Secured Party to such Credit Party, its estate, trustee, receiver or any other Person, including any Pledgor, under any bankruptcy law, state, federal or foreign law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made or, if prior thereto the Lien granted hereby or other Collateral securing such liability hereunder shall have been released or terminated by virtue of such cancellation or surrender), such Lien or other Collateral shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect any Lien or other Collateral securing the obligations of any Pledgor in respect of the amount of such payment.

16. **Notices.** All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to any Pledgor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.

17. **Counterparts.** This Pledge Agreement may be executed by one or more of the parties to this Pledge Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

18. **Severability.** Any provision of this Pledge Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

19. **Integration.** This Pledge Agreement together with the other Credit Documents represents the agreement of each of the Pledgors with respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

20. **Amendments in Writing; No Waiver; Cumulative Remedies.**

(a) None of the terms or provisions of this Pledge Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the affected Pledgor and the Collateral Agent in accordance with Section 13.1 of the Credit Agreement.
(b) Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 20(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such other Secured Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

21. Section Headings. The Section headings used in this Pledge Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

22. Successors and Assigns. This Pledge Agreement shall be binding upon the successors and assigns of each Pledgor and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that no Pledgor may assign, transfer or delegate any of its rights or obligations under this Pledge Agreement without the prior written consent of the Collateral Agent.

23. WAIVER OF JURY TRIAL. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS PLEDGE AGREEMENT, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

24. Submission to Jurisdiction; Waivers. Each party hereto irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Pledge Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address referred to in Section 16 or at such other address of which the Collateral Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Secured Party) to sue in any other jurisdiction; and
(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 24 any special, exemplary, punitive or consequential damages.


26. Intercreditor Agreement. Notwithstanding anything herein to the contrary, the liens and security interests granted to the Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent hereunder, are subject to the provisions of the Intercreditor Agreement and the 1989 Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern and control. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary, all rights and remedies of the Collateral Agent (and the other Secured Parties) shall be subject to the terms of the Intercreditor Agreement, dated as of March 8, 2011 (as amended, restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among the Administrative Agent and Collateral Agent, as Initial Fixed Asset Administrative Agent and Initial Fixed Asset Collateral Agent, and Bank of America, N.A., as the Revolving Credit Administrative Agent and the Revolving Credit Collateral Agent. Until the Discharge of Revolving Credit Obligations, the delivery of any ABL Priority Collateral to, or the control of any ABL Priority Collateral by, the Revolving Credit Collateral Agent pursuant to the Revolving Credit Documents shall be deemed to satisfy any delivery or control requirement hereunder or under any other Security Document with respect to ABL Priority Collateral.

27. Pari Passu Obligations. On or after the date hereof and so long as expressly permitted by the Credit Agreement, the Company may from time to time designate Indebtedness at the time of incurrence to be secured on a pari passu basis with the Obligations (as defined in the Credit Agreement) as Pari Passu Obligations hereunder by delivering to the Collateral Agent and each other Authorized Representative (a) a certificate signed by an Authorized Officer of the Company (upon which the Collateral Agent may conclusively and exclusively rely) (i) identifying the obligations so designated and the aggregate principal amount or face amount thereof, (ii) stating that such obligations are designated as "Pari Passu Obligations" for purposes hereof, (iii) representing that such designation of such obligations as Pari Passu Obligations complies with the terms of the Credit Agreement and each then extant Pari Passu Agreement, (iv) specifying the name and address of the Authorized Representative for such obligations and (vi) stating that Grantors have complied with their obligations hereunder, (b) a fully executed Pari Passu Secured Party Consent (in the form attached as Annex B) and (c) a fully executed joinder to the Intercreditor Agreement. Each Authorized Representative agrees that upon the satisfaction of all conditions set forth in the preceding sentence, the Collateral Agent shall act as agent under and subject to the terms of the Security Documents for the benefit of all Secured Parties, including, without limitation, any Secured Parties that hold any such Pari Passu Obligations, and each Authorized Representative agrees to the appointment, and acceptance of the appointment, of the Collateral Agent as agent for the holders of such Pari Passu Obligations as set forth in each Pari Passu Secured Party Consent and agrees, on behalf of itself and each Secured Party it represents, to be bound by this Security Agreement and the Intercreditor Agreement. Notwithstanding the delivery of the Pari Passu Secured Party Consent set forth above, the Collateral Agent shall not be obligated to act as Collateral Agent for any New Secured Parties (as such term is defined in Exhibit B hereto) whatsoever or to execute any document whatsoever if in the sole judgment of the Collateral Agent doing so would impose, purport to impose or might reasonably be expected to impose upon the Collateral Agent any obligation or liability for which the Collateral Agent is not in its sole discretion adequately protected. In no event shall the Collateral Agent be subject to any
28. Enforcement Expenses; Indemnification.

(a) Each Pledgor agrees to pay any and all reasonable out of pocket expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by any Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Pledgor under this Pledge Agreement.

(b) Each Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes that may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Pledge Agreement.

(c) Each Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Pledge Agreement to the extent the Company would be required to do so pursuant to Section 13.5 of the Credit Agreement.

(d) The agreements in this Section 27 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Credit Documents.

29. Acknowledgments. Each party hereto hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Pledge Agreement and the other Credit Documents to which it is a party;

(b) neither the Collateral Agent nor any other Secured Party has any fiduciary relationship with or duty to any Pledgor arising out of or in connection with this Pledge Agreement or any of the other Credit Documents, and the relationship between the Pledgors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders and any other Secured Party or among the Pledgors and the Lenders and any other Secured Party.

30. Additional Pledgors. Each Subsidiary of the Company that is required to become a party to this Pledge Agreement pursuant to Section 9.11 of the Credit Agreement shall become a Subsidiary Pledgor, with the same force and effect as if originally named as a Pledgor herein, for all purposes of this Pledge Agreement upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Pledgor as a party to this Pledge Agreement shall not require the consent of any other Pledgor hereunder. The rights and obligations of each Pledgor hereunder shall remain in full force and effect notwithstanding the addition of any new Pledgor as a party to this Pledge Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, each of the undersigned has caused this Pledge Agreement to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

DEL MONTE FOODS COMPANY, as Pledgor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller.

DEL MONTE CORPORATION, as Pledgor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller.

BLUE ACQUISITION GROUP, INC., as Pledgor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller.

[Signature Page to Pledge Agreement]
JPMORGAN CHASE BANK, N.A., as Collateral Agent

By:   /s/ Barry K. Bergman

Name: Barry K. Bergman
Title: Managing Director
Pledged Shares

Pledged Debt
SUPPLEMENT NO. [   ] to the PLEDGE AGREEMENT dated as of March 8, 2011 among Del Monte Foods Company, a Delaware corporation (the "Company"), each of the Subsidiaries of the Company listed on the signature pages thereto or that becomes a party thereto pursuant to Section 30 of the Pledge Agreement (each such Subsidiary being a "Subsidiary Pledgor" and, collectively, the "Subsidiary Pledgors"), Blue Acquisition Group, Inc., a Delaware corporation ("Holdings"; Holdings, the Subsidiary Pledgors and the Company are referred to collectively as the "Pledgors") and JPMorgan Chase Bank, N.A., as Collateral Agent (the "Pledge Agreement").

A. Reference is made to the Credit Agreement dated as of the date of the Pledge Agreement (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among the Company, Holdings, the Lenders from time to time parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent and as Collateral Agent and the Guarantee dated as of the date of the Pledge Agreement (as the same may be amended, restated, supplemented and or otherwise modified from time to time, the "Guarantee"), among the Guarantors party thereto and the Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Pledge Agreement.

C. The Pledgors have entered into the Pledge Agreement in order to induce the Administrative Agent, the Collateral Agent and the Lenders to enter into the Credit Agreement, to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. The undersigned Guarantors (each an "Additional Pledgor") are (a) the legal and beneficial owners of the Equity Interests described in Schedule 1 hereto and issued by the entities named therein (such Equity Interests, together with any Equity Interests of the issuer of such Pledged Shares or any other Subsidiary held directly by any Additional Pledgor in the future (the "After-acquired Additional Pledged Shares"), in each case, except to the extent excluded from the Collateral for the applicable Obligations pursuant to the penultimate paragraph of Section 1 below, referred to collectively herein as the "Additional Pledged Shares") and (b) the legal and beneficial owners of the Indebtedness described in Schedule 1 hereto (together with any other Indebtedness owed to any Additional Pledgor hereafter and required to be pledged pursuant to Section 9.12(a) of the Credit Agreement, the "Additional Pledged Debt").

E. Section 9.11 of the Credit Agreement and Section 30 of the Pledge Agreement provide that additional Subsidiaries may become Subsidiary Pledgors under the Pledge Agreement by execution and delivery of an instrument in the form of this Supplement. Each undersigned Additional Pledgor is executing this Supplement in accordance with the requirements of Section 9.11 of the Credit Agreement and Section 30 of the Pledge Agreement to pledge to the Collateral Agent for the benefit of the Secured Parties the Additional Pledged Shares and the Additional Pledged Debt and to become a Subsidiary Pledgor under the Pledge Agreement in order to induce the Lenders to make their respective Loans to the Company under the Credit Agreement and to induce one or more Lenders or
Affiliates of Lenders to enter into Secured Hedge Agreements with the Company and/or its Subsidiaries.

Accordingly, the Collateral Agent and each undersigned Additional Pledgor agree as follows:

SECTION 1. Each Additional Pledgor by its signature hereby transfers, assigns and pledges to the Collateral Agent, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, for the benefit of the Secured Parties, a security interest in all of such Additional Pledgor's right, title and interest in the following, whether now owned or existing or hereafter acquired or existing (collectively, the "Additional Collateral"):

(a) the Additional Pledged Shares held by such Additional Pledgor and the certificates representing such Additional Pledged Shares and any interest of such Additional Pledgor in the entries on the books of the issuer of the Additional Pledged Shares or any financial intermediary pertaining to the Additional Pledged Shares and all dividends, cash, warrants, rights, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Additional Pledged Shares;

(b) the Additional Pledged Debt and the instruments evidencing the Additional Pledged Debt owed to such Additional Pledgor, and all interest, cash, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Additional Pledged Debt; and

Notwithstanding the foregoing, the Additional Collateral for the Obligations shall not include any Excluded Stock and Stock Equivalents.

For purposes of the Pledge Agreement, the Collateral shall be deemed to include the Additional Collateral.

SECTION 2. Each Additional Pledgor by its signature below becomes a Pledgor under the Pledge Agreement with the same force and effect as if originally named therein as a Pledgor, and each Additional Pledgor hereby agrees to all the terms and provisions of the Pledge Agreement applicable to it as a Pledgor thereunder. Each reference to a "Subsidiary Pledgor" or a "Pledgor" in the Pledge Agreement shall be deemed to include each Additional Pledgor. The Pledge Agreement is hereby incorporated herein by reference.

SECTION 3. Each Additional Pledgor represents and warrants as follows:

(a) Schedule 1 hereto correctly represents as of the date hereof (A) the issuer, the certificate number, the Additional Pledgor and registered owner, the number and class and the percentage of the issued and outstanding Equity Interests of such class of all Additional Pledged Shares and (B) the issuer, the initial principal amount, the Additional Pledgor and holder, date of and maturity date of all Additional Pledged Debt. Except as set forth on Schedule 1 and except for Excluded Stock and Stock Equivalents, the Additional Pledged Shares represent all (or 65% in the case of pledges of the Voting Stock of Foreign Subsidiaries) of the
issued and outstanding Equity Interests of each class of Equity Interests of the issuer on the date hereof.

(b) Such Additional Pledgor is the legal and beneficial owner of the Additional Collateral pledged or assigned by such Additional Pledgor hereunder free and clear of any Lien, except for the Lien created by this Supplement to the Pledge Agreement.

(c) As of the date of this Supplement, the Additional Pledged Shares pledged by such Additional Pledgor hereunder have been duly authorized and validly issued and, in the case of Additional Pledged Shares issued by a corporation, are fully paid and non-assessable.

(d) The execution and delivery by such Additional Pledgor of this Supplement and the pledge of the Additional Collateral pledged by such Additional Pledgor hereunder pursuant hereto create a valid and perfected first-priority security interest in the Additional Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation of such Security Interest is governed by the UCC), and upon delivery of such Additional Collateral to the Collateral Agent in the State of New York, shall constitute a fully perfected lien and security interest in the Additional Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation and perfection of such Security Interest is governed by the UCC), securing the payment of the Obligations, in favor of the Collateral Agent for the benefit of the Secured Parties.

(e) Such Additional Pledgor has full power, authority and legal right to pledge all the Additional Collateral pledged by such Additional Pledgor pursuant to this Supplement, and this Supplement constitutes a legal, valid and binding obligation of each Additional Pledgor (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the enforceability of such Security Interest is governed by the UCC), enforceable in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.

SECTION 4. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Collateral Agent and the Company. This Supplement shall become effective as to each Additional Pledgor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such Additional Pledgor and the Collateral Agent.

SECTION 5. Except as expressly supplemented hereby, the Pledge Agreement shall remain in full force and effect.


SECTION 7. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, to such jurisdiction, be ineffective to the extent of such prohibition or
unenforceability without invalidating the remaining provisions hereof and in the Pledge Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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 8. All notices, requests and demands pursuant hereto shall be made in accordance with Section 16 of the Pledge Agreement. All communications and notices hereunder to each Additional Pledgor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.

A-4
IN WITNESS WHEREOF, each Additional Pledgor and the Collateral Agent have duly executed this Supplement to the Pledge Agreement as of the day and year first above written.

[NAME OF ADDITIONAL PLEDGOR]
By:

Name: 
Title: 

JPMORGAN CHASE BANK, N.A., as Collateral Agent
By:

Name: 
Title: 
## Pledged Shares

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## Pledged Debt

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The undersigned is the Authorized Representative for Persons wishing to become Secured Parties (the "New Secured Parties") under (i) the Security Agreement dated as of March 8, 2011 (as heretofore amended and/or supplemented, the "Security Agreement") and (ii) the Pledge Agreement dated as of March 8, 2011 (as heretofore amended and/or supplemented, the "Pledge Agreement") among Del Monte Foods Company, the other Pledgors party thereto and JPMorgan Chase Bank, N.A., as Collateral Agent (the "Collateral Agent"). Terms used without definition herein have the meanings assigned to such term by the Security Agreement and the Pledge Agreement, as applicable.

In consideration of the foregoing, the undersigned hereby:

(i) represents that the Authorized Representative has been duly authorized by the New Secured Parties to become a party to the Security Agreement and the Pledge Agreement on behalf of the New Secured Parties under that [DESCRIBE OPERATIVE AGREEMENT] (the "New Secured Obligation") and to act as the Authorized Representative for the New Secured Parties;

(ii) acknowledges that the New Secured Parties have received copies of the Security Agreement, the Pledge Agreement and the Intercreditor Agreement;

(iii) appoints and authorizes the Collateral Agent to take such action as agent on its behalf and on behalf of all other Secured Parties and to exercise such powers under the Security Agreement, the Pledge Agreement and the Intercreditor Agreement as are delegated to the Collateral Agent by the terms thereof, together with all such powers as are reasonably incidental thereto;

(iv) accepts and acknowledges the terms of the Intercreditor Agreement applicable to it and the New Secured Parties and agrees to serve as Authorized Representative for the...
New Secured Parties with respect to the New Secured Obligations and agrees on its own behalf and on behalf of the New Secured Parties to be bound by the terms thereof applicable to holders of Pari Passu Obligations, with all the rights and obligations of a Secured Party thereunder and bound by all the provisions thereof as fully as if it had been a Secured Party on the effective date of the Intercreditor Agreement and agrees that its address for receiving notices pursuant to the [First Lien] Security Documents (as defined in the Intercreditor Agreement) shall be as follows:

[Address]

The Collateral Agent, by acknowledging and agreeing to this Pari Passu Secured Party Consent, accepts the appointment set forth in clause (iii) above.

THIS PARI PASSU SECURED PARTY CONSENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

B-2
IN WITNESS WHEREOF, the undersigned has caused this Pari Passu Secured Party Consent to be duly executed by its authorized officer as of the __ day __________, of 20__.

[NAME OF AUTHORIZED REPRESENTATIVE]
By: __________________________

Name: _________________________
Title: __________________________

Acknowledged and Agreed
[__________________________],
as Collateral Agent
By: __________________________

Name: _________________________
Title: __________________________

Del Monte Foods Company, a Delaware corporation, for itself and each other Pledgor party to the Pledge Agreement
By: __________________________

Name: _________________________
Title: __________________________
$750,000,000

CREDIT AGREEMENT

Dated as of March 8, 2011

among

DELMONTE FOODS COMPANY and the other Borrowers referenced herein
as the Borrowers,

BLUE ACQUISITION GROUP, INC.,
as Holdings,

The Several Lenders
from Time to Time Parties Hereto,

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

JPMORGAN CHASE BANK, N.A.,
BARCLAYS CAPITAL and
MORGAN STANLEY SENIOR FUNDING, INC.,
as Co-Syndication Agents,

GENERAL ELECTRIC CAPITAL CORPORATION,
U.S. BANK NATIONAL ASSOCIATION and
HARRIS N.A.,
as Co-Documentation Agents,

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED and
J.P. MORGAN SECURITIES LLC,
as Joint Lead Arrangers,

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
J.P. MORGAN SECURITIES LLC,
BARCLAYS CAPITAL and
MORGAN STANLEY SENIOR FUNDING, INC.,
as Joint Bookrunners
# TABLE OF CONTENTS

**ARTICLE 1**  
DEFINITIONS

| SECTION 1.1   | Defined Terms            | 2  |
| SECTION 1.2   | Other Interpretive Provisions | 65 |
| SECTION 1.3   | Accounting Terms          | 66 |
| SECTION 1.4   | Rounding                  | 66 |
| SECTION 1.5   | References to Agreements, Laws, Etc. | 66 |

**ARTICLE 2**  
AMOUNT AND TERMS OF CREDIT

<p>| SECTION 2.1   | Commitments               | 66 |
| SECTION 2.2   | Minimum Amount of Each Borrowing; Maximum Number of Borrowings | 67 |
| SECTION 2.3   | Notice of Borrowing       | 67 |
| SECTION 2.4   | Disbursement of Funds     | 67 |
| SECTION 2.5   | Evidence of Debt          | 68 |
| SECTION 2.6   | Conversions and Continuations | 69 |
| SECTION 2.7   | Pro Rata Borrowings       | 70 |
| SECTION 2.8   | Interest                  | 70 |
| SECTION 2.9   | Interest Periods          | 71 |
| SECTION 2.10  | Increased Costs, Illegality, Etc. | 71 |
| SECTION 2.11  | Compensation              | 73 |
| SECTION 2.12  | Change of Lending Office  | 74 |
| SECTION 2.13  | Notice of Certain Costs   | 74 |
| SECTION 2.14  | Incremental Facilities    | 74 |
| SECTION 2.15  | Letters of Credit         | 77 |
| SECTION 2.16  | Swingline Loans           | 82 |
| SECTION 2.17  | Settlement Amongst Lenders | 83 |
| SECTION 2.18  | Overadvances              | 84 |
| SECTION 2.19  | Reserves; Changes to Reserves | 84 |
| SECTION 2.20  | Defaulting Lenders        | 85 |
| SECTION 2.21  | Repayment of Loans; Termination or Reduction of Commitments | 86 |
| SECTION 2.22  | Cash Management           | 87 |
| SECTION 2.23  | Maintenance of Loan Account; Statements of Account | 89 |</p>
<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>4.1</td>
<td>Fees</td>
<td>90</td>
</tr>
<tr>
<td>4</td>
<td>5.1</td>
<td>Voluntary Prepayments</td>
<td>91</td>
</tr>
<tr>
<td></td>
<td>5.2</td>
<td>Mandatory Prepayments</td>
<td>92</td>
</tr>
<tr>
<td></td>
<td>5.3</td>
<td>Method and Place of Payment</td>
<td>92</td>
</tr>
<tr>
<td></td>
<td>5.4</td>
<td>Net Payments</td>
<td>93</td>
</tr>
<tr>
<td></td>
<td>5.5</td>
<td>Computations of Interest and Fees</td>
<td>96</td>
</tr>
<tr>
<td></td>
<td>5.6</td>
<td>Limit on Rate of Interest</td>
<td>97</td>
</tr>
<tr>
<td>6</td>
<td>6.1</td>
<td>Credit Documents</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td>6.2</td>
<td>Collateral</td>
<td>98</td>
</tr>
<tr>
<td></td>
<td>6.3</td>
<td>Legal Opinions</td>
<td>98</td>
</tr>
<tr>
<td></td>
<td>6.4</td>
<td>Equity Investments</td>
<td>98</td>
</tr>
<tr>
<td></td>
<td>6.5</td>
<td>Closing Certificates</td>
<td>98</td>
</tr>
<tr>
<td></td>
<td>6.6</td>
<td>Authorization of Proceedings of Each Credit Party; Corporate Documents</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.7</td>
<td>Fees</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.8</td>
<td>Representations and Warranties</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.9</td>
<td>Solvency Certificate</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.10</td>
<td>Merger</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.11</td>
<td>Patriot Act</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>6.12</td>
<td>Pro Forma Balance Sheet</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>6.13</td>
<td>No Material Adverse Change</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>6.14</td>
<td>Excess Availability; Borrowing Base Certificate</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>6.15</td>
<td>Availability Model</td>
<td>100</td>
</tr>
<tr>
<td>7</td>
<td>7.1</td>
<td>Conditions to Credit Extensions</td>
<td>100</td>
</tr>
</tbody>
</table>

- ii -
ARTICLE 8
REPRESENTATIONS, WARRANTIES AND AGREEMENTS.

SECTION 8.1 Corporate Status
SECTION 8.2 Corporate Power and Authority
SECTION 8.3 No Violation
SECTION 8.4 Litigation
SECTION 8.5 Margin Regulations
SECTION 8.6 Governmental Approvals
SECTION 8.7 Investment Company Act
SECTION 8.8 True and Complete Disclosure
SECTION 8.9 Financial Condition; Financial Statements
SECTION 8.10 Compliance with Laws; No Default
SECTION 8.11 Tax Matters
SECTION 8.12 Compliance with ERISA
SECTION 8.13 Subsidiaries
SECTION 8.14 Intellectual Property
SECTION 8.15 Environmental Laws
SECTION 8.16 Properties
SECTION 8.17 Solvency
SECTION 8.18 Patriot Act
SECTION 8.19 Borrowing Base Certificate

ARTICLE 9
AFFIRMATIVE COVENANTS

SECTION 9.1 Information Covenants
SECTION 9.2 Books, Records and Inspections
SECTION 9.3 Maintenance of Insurance
SECTION 9.4 Payment of Taxes
SECTION 9.5 Preservation of Existence; Consolidated Corporate Franchises
SECTION 9.6 Compliance with Statutes, Regulations, Etc.
SECTION 9.7 ERISA
SECTION 9.8 Maintenance of Properties
SECTION 9.9 Transactions with Affiliates
SECTION 9.10 End of Fiscal Years; Fiscal Quarters
SECTION 9.11 Additional Credit Parties
SECTION 9.12 Pledge of Additional Stock and Evidence of Indebtedness
SECTION 9.13 Use of Proceeds
SECTION 9.14 Further Assurances
SECTION 9.15 Maintenance of Ratings
SECTION 9.16 Lines of Business
ARTICLE 10
NEGATIVE COVENANTS

SECTION 10.1 Limitation on Indebtedness
SECTION 10.2 Limitation on Liens
SECTION 10.3 Limitation on Fundamental Changes
SECTION 10.4 Limitation on Sale of Assets
SECTION 10.5 Limitation on Restricted Payments
SECTION 10.6 Limitations on Amendments
SECTION 10.7 Holding Company
SECTION 10.8 Restrictive Agreements
SECTION 10.9 Minimum Adjusted Fixed Charge Coverage Ratio

ARTICLE 11
EVENTS OF DEFAULT

SECTION 11.1 Payments
SECTION 11.2 Representations, Etc.
SECTION 11.3 Covenants
SECTION 11.4 Default Under Other Agreements
SECTION 11.5 Bankruptcy, Etc.
SECTION 11.6 ERISA
SECTION 11.7 Guarantee
SECTION 11.8 Pledge Agreement
SECTION 11.9 Security Agreement
SECTION 11.10 Mortgages
SECTION 11.11 Judgments
SECTION 11.12 Change of Control
SECTION 11.13 Application of Proceeds
SECTION 11.14 Equity Cure

ARTICLE 12
THE AGENTS

SECTION 12.1 Appointment
SECTION 12.2 Delegation of Duties
SECTION 12.3 Exculpatory Provisions
SECTION 12.4 Reliance by Agents
SECTION 12.5 Notice of Default
SECTION 12.6 Non-Reliance on Administrative Agent, Collateral Agent and Other Lenders
SECTION 12.7 Indemnification
SECTION 12.8 Agents in Their Individual Capacities
SECTION 12.9 Successor Agents
SECTION 12.10 Withholding Tax 148
SECTION 12.11 Agents Under Security Documents and Guarantee 148
SECTION 12.12 Right to Realize on Collateral and Enforce Guarantee 148

ARTICLE 13
MISCELLANEOUS

SECTION 13.1 Amendments, Waivers and Releases 149
SECTION 13.2 Notices 151
SECTION 13.3 No Waiver; Cumulative Remedies 151
SECTION 13.4 Survival of Representations and Warranties 151
SECTION 13.5 Payment of Expenses; Indemnification 152
SECTION 13.6 Successors and Assigns; Participations and Assignments 153
SECTION 13.7 Replacements of Lenders Under Certain Circumstances 159
SECTION 13.8 Adjustments; Set-off 160
SECTION 13.9 Counterparts 160
SECTION 13.10 Severability 160
SECTION 13.11 Integration 161
SECTION 13.12 GOVERNING LAW 161
SECTION 13.13 Submission to Jurisdiction; Waivers 161
SECTION 13.14 Acknowledgments 161
SECTION 13.15 WAIVERS OF JURY TRIAL 162
SECTION 13.16 Confidentiality 163
SECTION 13.17 Direct Website Communications 163
SECTION 13.18 USA PATRIOT Act 165
SECTION 13.19 Judgment Currency 165
SECTION 13.20 Payments Set Aside 165
SECTION 13.21 Joint and Several Liability 166
SECTION 13.22 Contribution and Indemnification Among Borrowers 167
SECTION 13.23 Agency of the Lead Borrower for Each Other Borrower 167
SECTION 13.24 Reinstatement 168
SECTION 13.25 Express Waivers by Borrowers in Respect of Cross Guaranties and Cross Collateralization 168

SCHEDULES

Schedule 1.1(b) Mortgaged Properties
Schedule 1.1(c) Commitments of Lenders
Schedule 1.1(g) Debt Repayment
Schedule 1.1(j) Existing Letters of Credit
Schedule 2.22(b) Blocked Accounts
Schedule 6.3 Local Counsels
Schedule 8.3 Conflicts
Schedule 8.4 Litigation
Schedule 8.12 Subsidiaries
Schedule 9.9 Closing Date Affiliate Transactions
### EXHIBITS

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Form of Joinder Agreement</td>
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<td>A-2</td>
<td>Form of Credit Party Joinder Agreement</td>
</tr>
<tr>
<td>B</td>
<td>Form of Guarantee</td>
</tr>
<tr>
<td>C</td>
<td>[Reserved]</td>
</tr>
<tr>
<td>D</td>
<td>Form of Perfection Certificate</td>
</tr>
<tr>
<td>E</td>
<td>Form of Pledge Agreement</td>
</tr>
<tr>
<td>F</td>
<td>Form of Security Agreement</td>
</tr>
<tr>
<td>G</td>
<td>Form of Legal Opinion of Simpson Thacher &amp; Bartlett LLP</td>
</tr>
<tr>
<td>H</td>
<td>Form of Credit Party Closing Certificate</td>
</tr>
<tr>
<td>I</td>
<td>Form of Assignment and Acceptance</td>
</tr>
<tr>
<td>J-1</td>
<td>Form of Promissory Note</td>
</tr>
<tr>
<td>J-2</td>
<td>Form of Swingline Note</td>
</tr>
<tr>
<td>K</td>
<td>Form of Borrowing Base Certificate</td>
</tr>
<tr>
<td>L</td>
<td>[Reserved]</td>
</tr>
<tr>
<td>M</td>
<td>Form of ABL Intercreditor Agreement</td>
</tr>
<tr>
<td>N-1-4</td>
<td>Forms of Non-Bank Certificates</td>
</tr>
<tr>
<td>O</td>
<td>Form of Notice of Conversion or Continuation</td>
</tr>
</tbody>
</table>

- vii -
CREDIT AGREEMENT, dated as of March 8, 2011, as amended, restated, supplemented or otherwise modified from time to time, among BLUE ACQUISITION GROUP, INC., a Delaware corporation (“Holdings”), DEL MONTE FOODS COMPANY, a Delaware corporation (the “Company” and, following the consummation of the Merger, the “Lead Borrower”), each of the other Borrowers (as hereinafter defined), the lending institutions from time to time parties hereto (each a “Lender” and, collectively, the “Lenders”), BANK OF AMERICA, N.A., as Administrative Agent (such term and each other capitalized term used but not defined in this preamble having the meaning provided in Article 1), JPMORGAN CHASE BANK, N.A., BARCLAYS CAPITAL, the investment banking division of BARCLAYS BANK PLC and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Syndication Agents, GENERAL ELECTRIC CAPITAL CORPORATION, U.S. BANK NATIONAL ASSOCIATION and HARRIS N.A., as Co-Documentation Agents, MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED and J.P. MORGAN SECURITIES LLC, as Joint Lead Arrangers, and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, J.P. MORGAN SECURITIES LLC, BARCLAYS CAPITAL, the investment banking division of BARCLAYS BANK PLC and MORGAN STANLEY SENIOR FUNDING, INC., as Joint Bookrunners.

WHEREAS, pursuant to the Agreement and Plan of Merger (as amended from time to time in accordance therewith, the “Acquisition Agreement”), dated as of November 24, 2010, by and among the Company, Holdings and Merger Sub, Merger Sub will merge with and into the Company (the “Merger”), with the Company surviving the Merger as a wholly-owned Subsidiary of Holdings;

WHEREAS, to fund, in part, the Merger, it is intended that the Sponsors and the other Initial Investors will contribute an amount in cash to Holdings and/or a direct or indirect parent thereof in exchange for Stock (which cash will be contributed to the Lead Borrower in exchange for common Stock of the Borrower) (such contribution, the “Equity Investments”), which shall be no less than 25% of the pro forma total capitalization of Holdings and its Subsidiaries after giving effect to the Transactions (the “Minimum Equity Amount”);

WHEREAS, to consummate the transactions contemplated by the Acquisition Agreement, it is intended that the Lead Borrower will (A) issue senior unsecured notes with a stated maturity of no earlier than eight years after the Closing Date in sales pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended (the “Senior Notes Offering”), under the Senior Notes Indenture, generating aggregate gross proceeds of up to $1,300,000,000 (the “Senior Notes”) and (B) enter into the Term Facility to borrow an aggregate principal amount of $2,700,000,000 of term loans to finance a portion of the Transactions;

WHEREAS, in connection with the foregoing, the Borrowers have requested that the Lenders provide to the Borrowers an asset-based revolving credit facility, in an initial aggregate principal amount of $750,000,000;

WHEREAS, the Lenders are willing to make available to the Borrowers such asset-based revolving credit facility upon the terms and subject to the conditions set forth herein;
NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto hereby agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.1 Defined Terms.

(a) As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires (it being understood that defined terms in this Agreement shall include in the singular number the plural and in the plural the singular):

"1989 Intercreditor Agreement" means the Amended and Restated Intercreditor Agreement, dated as of December 5, 1989, by and among certain creditors of the Lead Borrower.

"ABL Intercreditor Agreement" shall mean the intercreditor agreement dated as of the Closing Date among the Administrative Agent, Collateral Agent, the Term Agent and the Credit Parties, substantially in the form attached as Exhibit M or any other intercreditor agreement among the Term Agent, one or more representatives of Permitted Other Indebtedness (to the extent such Permitted Other Indebtedness is secured by a lien with the same priority as the Obligations or by a Lien ranking junior to the Lien securing the Obligations), and the Collateral Agent on terms that are no less favorable in any material respect to the Secured Parties as those contained in the form attached as Exhibit M.

"ABR" shall mean for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as announced from time to time by the Administrative Agent as its "prime rate" at its principal office in New York City and (c) the LIBOR Rate for an interest period of one (1) month plus 1%. The "prime rate" is a rate set by the Administrative Agent based upon various factors including the Administrative Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the ABR due to a change in such rate announced by the Administrative Agent or in the Federal Funds Effective Rate shall take effect at the opening of business on the day specified in the announcement of such change.

"ABR Loan" shall mean each Loan bearing interest based on the ABR.

"Account(s)" shall mean "accounts" as defined in the UCC, and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of or (b) for services rendered or to be rendered. The term "Account" does not include (a) rights to payment evidenced by chattel paper or an instrument, (b) commercial tort claims, (c) deposit accounts, (d) investment property, (e) letter-of-credit rights or letters of credit, or (f) rights to payment for money or funds advanced other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.
"Account Debtor" shall mean a Person who is obligated under an Account, Chattel Paper (as defined in the UCC) or General Intangible (as defined in the UCC).

"Acquired EBITDA" shall mean, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined using such definitions as if references to the Lead Borrower and its Restricted Subsidiaries therein were to such Pro Forma Entity and its Restricted Subsidiaries, all as determined on a consolidated basis for such Pro Forma Entity.

"Acquired Entity or Business" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Acquired Indebtedness" shall mean, with respect to any specified Person, (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Acquisition" means, with respect to a specified Person, (a) an Investment in or a purchase of a 50% or greater interest in the Stock or Stock Equivalents of any other Person, (b) a purchase or acquisition of all or substantially all of the assets of any other Person, or (c) any merger or consolidation of such Person with any other Person, in each case in any transaction or group of transactions which are part of a common plan.

"Acquisition Agreement" shall have the meaning provided in the preamble to this Agreement.

"Additional Commitment Lender" shall have the meaning provided in Section 2.14(a).

"Adjusted Conditions Availability" shall mean, at any time of determination in connection with an Acquisition, Investment, specified payment, prepayment or other applicable transaction, each of the following as a percentage of the Line Cap: (a)(i) Average Excess Availability for the 30-day period immediately preceding the date of such Acquisition, Investment, specified payment, prepayment or other transaction and (ii) Excess Availability immediately prior to such Acquisition, Investment, specified payment, prepayment or other transaction, in each case, on a pro forma basis giving effect to such Acquisition, Investment, specified payment, prepayment or other transaction and (b) Excess Availability immediately after giving effect to such Acquisition, Investment, specified payment, prepayment or other transaction.

"Adjusted Fixed Charge Coverage Ratio" shall mean, as of any date of determination, the ratio of (1) Consolidated EBITDA for the Test Period then last ended (as may be increased, for avoidance of doubt, by the Cure Amount pursuant to and in accordance with Section 11.14), minus Capital Expenditures paid in cash during the Test Period then last ended which were not financed from Net Cash Proceeds received substantially contemporaneously
therewith or by the issuance of Indebtedness (other than Indebtedness under the Credit Documents) or Equity Interests, minus taxes paid in cash during the Test Period then last ended to (2) the Adjusted Fixed Charges for such Test Period plus scheduled principal payments made or required to be made on account of Indebtedness, including the full amount of any non-recourse Indebtedness (excluding the Obligations). In the event that any Borrower or any Restricted Subsidiary incurs, assumes, guarantees or redeems any Indebtedness or issues or redeems Disqualified Equity Interests or preferred stock subsequent to the commencement of the Test Period but prior to or simultaneously with the date of determination, then the Adjusted Fixed Charge Coverage Ratio shall be calculated giving Pro Forma Effect to such incurrence, assumption, guarantee or redemption of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or preferred stock (in each case, including a pro forma application of the net proceeds therefrom), as if the same had occurred at the beginning of the Test Period.

"Adjusted Fixed Charge Testing Period" means the period (a) commencing on the day that Excess Availability is less than the greater of (i) 12.5% of the Line Cap and (ii) the Excess Availability Floor and (b) continuing until the date when Excess Availability has been equal to or greater than the greater of (i) 12.5% of the Line Cap and (ii) the Excess Availability Floor for 21 consecutive days.

"Adjusted Fixed Charges" shall mean, with respect to any Person for any period, the sum of (a) Consolidated Interest Expense of such Person actually paid in cash for such period, (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock (including any Designated Preferred Stock) or any Refunding Capital Stock of such Person required to be made during such period, (c) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests required to be made during such period and (d) solely for purposes of calculating the Adjusted Fixed Charge Coverage Ratio in connection with the payment of dividends pursuant to Section 10.5(a), without duplication of any payments already constituting Adjusted Fixed Charges, the amount of any such dividend paid in cash during such period (but excluding dividends paid to the Lead Borrower or any of its Restricted Subsidiaries).

"Adjusted Investment Conditions" shall mean, at the time of determination with respect to a specified Acquisition or Investment, that (a) no Default then exists or would arise as a result of such Acquisition or Investment, (b) the Adjusted Conditions Availability is equal to or greater than 15% of the Line Cap and (c) the Adjusted Fixed Charge Coverage Ratio of the Lead Borrower and its Restricted Subsidiaries, as calculated on a trailing twelve months basis after giving effect to such prepayment, is equal to or greater than 1.0:1.0, provided that if the Adjusted Conditions Availability is equal to or greater than 25% of the Line Cap, compliance with this clause (c) shall not be required with respect to such Acquisition or Investment. Prior to undertaking any Acquisition or Investment which is subject to the Adjusted Investment Conditions, the Credit Parties shall deliver to the Administrative Agent either a certificate of an Authorized Officer (with reasonable detailed calculations) certifying satisfaction of the conditions contained in clauses (b) and (c) above or other evidence of the same reasonably satisfactory to the Administrative Agent; provided that no such certificate or other evidence shall be required if at the time of such Acquisition or Investment, Excess Availability is equal to or greater than 40% of the Line Cap.
“Adjusted Payment Conditions” shall mean, at the time of determination with respect to a specified transaction or payment (or declaration of payment), that (a) no Default then exists or would arise as a result of the entering into of such transaction or the making of such payment, (b) the Adjusted Conditions Availability is equal to or greater than 17.5% of the Line Cap and (c) the Adjusted Fixed Charge Coverage Ratio of the Lead Borrower and its Restricted Subsidiaries, as calculated on a trailing twelve months basis after giving effect to such transaction or payment, is equal to or greater than 1.1:1.0. Prior to undertaking any transaction or payment which is subject to the Adjusted Payment Conditions, the Credit Parties shall deliver to the Administrative Agent either a certificate of an Authorized Officer (with reasonable detailed calculations) certifying satisfaction of the conditions contained in clauses (b) and (c) above or other evidence of the same reasonably satisfactory to the Administrative Agent; provided that no such certificate or other evidence shall be required if at the time of such specified transaction or payment (or declaration of payment), Excess Availability is equal to or greater than 40% of the Line Cap.

“Adjusted Prepayment Conditions” shall mean, at the time of determination with respect to a specified prepayment (whether in the form of a purchase, redemption, defeasance or other acquisition or retirement or otherwise), that (a) no Default then exists or would arise as a result of the making of such prepayment, (b) the Adjusted Conditions Availability is equal to or greater than 15% of the Line Cap and (c) the Adjusted Fixed Charge Coverage Ratio of the Lead Borrower and its Restricted Subsidiaries, as calculated on a trailing twelve months basis after giving effect to such prepayment, is equal to or greater than 1.0:1.0, provided that if the Adjusted Conditions Availability is equal to or greater than 30% of the Line Cap, compliance with this clause (c) shall not be required with respect to such prepayment. Prior to undertaking any prepayment which is subject to the Adjusted Prepayment Conditions, the Credit Parties shall deliver to the Administrative Agent either a certificate of an Authorized Officer (with reasonable detailed calculations) certifying satisfaction of the conditions contained in clauses (b) and (c) above or other evidence of the same reasonably satisfactory to the Administrative Agent; provided that no such certificate or other evidence shall be required if at the time of such specified prepayment, Excess Availability is equal to or greater than 40% of the Line Cap.

“Administrative Agent” shall mean Bank of America, N.A., as the administrative agent for the Lenders under this Agreement and the other Credit Documents, or any successor administrative agent pursuant to Section 12.9.

“Administrative Agent’s Office” shall mean the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 13.2 or such other address or account as the Administrative Agent may from time to time notify to the Lead Borrower and the Lenders.

“Administrative Questionnaire” shall have the meaning provided in Section 13.6(b).

“Affiliate” shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or
indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

"Affiliated Institutional Lender" shall mean any investment fund managed or advised by Affiliates of a Sponsor (a) that is a bona fide debt fund and that extends credit or buys loans in the ordinary course of business and (b) together with all other Affiliated Institutional Lenders holds no more than 30% of the Credit Extensions and the Total Commitment at any time.

"Affiliated Lender" shall mean a Lender that is a Sponsor or any Affiliate thereof, other than Holdings, any Subsidiary of Holdings or the Lead Borrower, any Affiliated Institutional Lender (it being understood that to the extent Persons described in the definition (without giving effect to clause (b) thereof) of "Affiliated Institutional Lender" hold 30% or more of the Credit Extensions or the Total Commitment at any time, each such Person shall constitute an Affiliated Lender and the portion of the Credit Extensions and Commitments held by such Persons that shall be subject to Section 13.6(h) shall be shared among such Persons ratably according to their respective Pro Rata Shares) or any natural person.

"Agent Parties" shall have the meaning provided in Section 13.17(c).

"Agents" shall mean the Administrative Agent, the Collateral Agent, the Co-Syndication Agents, the Co-Documentation Agents, each Joint Lead Arranger and each Joint Bookrunner.

"Agreement" shall mean this Credit Agreement, as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

"Agreement Currency" shall have the meaning provided in Section 13.19.

"Applicable Margin" shall mean:

(a) From and after the Closing Date until the date that is three months after the Closing Date, the percentages set forth in Level II of the pricing grid below; and

(b) On the first day of each fiscal quarter thereafter (each, an "Adjustment Date"), the Applicable Margin shall be determined from the pricing grid below based upon the Average Excess Availability for the most recently ended three month period immediately preceding such Adjustment Date,

provided that if any Borrowing Base Certificates are at any time restated or otherwise revised (including as a result of an audit) or if the information set forth in any Borrowing Base Certificates otherwise proves to be false or incorrect such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand; provided further that if the Borrowing Base Certificates (including any required financial information in support thereof) are not received by the Administrative Agent by the date required pursuant to Section 9.1(i), then the Applicable Margin shall be determined as if the Average Excess Availability for the immediately
preceding three-month period is at Level III until such time as such Borrowing Base Certificates and supporting information are received.

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<th>ABR Loan Applicable Margin</th>
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<td>Less than 37.5% of the Line Cap</td>
<td>2.50%</td>
<td>1.50%</td>
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"Approved Fund" shall mean any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Asset Sale Prepayment Event" shall mean any Disposition of any business units, assets or other property of the Credit Parties or any of their Restricted Subsidiaries not in the ordinary course of business (including any Disposition of any Stock or Stock Equivalents of any Subsidiary owned by any Borrower or a Restricted Subsidiary). Notwithstanding the foregoing, the term "Asset Sale Prepayment Event" shall not include any transaction permitted by Section 10.4 (other than transactions permitted by Section 10.4(b) and Section 10.4(g) (solely to the extent such Permitted Sale Leaseback relates to property owned on the Closing Date), which shall constitute Asset Sale Prepayment Events).

"Assignment and Acceptance" shall mean an assignment and acceptance substantially in the form of Exhibit I, or such other form as may be approved by the Administrative Agent.

"Authorized Officer" shall mean the Chief Executive Officer, President, the Chief Financial Officer, the Treasurer, the Vice President-Finance or any other senior officer of any Borrower designated as such in writing to the Administrative Agent by such Borrower.

"Average Excess Availability" shall mean, for any period, the average amount of Excess Availability for each day during such period.

"Bank of America" means Bank of America, N.A., a national banking association, and its Subsidiaries, Affiliates and branches.
“Bank Product Reserves” shall mean all reserves established by the Administrative Agent in its Permitted Discretion for Obligations under Secured Cash Management Agreements and Secured Hedge Agreements then outstanding.

“Bankruptcy Code” shall have the meaning provided in Section 11.5.

“BBA LIBOR” shall have the meaning provided in the definition of “LIBOR Rate.”

“benefited Lender” shall have the meaning provided in Section 13.8.

“Blocked Account” has the meaning provided in Section 2.22(b).

“Blocked Account Agreement” has the meaning provided in Section 2.22(b).

“Blocked Account Banks” shall mean the banks with whom deposit accounts are maintained in which material amounts (as reasonably determined by the Collateral Agent) of funds of any of the Credit Parties from one or more DDAs are concentrated and with whom a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrowers” shall mean, collectively, the Lead Borrower, the other domestic Borrowers identified on the signature pages hereto and each Other Borrower who becomes a Borrower hereunder in accordance with the terms of this Agreement.

“Borrowing” shall mean and include (a) the incurrence of one Type of Revolving Loan having, in the case of LIBOR Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of LIBOR Loans) or (b) a Swingline Loan.

“Borrowing Base” shall mean, at any time of calculation, an amount equal to:

(a) 85% of the face amount of the Eligible Accounts of the Borrowers on a Consolidated basis;

plus

(b) the lesser of (i) 75% of the net book value of Eligible Inventory and (ii) 85% of the NOLV Percentage of the Eligible Inventory of the Borrowers on a Consolidated basis;

minus

(c) the then amount of all Reserves.

“Borrowing Base Certificate” has the meaning provided in Section 9.1(i).
"Business Day" shall mean any day excluding Saturday, Sunday and any other day on which banking institutions in New York City are authorized by law or other governmental actions to close, and, if such day relates to any interest rate settings as to a LIBOR Loan, any fundings, disbursements, settlements and payments in respect of any such LIBOR Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such LIBOR Loan, such day shall be a day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" shall mean, for any period, the aggregate of all expenditures paid in cash by the Borrowers and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on a consolidated statement of cash flows of the Lead Borrower and its Subsidiaries (including capitalized software expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs).

"Capital Lease" shall mean, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is, or is required to be, accounted for as a capital lease on the balance sheet of that Person; provided, that the adoption or issuance of any accounting standards after the Closing Date will not cause any lease that was not or would not have been a Capital Lease prior to such adoption or issuance to be deemed a Capital Lease.

"Capitalized Lease Obligations" shall mean, as applied to any Person, all obligations under Capital Leases of such Person or any of its Subsidiaries, in each case taken at the amount thereof accounted for as liabilities in accordance with GAAP.

"Cash Collateral Account" shall mean an interest bearing account established by the Credit Parties with the Administrative Agent, for its own benefit and the benefit of the other Secured Parties, at Bank of America under the sole and exclusive dominion and control of the Administrative Agent, in the name of the Administrative Agent or as the Administrative Agent shall otherwise direct, in which deposits are required to be made in accordance with this Agreement.

"Cash Collateralize" has the meaning provided in Section 2.15(j).

"Cash Dominion Event" shall mean the occurrence or the continuance of any Specified Default; or (b) the failure of the Borrowers to maintain Excess Availability at any time of at least the greater of (i) 12.5% of the Line Cap and (ii) Excess Availability Floor. For purposes of this Agreement, a "Cash Dominion Trigger Period" shall commence after the continuance of a Cash Dominion Event for five (5) consecutive Business Days and shall be deemed continuing until the date that (A) no Event of Default shall exist and be continuing and (B) the Excess Availability has exceeded the greater of (i) 12.5% of the Line Cap and (ii) Excess Availability Floor for twenty-one (21) consecutive calendar days.

"Cash Equivalents" shall mean:

(1) United States dollars,
(2) Canadian dollars,

(3) (a) euro or any national currency of any participating member state in the European Union or, (b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by them from time to time in the ordinary course of business,

(4) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,

(5) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than $250,000,000 in the case of U.S. banks and $100,000,000 (or the U.S. dollar equivalent as of the date of determination) in the case of foreign banks,

(6) repurchase obligations for underlying securities of the types described in clauses (4) and (5) entered into with any financial institution meeting the qualifications specified in clause (5) above,

(7) commercial paper rated at least P-1 by Moody's or at least A-1 by S&P and in each case maturing within 12 months after the date of creation thereof,

(8) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized ratings agency) and in each case maturing within 12 months after the date of creation thereof,

(9) investment funds investing 95% of their assets in securities of the types described in clauses (1) through (8) above and (10) and (11) below,

(10) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority thereof having one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition, and

(11) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 12 months or less from the date of acquisition.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) through (3) above; provided that such amounts are converted into any currency listed in clauses (1) through (3) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.
"Cash Management Agreement" shall mean any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

"Cash Management Bank" shall mean any Person that, either (x) at the time it enters into a Cash Management Agreement or (y) on the Closing Date, is a Lender or an Affiliate of a Lender, in its capacity as a part to such Cash Management Agreement.

"Cash Receipts" shall have the meaning provided in Section 2.22(c).

"Casualty Event" shall mean, with respect to any property of any Person, any loss of or damage to, or any condemnation or other taking by a Governmental Authority of, such property for which such Person or any of its Restricted Subsidiaries receives insurance proceeds, or proceeds of a condemnation award or other compensation.

"Centerview" shall mean each of Centerview Partners Management LLC and Centerview Employees, L.P.

"Change in Law" shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the Closing Date, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender Party with any guideline, request, directive or order issued or made after the Closing Date by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law). For purposes of this definition and Section 2.10, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith shall be deemed to have gone into effect after the date hereof, regardless of the date enacted, adopted or issued.

"Change of Control" shall mean and be deemed to have occurred if (a) either (i) the Permitted Holders shall at any time not own, in the aggregate, directly or indirectly, beneficially and of record, at least 35% of the voting power of the outstanding Voting Stock of the Lead Borrower or (ii) the Sponsors shall at any time not own, in the aggregate, directly or indirectly, beneficially and of record, at least 12% of the voting power of the outstanding Voting Stock of the Lead Borrower; or (b) any person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended), other than the Permitted Holders, shall at any time have acquired direct or indirect beneficial ownership of a percentage of the voting power of the outstanding Voting Stock of the Lead Borrower that exceeds 35% thereof, unless, in the case of either clause (a) or (b) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the board of directors of the Lead Borrower; or (c) Continuing Directors shall not constitute at least a majority of the board of directors of the Lead Borrower; or (d) at any time, a Change of Control (as defined in any indenture or other agreement governing the Senior Notes or the Term Facility) shall have occurred or (e) at any time prior to an initial public offering of the Lead Borrower, Holdings shall cease to beneficially own, directly or indirectly, 100% of the issued and outstanding equity interests of the Lead Borrower.
"Class", when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Existing Loans or Extended Loans (of the same Extension Series) and, when used in reference to any Commitment, refers to whether such Commitment is an Existing Commitment or an Extended Commitment (of each Extension Series).

"Closing Date" shall mean March 8, 2011.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" shall mean all property pledged or purported to be pledged pursuant to the Security Documents.

"Collateral Agent" shall mean Bank of America, N.A., as collateral agent under the Security Documents, or any successor collateral agent pursuant to Section 12.9.

"Commitment" shall mean, (a) in the case of each Lender that is a Lender on the Closing Date, the amount set forth opposite such Lender's name on Schedule 1.1(c) as such Lenders' Commitment, as such amount may be reduced or increased in connection with any assignment of Commitments or in connection with any Commitment Increase and (b) in the case of any Lender that becomes a Lender after the Closing Date, the amount specified as such Lender's "Commitment" in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Commitment, in each case as the same may be changed from time to time pursuant to the terms hereof. The aggregate amount of the Commitments as of the Closing Date is $750,000,000.

"Commitment Increase" shall have the meaning provided in Section 2.14(a).

"Communications" shall have the meaning provided in Section 13.17(a).

"Company" shall have the meaning provided in the preamble to this Agreement.

"Concentration Account" shall have the meaning provided in Section 2.22(c).

"Confidential Information" shall have the meaning provided in Section 13.16.

"Confidential Information Memorandum" shall mean the Confidential Information Memorandum of the Lead Borrower dated January 20, 2011.

"Consolidated Depreciation and Amortization Expense" means with respect to any Person for any period, the total amount of consolidated depreciation and amortization expense, including the amortization of deferred financing fees or costs, capitalized expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.
"Consolidated EBITDA" shall mean, with respect to any Person for any period, the Consolidated Net Income of such Person for such period

(1) increased (without duplication) by:

(a) provision for taxes based on income or profits or capital, including, without limitation, state, franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period deducted, including any penalties and interest relating to any tax examinations (and not added back) in computing Consolidated Net Income, plus

(b) Fixed Charges of such Person for such period (including (x) net losses or Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk and (y) costs of surety bonds in connection with financing activities, in each case, to the extent included in Fixed Charges), together with items excluded from the definition of "Consolidated Interest Expense" pursuant to clauses 1(u) through 1(z) thereof, to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income; plus

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted in computing Consolidated Net Income, plus

(d) any expenses or charges (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the offering of the Senior Notes, the Term Facility and the Loans and (ii) any amendment or other modification of the Senior Notes, the Term Facility and the Loans, and, in each case, deducted in computing Consolidated Net Income, plus

(e) the amount of any restructuring charge or reserve or non-recurring integration costs deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions after the Closing Date and costs related to the closure and/or consolidation of facilities, plus

(f) any other non-cash charges, including any write off or write downs, reducing Consolidated Net Income for such period, excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, plus

(g) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, plus
(h) the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid or accrued in such period to the Sponsors or any of their respective Affiliates, plus

(i) expenses consisting of internal software development costs that are expensed during the period but could have been capitalized under alternative accounting policies in accordance with GAAP, plus

(j) costs of surety bonds incurred in such period in connection with financing activities, plus

(k) the amount of net cost savings and synergies projected by the Lead Borrower in good faith to be realized as a result of specified actions taken or to be taken prior to or during such period (which cost savings or synergies shall be subject only to certification by management of the Lead Borrower and shall be calculated on a Pro Forma Basis as though such cost savings or synergies had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that (A) such cost savings or synergies are reasonably identifiable and factually supportable, (B) such actions have been taken or are to be taken within 12 months after the date of determination to take such action and (C) no cost savings or synergies shall be added pursuant to this clause (k) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clause (l) or (r) below with respect to such period, plus

(l) business optimization expenses (including consolidation initiatives, severance costs and other costs relating to initiatives aimed at profitability improvement), plus

(m) restructuring charges or reserves (including restructuring costs related to acquisitions after the Closing Date and to closure and/or consolidation of facilities and to exiting lines of business), plus

(n) [Reserved]

(o) any costs or expense incurred by the Lead Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Lead Borrower or net cash proceeds of an issuance of Equity Interest of the Lead Borrower (other than Disqualified Equity Interests) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (iii) of Section 10.5(a) of the Term Facility and have not been relied on for purposes of any incurrence of Indebtedness pursuant to clause (l) (b) of Section 10.1 plus

(p) the amount of expenses relating to payments made to option holders of any direct or indirect parent company of the Lead Borrower or any of its direct or indirect parent companies in connection with, or as a result of, any distribution being made to
shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted under this Agreement; plus

(q) with respect to any joint venture, an amount equal to the proportion of those items described in clauses (a) and (c) above relating to such joint venture corresponding to the Lead Borrower's and the Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary), plus

(r) the amount of any loss attributable to a new plant or facility until the date that is 12 months after the date of commencement of construction or the date of acquisition thereof, as the case may be; provided that (A) such losses are reasonably identifiable and factually supportable and certified by a responsible officer of the Lead Borrower, (B) losses attributable to such plant or facility after 12 months from the date of commencement of construction or the date of acquisition of such plant or facility, as the case may be, shall not be included in this clause (r) and (C) no amounts shall be added pursuant to this clause (r) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clauses (k) or (l) above with respect to such period, and

(2) decreased by (without duplication) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated EBITDA in any prior period; and

(3) increased or decreased by (without duplication):

(a) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk and revaluations of intercompany balances), plus or minus, as the case may be

(b) any net gain or loss resulting in such period from Hedging Obligations, and the application of Financial Accounting Standards Codification No. 815—Derivatives and Hedging, plus or minus, as the case may be (c) without duplication, the Historical Adjustments incurred in such period.

Notwithstanding the foregoing, the aggregate amount of addbacks made pursuant to subclauses (k), (l) and (r) of clause (1) above in any four fiscal quarter period shall not exceed 15% of Consolidated EBITDA (prior to giving effect to such addbacks) for such four fiscal quarter period.

For avoidance of doubt:
(i) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA currency translation gains and losses related to currency remeasurements of Indebtedness or intercompany balances (including the net loss or gain resulting from Hedge Agreements for currency exchange risk),

(ii) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any adjustments resulting from the application of Statement of Financial Accounting Standards No. 133 and its related pronouncements and interpretations,

(iii) there shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person or business, or attributable to any property or asset acquired by the Lead Borrower or any Restricted Subsidiary during such period (but not the Acquired EBITDA of any related Person or business or any Acquired EBITDA attributable to any assets or property, in each case to the extent not so acquired) to the extent not subsequently sold, transferred, abandoned or otherwise disposed by the Lead Borrower or such Restricted Subsidiary (each such Person, business, property or asset acquired and not subsequently so disposed of, an "Acquired Entity or Business") and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "Converted Restricted Subsidiary"), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition or conversion) and (B) an adjustment in respect of each Acquired Entity or Business equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition) as specified in a Pro Forma Adjustment Certificate and delivered to the Lenders and the Administrative Agent, and

(iv) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred, abandoned or otherwise disposed of, closed or classified as discontinued operations by the Lead Borrower or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a "Sold Entity or Business"), and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a "Converted Unrestricted Subsidiary") based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition or conversion).

"Consolidated Interest Expense" shall mean, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue
discount or premium resulting from the issuance of Indebtedness at less than or greater than par, as applicable, other than with respect to Indebtedness issued in connection with the Transactions, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (d) the interest component of Capitalized Lease Obligations and (e) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (t) accretion or accrual of discounted liabilities not constituting Indebtedness, (u) interest expense attributable to a parent entity resulting from pushdown accounting, (v) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (w) any Additional Interest (as defined in the Senior Notes Indenture) and any comparable “additional interest” with respect to other securities, (x) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, and original issue discount with respect to Indebtedness issued in connection with the Transactions, (y) any expensing of bridge, commitment and other financing fees (including any interest expense) and (z) [reserved]; plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, less

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"Consolidated Net Income" shall mean, with respect to any Person for any period, the aggregate of the Net Income, of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP, provided that, without duplication,

(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transactions to the extent incurred on or prior to the date that is the one year anniversary of the Closing Date) severance, relocation costs, new product introductions, and one-time compensation charges shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,

(3) any after-tax effect of income (loss) from disposed, or discontinued operations and any net after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded.
(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions other than in the ordinary course of business, as determined in good faith by the board of directors of the Lead Borrower, shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Lead Borrower shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash or Cash Equivalents) to the referent Person or a Restricted Subsidiary thereof in respect of such period,

(6) [Reserved]

(7) effects of adjustments (including the effects of such adjustments pushed down to the Lead Borrower and its Restricted Subsidiaries) in any line item in such Person's consolidated financial statements required or permitted by ASC 805 and ASC 350 (formerly Financial Accounting Standards Board Statement Nos. 141 and 142, respectively) resulting from the application of purchase accounting in relation to the Transactions and any acquisition that is consummated after the Closing Date or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(8) any after-tax effect of income (loss) from the early extinguishment of Indebtedness or Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid) shall be excluded,

(9) any impairment charge, asset write-off or write-down pursuant to ASC 350 and ASC 360 (formerly Financial Accounting Standards Board Statement Nos. 142 and No. 144, respectively) and the amortization of intangibles arising pursuant to ASC 805 (formerly Financial Accounting Standards Board Statement No. 141) shall be excluded,

(10) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, phantom equity, stock options, restricted stock or other rights to officers, directors or employees shall be excluded,

(11) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, recapitalization, Disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

(12) accruals and reserves that are established or adjusted within twelve months after the Closing Date that are so required to be established as a result of the Transactions in accordance with GAAP, or changes as a result of adoption or modification of accounting policies, shall be excluded,
(13) to the extent covered by insurance and actually reimbursed, or, so long as the Lead Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (a) not denied by the applicable carrier in writing within 180 days and (b) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), losses and expenses with respect to liability or casualty events or business interruption shall be excluded.

(14) any non-cash SFAS 133 (or such successor provision) income (or loss) related to Hedging Obligations shall be excluded, and

(15) any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowance related to such item, shall be excluded.

"Consolidated Total Assets" shall mean, as of any date of determination, the amount that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on the most recent consolidated balance sheet of the Lead Borrower and the Restricted Subsidiaries at such date.

"Continuing Director" shall mean, at any date, an individual (a) who is a member of the board of directors of the Lead Borrower on the Closing Date, (b) who, as of the date of determination, has been a member of such board of directors for at least the twelve preceding months, (c) who has been nominated to be a member of such board of directors, directly or indirectly, by a Sponsor or Persons nominated by a Sponsor or (d) who has been nominated to be a member of such board of directors by a majority of the other Continuing Directors then in office.

"Co-Documentation Agents" shall mean General Electric Capital Corporation, U.S. Bank National Association and Harris N.A., together with their respective Affiliates, as co-documentation agents for the Lenders under this Agreement and the other Credit Documents.

"Co-Syndication Agents" shall mean JPMorgan Chase Bank, N.A., Barclays Capital, the investment banking division of Barclays Bank PLC and Morgan Stanley Senior Funding, Inc., together with their respective Affiliates, as co-syndication agents for the Lenders under this Agreement and the other Credit Documents.

"Contractual Requirement" shall have the meaning provided in Section 8.3.

"Converted Restricted Subsidiary" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Converted Unrestricted Subsidiary" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Credit Documents" shall mean this Agreement, the Guarantees, the Security Documents, the Letters of Credit and any promissory notes issued by the Borrowers hereunder.
"Credit Event" shall mean and include the making (but not the conversion or continuation) of a Loan or issuance of a Letter of Credit.

"Credit Extensions" as of any day, shall be equal to the sum of (a) the principal balance of all Loans then outstanding, and (b) the then amount of the Letter of Credit Outstandings.

"Credit Facilities" shall mean the credit facilities established under this Agreement.

"Credit Party" shall mean each of the Borrowers and the Guarantors.

"Credit Party Joinder Agreement" means an agreement, in the form attached hereto as Exhibit A-2, pursuant to which, among other things, a Person becomes a party to, and bound by the terms of, this Agreement and/or the other Credit Documents in the same capacity and to the same extent as either a Borrower or a Guarantor, as the Administrative Agent may determine.

"Customs Broker Agreement" shall mean an agreement, in form and substance reasonably satisfactory to the Administration Agent, among a Credit Party, a customs broker or other carrier and the Administrative Agent, in which the customs broker or other carrier acknowledges that it has control over and holds the documents evidencing ownership of the subject Inventory or other property for the benefit of the Administrative Agent, and agrees, upon notice from the Administrative Agent, to hold and dispose of the subject Inventory and other property solely as directed by the Administrative Agent.

"DDAs" shall mean any deposit account or securities account maintained by the Credit Parties.

"Debt Incurrence Prepayment Event" shall mean any issuance or incurrence by any Borrower or any of the Restricted Subsidiaries of any Indebtedness (excluding any Indebtedness permitted to be issued or incurred under Section 10.1 other than Section 10.1(y) and Section 10.1(aa)).

"Debt Repayment" shall mean the purchase, repayment, prepayment, repurchase or defeasance of the Indebtedness of the Credit Parties under the Indebtedness that is identified on Schedule 1.1(g) and that is purchased, repaid, prepaid, repurchased or defeased on the Closing Date (or such later date as may be necessary to effect the Debt Repayment in accordance with the tender offers therefor).

"Default" shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

"Default Rate" shall have the meaning provided in Section 2.8(c).

"Defaulting Lender" shall mean any Lender that (a) shall fail or refuse to make available to the Administrative Agent its Pro Rata Share of any Loans, expenses, indemnities, or setoff or purchase its Pro Rata Share of a participation interest in the Swingline Loans or Letter
of Credit Outstandings and such failure is not cured within three Business Days after receipt from the Administrative Agent of written notice thereof, (b) shall have notified the Lead Borrower, the Administrative Agent or any other Lender that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements generally in which it commits to extend credit, (c) shall fail, within three (3) Business Days after reasonable request by the Administrative Agent or the Lead Borrower, to confirm that it will comply with the terms of this Agreement relating to its Commitments, or (d) has become the subject of a bankruptcy, insolvency or similar proceeding, or a Person that controls such Lender has become the subject of a bankruptcy, insolvency or similar proceeding or (e) solely with respect to Section 2.15(a)(C) and Sections 2.20(c) and (d), as to which any of the Issuing Banks or the Swingline Lender has reasonably ascertained that such Lender or its Subsidiary has, without cause, defaulted in fulfilling its obligations under one or more other syndicated credit facilities.

"Deferred Net Cash Proceeds" shall have the meaning provided such term in the definition of "Net Cash Proceeds".

"Deferred Net Cash Proceeds Payment Date" shall have the meaning provided such term in the definition of "Net Cash Proceeds."

"Designated Account" shall have the meaning provided in Section 2.22(c).

"Designated Non-Cash Consideration" shall mean the fair market value of non-cash consideration received by a Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 10.4(b) or Section 10.4(c) that is designated as Designated Non-Cash Consideration pursuant to a certificate of an Authorized Officer of the Lead Borrower, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within 180 days following the consummation of the applicable Disposition).

"Designated Preferred Stock" shall mean preferred stock of the Lead Borrower, Holdings or any other direct or indirect parent company of the Lead Borrower (in each case other than Disqualified Equity Interests) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Lead Borrower or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an officers' certificate executed by a senior vice president and the principal financial officer of the Lead Borrower or the applicable parent company thereof, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (iii) of Section 10.5(a) of the Term Facility.

"Dilution Percentage" shall mean the percentage amount, determined by Administrative Agent in its Permitted Discretion as of the Closing Date and remaining in effect until the completion of the next field audit examination, equal to (a) the aggregate amount of discounts, credits, rebates, adjustments, returns, writedowns, write-offs and other non-cash reductions in the aggregate amount collected by the Borrowers in respect of Accounts during the period of twelve consecutive calendar months most recently ended, divided by (b) the aggregate
amount of Eligible Accounts during the period of twelve consecutive calendar months most recently ended. The Dilution Percentage as of the Closing Date is 9.50%.

"Disbursement Accounts" shall have the meaning provided in Section 2.22(f).

"Disposed EBITDA" shall mean, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary (determined as if references to the Lead Borrower and the Restricted Subsidiaries in the definition of Consolidated EBITDA were references to such Sold Entity or Business or Converted Unrestricted Subsidiary and its respective Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business or Converted Unrestricted Subsidiary, as the case may be.

"Disposition" shall have the meaning provided in Section 10.4(b).

"Disqualified Equity Interests" shall mean, with respect to any Person, any Stock or Stock Equivalents of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Stock or Stock Equivalent that is not Disqualified Equity Interests), other than as a result of a change of control or asset sale, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than as a result of a change of control or asset sale to the extent the terms of such Stock or Stock Equivalents provide that such Stock or Stock Equivalents shall not be required to be repurchased or redeemed until the Latest Maturity Date has occurred or such repurchase or redemption is otherwise permitted by this Agreement (including as a result of a waiver hereunder)), in whole or in part, in each case prior to the date that is ninety-one (91) days after the Latest Maturity Date hereunder; provided that if such Stock or Stock Equivalents are issued to any plan for the benefit of employees of the Lead Borrower or its Subsidiaries or by any such plan to such employees, such Stock or Stock Equivalents shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by the Lead Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"Dividends" or "dividends" shall have the meaning provided in Section 10.5.

"Dollars" and "$" shall mean dollars in lawful currency of the United States of America.

"Domestic Subsidiary" shall mean each Subsidiary of the Lead Borrower that is organized under the laws of the United States, any state or territory thereof, or the District of Columbia.

"Eligible Accounts" shall mean an Account owing to a Borrower that arises in the ordinary course of business from the sale of goods or rendition of services, is payable in Dollars and is not required to be treated as ineligible in accordance with the following sentence. No Account shall be an Eligible Account if:
(a) it is unpaid for more than 60 days after the original due date, or more than 105 days after the original invoice date, or arises from a sale on a cash-in-advance basis;

(b) 50% or more of the Accounts owing by the Account Debtor are not Eligible Accounts under the foregoing clause;

(c) when aggregated with other Accounts owing by the Account Debtor, it exceeds 20% of the aggregate Eligible Accounts (or such higher percentage as Administrative Agent may establish for the Account Debtor from time to time, it being agreed that with respect to Accounts owing by Wal-Mart Stores, Inc. and its Affiliates (collectively, “Walmart”), such percentage shall be 60% (or, if any class of non-credit enhanced long term senior unsecured debt issued by Walmart shall be rated lower than B by S&P or B2 by Moody's, 50%));

(d) it does not conform with a covenant or representation herein;

(e) it is owing by a creditor or supplier, or is otherwise subject to a counterclaim, dispute, recoupment, reserve, defense, offset of customer deposit, rebate paid or to be paid directly via checks or (in which case ineligibility shall be limited to the amount thereof) any other potential offset, rebate, deduction, discount, chargeback, credit or allowance;

(f) a bankruptcy, insolvency or similar proceeding has been commenced by or against the Account Debtor; or the Account Debtor has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, or is not Solvent; or the applicable Borrower is not able to bring suit or enforce remedies against the Account Debtor through judicial process;

(g) such Account is the obligation of an Account Debtor which (i) does not maintain an office in the United States or Canada or (ii) is not organized under applicable law of the United States or Canada, or any state or province thereof, unless such Account is backed by a letter of credit reasonably acceptable to the Administrative Agent;

(h) it is owing by a Governmental Authority, unless the Account Debtor is the United States or a political subdivision thereof or any department, agency or instrumentality thereof and to the extent applicable, the applicable Borrower has demonstrated compliance with the Assignment of Claims Act or any applicable state, county or municipal law restricting assignment thereof, in each case to the Administrative Agent's reasonable satisfaction;

(i) it is not subject to a duly perfected, first priority Lien in favor of Collateral Agent, for its own benefit and for the benefit of the other Secured Parties, or is subject to any other Lien (other than Permitted Liens of the types described in clauses (1) through (5), (14), (22), (23), (24), (26) and (27) of the definition thereof and, to the extent such Liens on such Account are at least as subordinated to the Liens thereon securing the Obligations as the Liens securing the Term Facility under the ABL Intercreditor Agreement, Permitted Liens of the types described in clause (6) of the definition thereof securing Indebtedness permitted to be incurred pursuant to clauses (a), (aa), (bb) and (cc) of Section 10.1):
(j) the goods giving rise to it have not been delivered to and accepted by the Account Debtor, the services giving rise to it have not been accepted by the Account Debtor, or it otherwise does not represent a final sale;

(k) it is evidenced by chattel paper or an instrument of any kind, or has been reduced to judgment;

(l) its payment has been extended, the Account Debtor has made a partial payment, or it arises from a sale on a cash-on-delivery basis;

(m) it arises from a sale to an Affiliate, from a sale on a bill-and-hold, guaranteed sale, sale or return, sale on approval, consignment, or other repurchase or return basis, or from a sale to a Person for personal, family or household purposes;

(n) it represents a progress billing or retainage;

(o) it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof;

(p) it represents cash received that was not applied to the aging of Accounts as of month-end or otherwise represents a reconciling item between accounts receivable sub-ledger and the general ledger at month-end;

(q) it represents Accounts less than 61 days past due owing by Account Debtors with cash-in-advance payment terms; or

(r) it is acquired in a Permitted Acquisition, unless the Administrative Agent shall have received or conducted (i) an audit, from an auditor reasonably satisfactory to the Administrative Agent, of the Accounts to be acquired in such Acquisition and (ii) such other due diligence as the Administrative Agent may reasonably require, all of the results of the foregoing to be reasonably satisfactory to the Administrative Agent.

In calculating delinquent portions of Accounts under clauses (a) and (b), credit balances more than 90 days old will be excluded.

Notwithstanding anything to the contrary herein, solely for purposes of calculating the Borrowing Base on and as of the Closing Date, each reference to a "Borrower" in this definition shall be deemed to be a reference to a "Credit Party".

"Eligible In-Transit Inventory" shall mean, as of any date of determination, without duplication of other Eligible Inventory, Inventory (a)(i) which has been delivered to a carrier in a foreign port or foreign airport for receipt by a Borrower in the United States or Canada within sixty (60) days of the date of determination, but which has not yet been received by a Borrower or (ii) which has been delivered to a carrier in the United States or Canada for receipt by a Borrower in the United States or Canada within five (5) Business Days of the date of determination, but which has not yet been received by a Borrower, (b) for which the purchase order is in the name of a Borrower and title has passed to a Borrower, (c) except as otherwise agreed by the Administrative Agent, for which a Borrower is designated as "shipper" and/or the
consignor and the document of title or waybill reflects a Borrower as consignee (along with delivery to a Borrower or its customs broker of the documents of title, to the extent applicable, with respect thereto), (d) as to which the Administrative Agent has control over the documents of title, to the extent applicable, which evidence ownership of the subject Inventory (such as by the delivery of a Customs Broker Agreement), (e) as to which a Tri-Party Agreement has been executed and delivered in favor of the Collateral Agent, (f) which is insured in accordance with the provisions of this Agreement and the other Credit Documents, including, without limitation marine cargo insurance; and (g) which otherwise is not excluded from the definition of Eligible Inventory; provided that the Administrative Agent may, upon notice to the Lead Borrower, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event that the Administrative Agent determines that such Inventory is subject to any Person's right or claim which is (or is capable of being) senior to, or pari passu with, the Lien of the Collateral Agent, or may otherwise adversely impact the ability of the Administrative Agent to realize upon such Inventory.

"Eligible Inventory" shall mean, as of any date of determination, without duplication, (1) Eligible Letter of Credit Inventory and Eligible In-Transit Inventory and (2) Inventory comprised of finished goods, merchantable and readily saleable to the public in the ordinary course, raw materials or packaging, in each case that are not excluded as ineligible by virtue of the one or more of the criteria set forth below. None of the following shall be deemed to be Eligible Inventory:

(a) Inventory that is not solely owned by a Borrower, or is leased by or is on consignment to a Borrower, or as to which the Borrowers do not have title thereto;

(b) Inventory (other than any Eligible Letter of Credit Inventory and Eligible In-Transit Inventory) that is not located in the United States of America or Canada (or any territories or possessions thereof);

(c) Inventory (other than any Eligible Letter of Credit Inventory and Eligible In-Transit Inventory) that is not located at a location that is owned or leased by a Borrower including inventory located at a third party location where it is converted into finished goods and inventory shipped directly from a third party processor to a customer), except to the extent that (i) the Borrowers have obtained a collateral access agreement reasonably acceptable to the Administrative Agent executed by the applicable bailee or (ii) an appropriate Reserve has been established by the Administrative Agent in its Permitted Discretion in an amount of up to three months of the rent or other charges due with respect to such bailee;

(d) Inventory that is located at a distribution center that is leased by a Borrower, except to the extent that (i) the Borrowers shall have furnished the Administrative Agent with a landlord's lien waiver and collateral access agreement on terms reasonably acceptable to the Administrative Agent executed by the Person owning any such distribution center or (ii) an appropriate Reserve has been established by the Administrative Agent in its Permitted Discretion in an amount of up to three months of the rent due with respect to such distribution center;
(e) Inventory that represents goods which (i) are obsolete, damaged, defective, "seconds," classified by the Borrowers as salvage or aged Inventory, or otherwise unmerchantable, (ii) are classified by the Borrowers as awaiting, or are otherwise being held for, quality control inspection, (iii) are to be returned to the vendor, (iv) are work in process, raw materials comprised of raw fruit, or that constitute spare parts or supplies used or consumed in a Borrower's business (v) are bill and hold goods, or (vi) are not in compliance in all material respects with all standards imposed by any Governmental Authority having regulatory authority with respect thereto;

(f) Except as otherwise agreed by the Administrative Agent, Inventory that represents goods that do not conform in all material respects to the representations and warranties contained in this Agreement or any of the Security Documents;

(g) Inventory that is not subject to a perfected first priority security interest in favor of the Collateral Agent, for its own benefit and the benefit of the other Secured Parties;

(h) Inventory which consists of samples, labels, bags, packaging materials, and other similar non-merchandise categories, other than shrink-wrap, cans and lids used to encase Inventory consisting of finished goods;

(i) Inventory as to which casualty insurance in compliance with the provisions of Section 9.3 is not in effect;

(j) Inventory which has been sold but not yet delivered or Inventory to the extent that any Borrower has accepted a deposit therefor;

(k) Inventory acquired in a Permitted Acquisition, unless the Administrative Agent shall have received or conducted (i) appraisals, from appraisers reasonably satisfactory to the Administrative Agent, of such Inventory to be acquired in such Acquisition and (ii) such other due diligence as the Administrative Agent may reasonably require, all of the results of the foregoing to be reasonably satisfactory to the Administrative Agent, or

(l) Inventory consisting of "perishable agricultural commodities" within the meaning of the Perishable Agricultural Commodities Act of 1930 ("PACA"), and on which a Lien has arisen or may arise in favor of agricultural producers under PACA or any comparable laws, unless reserves of the type described in clause (b) of the definition of "Reserves" have been taken in accordance with the terms of this Agreement.

Notwithstanding anything to the contrary herein, solely for purposes of calculating the Borrowing Base on and as of the Closing Date, each reference to a "Borrower" or the "Borrowers" in this definition shall be deemed to be a reference to a "Credit Party" or the "Credit Parties", as the case may be.

"Eligible Letter of Credit Inventory" means, as of any date of determination (without duplication of other Eligible Inventory), Inventory:

(a) (i) which has been delivered to a carrier in a foreign port or foreign airport for receipt by a Borrower in the United States or Canada within sixty (60) days of the date of
determination, but which has not yet been received by a Borrower, or (ii) which has been delivered to a carrier in the United States or Canada for receipt by a Borrower in the United States or Canada within five (5) Business Days of the date of determination, but which has not yet been received by a Borrower;

(b) the purchase order for which is in the name of a Borrower, title has passed to a Borrower and the purchase of which is supported by a Commercial Letter of Credit issued under this Agreement having an initial expiry, subject to the proviso hereeto, within 120 days after the date of initial issuance of such Commercial Letter of Credit; provided that ninety percent (90%) of the maximum Stated Amount all such Commercial Letters of Credit shall not, at any time, have an initial expiry greater than ninety (90) days after the original date of issuance of such Commercial Letters of Credit;

(c) except as otherwise agreed by the Collateral Agent, for which a Borrower is designated as "shipper" and/or consignor and the document of title or waybill reflects a Borrower as consignee (along with delivery to a Borrower or its customs broker of the documents of title, to the extent applicable, with respect thereto);

(d) as to which the Administrative Agent has control over the documents of title, to the extent applicable, which evidence ownership of the subject Inventory (such as by the delivery of a Customs Broker Agreement);

(e) which is insured in accordance with the provisions of this Agreement and the other Credit Documents, including, without limitation marine cargo insurance;

(f) as to which a Tri-Party Agreement has been executed and delivered in favor of the Collateral Agent; and

(g) Which otherwise is not excluded from the definition of Eligible Inventory;

provided that the Administrative Agent may, upon notice to the Lead Borrower, exclude any particular Inventory from the definition of "Eligible Letter of Credit Inventory" in the event that the Administrative Agent determines that such Inventory is subject to any Person's right or claim which is (or is capable of being) senior to, or pari passu with, the Lien of the Collateral Agent, or may otherwise adversely impact the ability of the Collateral Agent to realize upon such Inventory.

"Environmental Claims" shall mean any and all actions, suits, orders, decrees, demand letters, claims, notices of noncompliance or potential responsibility or violation or proceedings pursuant to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, "Claims"), including, without limitation, (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief relating to the presence, Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health or safety (to the extent relating to human exposure to Hazardous Materials), or
the environment including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as wetlands.

"Environmental Law" shall mean any applicable Federal, state, foreign or local statute, law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to pollution or protection of the environment, including, without limitation, ambient air, indoor air, surface water, groundwater, soil, land surface and subsurface strata and natural resources such as flora, fauna, or wetlands, or human health or safety (to the extent relating to human exposure to Hazardous Materials) and including those relating to the generation, storage, treatment, transport, Release or threat of Release of Hazardous Materials.

"Equity Interest" shall mean Stock and all warrants, options or other rights to acquire Stock, but excluding any debt security that is convertible into, or exchangeable for, Stock.

"Equity Investments" shall have the meaning provided in the preamble to this Agreement.

"Equity Offering" shall mean any public or private sale of common stock or preferred stock of the Lead Borrower or any of its direct or indirect parent companies (excluding Disqualified Equity Interests), other than: (a) public offerings with respect to the Lead Borrower's or any direct or indirect parent company's common stock registered on Form S-8 and (b) issuances to any Subsidiary of the Lead Borrower.

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

"ERISA Affiliate" shall mean any trade or business (whether or not incorporated) that, together with any Credit Party, is treated as a single employer under Section 414 of the Code.

"ERISA Event" shall mean (a) the failure of any Plan to comply with any provisions of ERISA and/or the Code (and applicable regulations under either) or with the terms of such Plan; (b) the existence with respect to any Plan of a non-exempt Prohibited Transaction; (c) the failure of any insured medical Plan to satisfy the non-discrimination requirements of Section 105 of the Code; (d) any Reportable Event; (e) the failure of any Credit Party or ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (f) a determination that any Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (g) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan; (h) the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or the
incurrence by any Credit Party or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (i) the receipt by any Credit Party or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (j) the failure by any Credit Party or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (k) the incurrence by any Credit Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan (or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA) or Multiemployer Plan; (l) the receipt by any Credit Party or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from a Credit Party or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent, in Reorganization, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA), or terminated (within the meaning of Section 4041A of ERISA); or (m) the failure by any Credit Party or any of its ERISA Affiliates to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA.

"Event of Default" shall have the meaning provided in Article 11.

"Excess Availability" shall mean the difference between (a) the Line Cap and (b) the outstanding Credit Extensions to the Borrowers.

"Excess Availability Floor" shall mean, at any time, $50,000,000; provided that if any Significant Asset Sale shall have then occurred, Excess Availability Floor shall equal $35,000,000.

"Excess Dilution Reserves" shall mean, at any date, an amount equal to the product of (a) the excess, if any, of (i) the Dilution Percentage as of such date over (ii) 5.0%, multiplied by (b) the aggregate amount of Eligible Accounts as of such date; provided, that the Excess Dilution Reserve shall be adjusted to take into account any amounts that have otherwise been deducted in the calculation of Eligible Accounts.

"Excluded Accounts" shall mean a Disbursement Account, Designated Account (to the extent deposits therein do not exceed $10,000,000), any account described in Section 2.22(d)(iii), deposit accounts subject to Liens permitted under clause (1) or (4) of the definition of "Permitted Liens", any payroll, trust and tax withholding accounts funded in the ordinary course of business and required by applicable law, and any other zero balance or sweep accounts the funds in which are swept or transferred daily to a Blocked Account.

"Excluded Contribution" shall mean net cash proceeds, the fair market value of marketable securities or the fair market value of Qualified Proceeds received by the Lead Borrower from (a) contributions to its common equity capital, and (b) the sale (other than to a Subsidiary of the Lead Borrower or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower) of Stock (other than Disqualified Equity Interests and Designated Preferred Stock) of the Lead Borrower, in each case
designated as Excluded Contributions pursuant to an officers’ certificate executed by a senior vice president and the principal financial officer of the Lead Borrower on the date such capital contributions are made or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in clause (iii) of Section 10.5(a) of the Term Facility.

"Excluded Stock and Stock Equivalents" shall mean (i) any Stock or Stock Equivalents with respect to which, (x) in the reasonable judgment of the Administrative Agent and the Lead Borrower (as agreed in writing), the cost or other consequences of pledging such Stock or Stock Equivalents in favor of the Secured Parties under the Security Documents shall be excessive in view of the benefits to be obtained by the Secured Parties therefrom, or (y) pledging such Stock or Stock Equivalents in favor of the Secured Parties under the Security Documents would result in material adverse tax consequences as reasonably determined by the Lead Borrower, (ii) solely in the case of any pledge of Stock and Stock Equivalents of any Foreign Subsidiary or any Domestic Subsidiary substantially all of the assets of which consist of Stock or Stock Equivalents of Foreign Subsidiaries to secure the Obligations, any Stock or Stock Equivalents of any class of such Foreign Subsidiary or such Domestic Subsidiary in excess of 66% of the outstanding Stock or Stock Equivalents of such class (such percentage to be adjusted upon any Change in Law as may be required to avoid adverse U.S. federal income tax consequences to the Lead Borrower or any Subsidiary), (iii) any Stock or Stock Equivalents to the extent the pledge thereof would violate any applicable Requirement of Law, (iv) in the case of (A) any Stock or Stock Equivalents of any Subsidiary to the extent such Stock or Stock Equivalents are subject to a Lien permitted by clause (9) of the definition of "Permitted Liens" or (B) any Stock or Stock Equivalents of any Subsidiary that is not wholly-owned by the Lead Borrower and its Subsidiaries at the time such Subsidiary becomes a Subsidiary, any Stock or Stock Equivalents of each such Subsidiary described in clause (A) or (B) to the extent (1) that a pledge thereof to secure the Obligations is prohibited by any applicable Contractual Requirement (other than customary non-assignment provisions which are ineffective under the Uniform Commercial Code or other applicable law), (2) any Contractual Requirement prohibits such a pledge without the consent of any other party; provided that this clause (2) shall not apply if (x) such other party is a Credit Party or wholly-owned Subsidiary or (y) consent has been obtained to consummate such pledge (it being understood that the foregoing shall not be deemed to obligate the Lead Borrower or any Subsidiary to obtain any such consent) and for so long as such Contractual Requirement or replacement or renewal thereof is in effect, or (3) a pledge thereof to secure the Obligations would give any other party (other than a Credit Party or wholly-owned Subsidiary) to any contract, agreement, instrument or indenture governing such Stock or Stock Equivalents the right to terminate its obligations thereunder (other than customary non-assignment provisions which are ineffective under the Uniform Commercial Code or other applicable law) and (v) any Stock or Stock Equivalents of any Subsidiary to the extent that (A) the pledge of such Stock or Stock Equivalents would result in material adverse tax consequences to the Lead Borrower or any Subsidiary as reasonably determined by the Lead Borrower and (B) such Stock or Stock Equivalents have been identified in writing to the Collateral Agent by an Authorized Officer of the Lead Borrower.

"Excluded Subsidiary" shall mean (a) each Domestic Subsidiary, in each case, for so long as any such Subsidiary does not (on a consolidated basis with its Restricted Subsidiaries) constitute a Material Subsidiary, (b) each Domestic Subsidiary that is not a wholly-owned Subsidiary on any date such Subsidiary would otherwise be required to become a
Guarantor pursuant to the requirements of Section 9.11 (for so long as such Subsidiary remains a non-wholly-owned Restricted Subsidiary), (c) any Domestic Subsidiary substantially all the assets of which consist of (x) Stock and Stock Equivalents of Foreign Subsidiaries and/or (y) of other Domestic Subsidiaries so long as substantially all the assets of any such other Domestic Subsidiary consist of Stock and Stock Equivalents of Foreign Subsidiaries, (d) each Domestic Subsidiary that is prohibited by any applicable Contractual Requirement or Requirement of Law from guaranteeing or granting Liens to secure the Obligations at the time such Subsidiary becomes a Restricted Subsidiary (and for so long as such restriction or any replacement or renewal thereof is in effect), (e) each Domestic Subsidiary that is a Subsidiary of a Foreign Subsidiary, (f) each Domestic Subsidiary with respect to which, as reasonably determined by the Lead Borrower, the consequence of providing a Guarantee of the Obligations would adversely affect the ability of the Lead Borrower and its Subsidiaries to satisfy applicable Requirements of Law, (g) any other Domestic Subsidiary with respect to which, (x) in the reasonable judgment of the Administrative Agent and the Lead Borrower, the cost or other consequences of providing a Guarantee of the Obligations shall be excessive in view of the benefits to be obtained by the Lender Parties therefrom or (y) providing such a Guarantee would result in material adverse tax consequences as reasonably determined by the Lead Borrower and (h) each Unrestricted Subsidiary.

"Excluded Taxes" shall mean, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, (i) Taxes imposed on or measured by its overall net income or branch profits (however denominated, and including (for the avoidance of doubt) any backup withholding in respect thereof under Section 3406 of the Code or any similar provision of state, local or foreign law), and franchise (and similar) Taxes imposed on it (in lieu of net income Taxes), in each case by a jurisdiction (including any political subdivision thereof) as a result of such recipient being organized in, having its principal office in, or in the case of any Lender, having its applicable lending office in, such jurisdiction, or as a result of any other present or former connection with such jurisdiction (other than any such connection arising solely from this Agreement or any other Credit Documents or any transactions contemplated thereunder), (ii) in the case of a Non-U.S. Lender (other than an assignee pursuant to a request by the Lead Borrower under Section 13.7), any United States federal withholding Tax imposed on any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document that (A) is required to be imposed on amounts payable to such Non-U.S. Lender pursuant to laws in force at the time such Non-U.S. Lender becomes a party hereto (or designates a new lending office), except to the extent that such Non-U.S. Lender (or its assignor, if any) was entitled, immediately prior to the designation of a new lending office (or assignment), to receive additional amounts from the Borrowers with respect to such withholding Tax pursuant to Section 5.4(a) or (B) is attributable to such Non-U.S. Lender's failure to comply with Section 5.4(e) or (iii) any United States federal withholding Tax imposed under Sections 1471 through 1474 of the Code or any Treasury regulations promulgated thereunder.

"Existing Class" shall have the meaning provided in Section 2.14(f)(i).

"Existing Commitments" shall have the meaning provided in Section 2.14(f)(i).
"Existing Credit Agreement" shall mean the Credit Agreement, dated as of January 29, 2010, among the Company, Del Monte Corporation, the lenders party thereto, Bank of America, N.A., as administrative agent, swing line lender and L/C issuer, Barclays Capital, the investment banking division of Barclays Bank PLC and BMO Capital Markets, as co-syndication agents, and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., New York Branch, SunTrust Bank and U.S. Bank National Association, as co-documentation agents.

"Existing Letter of Credit" means each "Letter of Credit" (as defined in the Existing Credit Agreement) issued under the Existing Credit Agreement and outstanding on the Closing Date, each of which is set forth on Schedule 1.1(j).

"Existing Notes" means the Borrower's 6-3/4% Senior Subordinated Notes due 2015 and 7-1/2% Senior Subordinated Notes due 2019.

"Extended Commitments" shall have the meaning provided in Section 2.14(f)(i).

"Extended Loans" shall have the meaning provided in Section 2.14(f)(i).

"Extending Lender" shall have the meaning provided in Section 2.14(f)(iii).

"Extension Amendment" shall have the meaning provided in Section 2.14(f)(iv).

"Extension Date" shall have the meaning provided in Section 2.14(f)(v).

"Extension Election" shall have the meaning provided in Section 2.14(f)(iii).

"Extension Request" shall have the meaning provided in Section 2.14(f)(i).

"Extension Series" means all Extended Commitments that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Commitments are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees, maturity and other terms.

"Federal Funds Effective Rate" shall mean, for any day, the weighted average of the per annum rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published on the next succeeding Business Day by the Federal Reserve Bank of New York; provided that (a) if such day is not a Business Day, the Federal Funds Effective 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 Effective Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"Fees" shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

"Fixed Charge Coverage Ratio" shall mean, as of any date of determination, the ratio of (1) Consolidated EBITDA for the Test Period then last ended to (2) the Fixed Charges.
for such Test Period. In the event that any Borrower or any Restricted Subsidiary incurs, assumes, guarantees or redeems any Indebtedness or issues or redeems Disqualified Equity Interests or preferred stock subsequent to the commencement of the Test Period but prior to or simultaneously with the date of determination, then the Fixed Charge Coverage Ratio shall be calculated giving Pro Forma Effect to such incurrence, assumption, guarantee or redemption of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or preferred stock (in each case, including a pro forma application of the net proceeds therefrom), as if the same had occurred at the beginning of the Test Period.

For purposes of calculating the Fixed Charge Coverage Ratio, Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (as determined in accordance with GAAP) that have been made by any Borrower or any Restricted Subsidiary during the Test Period or subsequent to such Test Period and on or prior to or simultaneously with the date of determination shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Test Period. If since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into any Borrower or any Restricted Subsidiary since the beginning of such period) shall have made any Investment, acquisition, disposition, merger, consolidation or disposed operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving Pro Forma Effect thereto for such Test Period as if such Investment, acquisition, disposition, merger, consolidation or disposed operation had occurred at the beginning of the Test Period.

For purposes of this definition, whenever Pro Forma Effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Lead Borrower (and may include, for the avoidance of doubt, cost savings and operating expense reductions resulting from such Investment, acquisition, merger or consolidation which is being given Pro Forma Effect that have been or are expected to be realized; provided that such costs savings and operating expense reductions are made in compliance with the definition of Pro Forma Adjustment). If any Indebtedness bears a floating rate of interest and is being given Pro Forma Effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Lead Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Lead Borrower may designate.
“Fixed Charges” shall mean, with respect to any Person for any period, the sum of:

(a) Consolidated Interest Expense of such Person for such period,

(b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock (including any Designated Preferred Stock) or any Refunding Capital Stock of such Person made during such period, and

(c) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests made during such period.

“Foreign Benefit Arrangement” shall mean any employee benefit arrangement mandated by non-US law that is maintained or contributed to by any Credit Party or any ERISA Affiliate.

“Foreign Plan” shall mean each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to US law and is maintained or contributed to by any Credit Party or any ERISA Affiliate.

“Foreign Plan Event” shall mean, with respect to any Foreign Plan or Foreign Benefit Arrangement, (A) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Plan or Foreign Benefit Arrangement; (B) the failure to register or loss of good standing with applicable regulatory authorities of any such Foreign Plan or Foreign Benefit Arrangement required to be registered; or (C) the failure of any Foreign Plan or Foreign Benefit Arrangement to comply with any provisions of applicable law and regulations or with the material terms of such Foreign Plan or Foreign Benefit Arrangement.

“Foreign Subsidiary” shall mean each Subsidiary of the Lead Borrower that is not a Domestic Subsidiary.

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

“GAAP” shall mean generally accepted accounting principles in the United States of America, as in effect from time to time; provided, however, that if there occurs after the Closing Date any change in GAAP that affects in any respect the calculation of any covenant contained in Article 10, the Lenders and the Borrowers shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of the Lenders and the Borrowers after such change in GAAP conform as nearly as possible to their respective positions as of the Closing Date and, until any such amendments have been agreed upon, the covenants in Article 10 shall be calculated as if no such change in GAAP has occurred; provided further, that any change in GAAP after the Closing Date will not cause any lease that was not or would not have been a Capital Lease prior to such change to be deemed a Capital Lease.
"Governmental Authority" shall mean any nation, sovereign or government, any state, province, territory or other political subdivision thereof, and any entity or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including a central bank or stock exchange.

"Guarantee" shall mean (a) the Guarantee made by the Borrowers and each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit B, and (b) any other guarantee of the Obligations made by a Restricted Subsidiary that is a Domestic Subsidiary in form and substance reasonably acceptable to the Administrative Agent, in each case as the same may be amended, supplemented or otherwise modified from time to time.

"Guarantee Obligations" shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such Indebtedness or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness or (d) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, however, that the term "Guarantee Obligations" shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Guarantors" shall mean (a) each Domestic Subsidiary that is party to the Guarantee on the Closing Date, (b) each Domestic Subsidiary that becomes a party to the Guarantee after the Closing Date pursuant to Section 9.11 or otherwise, (c) each other Subsidiary that the Lead Borrower may from time to time, in its discretion, cause to become a party to the Guarantee pursuant to Section 9.11 or otherwise and (d) Holdings.

"Hazardous Materials" shall mean (a) any petroleum or petroleum products, radioactive materials, asbestos and asbestos containing material, polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited, or regulated by any Environmental Law.
“Hedge Agreements” shall mean interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, cross-currency rate swap agreements, currency future or option contracts, commodity price protection agreements or other commodity price hedging agreements, and other similar agreements entered into by any Borrower or any Restricted Subsidiary in the ordinary course of business (and not for speculative purposes) for the principal purpose of protecting any Borrower or any of the Restricted Subsidiaries against fluctuations in interest rates, currency exchange rates or commodity prices.

‘Hedge Bank” shall mean any Person that, either (x) at the time it enters into a Hedge Agreement or (y) on the Closing Date, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Hedge Agreement.

‘Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Hedge Agreements.

“Historical Adjustments” means with respect to any Person, without duplication, the following items to the extent incurred prior to the Closing Date and, in each case, during the applicable period:

(1) gains (losses) from the early extinguishment of Indebtedness;
(2) the cumulative effect of a change in accounting principles;
(3) gains (losses), net of tax, from disposed or discontinued operations;
(4) non-cash adjustments to LIFO reserves;
(5) gains (losses) attributable to the disposition of fixed assets; and
(6) other costs consisting of (i) one-time restructuring charges, (ii) one-time severance costs in connection with former employees, (iii) debt financing costs, (iv) unusual litigation expenses, (v) fees and expenses related to acquisitions and (vi) consulting services in connection with acquisitions.

“Historical Financial Statements” shall mean the audited consolidated balance sheets of the Lead Borrower as of May 2, 2010 and May 3, 2009 and the audited consolidated statements of income, stockholders' equity and cash flows of the Lead Borrower for each of the fiscal years in the three year period ending on May 2, 2010.

“Holdings” shall have the meaning provided in the preamble to this Agreement.

“Increased Amount Date” shall have the meaning provided in Section 2.14(a).

“Incremental GAAP Reserves” shall mean reserves to account for 50% of the difference between the calculated Borrowing Base dilution related reserves (including Excess Dilution Reserves, rebates paid via checks, and a 5% Eligible Accounts reserve) and the total balance sheet reserves and accruals recorded as per the general ledger potentially related to accounts receivable.
“Indebtedness” shall mean, with respect to any Person, (1) any indebtedness (including principal and premium) 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 bankers’ acceptances (or, without double counting, reimbursement agreements in respect thereof), (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligation that, after 30 days of becoming due and payable, has not been paid and such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, or (d) representing any obligations in respect of Hedge Agreements, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and obligations in respect of Hedge Agreements) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Lead Borrower solely by reason of push down accounting under GAAP shall be excluded, (2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business, and (3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person.

“Indemnified liabilities” shall have the meaning provided in Section 13.5.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to, or measured by, any payment by or on account of any obligation of any Credit Party hereunder or under any other Credit Document, other than Excluded Taxes.

“Initial Investors” shall mean Kohlberg Kravis Roberts & Co. L.P., KKR 2006 Fund L.P., Centerview Partners Management LLC, Centerview Employees L.P., Vestar Capital Partners V, L.P. and each of their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

“Insolvent” shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

“Intellectual Property” shall mean U.S. and foreign intellectual property, including all (i) (a) patents, inventions, processes, developments, technology and know-how; (b) copyrights and works of authorship in any media, including graphics, advertising materials, labels, package designs and photographs; (c) trademarks, service marks, trade names, brand names, corporate names, domain names, logos, trade dress and other source indicators, and the goodwill of any business symbolized thereby; (d) trade secrets, confidential, proprietary or non-public information and (ii) all registrations, applications renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations, foreign counterparts or similar legal protections related thereto.
“Interest Period” shall mean, with respect to any Loan, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Inventory” shall have the meaning assigned to such term in the Security Agreement.

“Investment” shall mean, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers and employees, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Lead Borrower in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 10.5,

1) "Investments” shall include the portion (proportionate to the Lead Borrower's equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Lead Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Lead Borrower shall be deemed to continue to have a permanent "Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (x) the Lead Borrower's "Investment” in such Subsidiary at the time of such redesignation less (y) the portion (proportionate to the Lead Borrower's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Lead Borrower or a Restricted Subsidiary in respect of such Investment.

"Investment Grade Rating” shall mean a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P.

"Investment Grade Securities” shall mean:

1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Borrowers and their Subsidiaries,
(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment or distribution, and
(4) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

"Issuing Banks" means, individually and collectively, each of Bank of America, N.A., and any other Lender which at the request of the Lead Borrower and after notice to the Administrative Agent agrees to become an Issuing Bank. Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"Joinder Agreement" shall mean an agreement substantially in the form of Exhibit A-1.

"Joint Bookrunners" shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, Barclays Capital, the investment banking division of Barclays Bank PLC and Morgan Stanley Senior Funding, Inc.

"Joint Lead Arrangers" shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC.

"Junior Debt" shall mean any Indebtedness in respect of Senior Notes, Subordinated Indebtedness, Permitted Additional Debt or any Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b).

"Judgment Currency" shall have the meaning provided in Section 13.19.

"KKR" shall mean each of Kohlberg Kravis Roberts & Co. L.P. and KKR 2006 Fund L.P.

"Latest Maturity Date" shall mean, at any date of determination, the latest maturity or expiration date applicable to any Loan hereunder at such time, including the latest maturity or expiration date of any Extended Loan, in each case as extended in accordance with this Agreement from time to time.

"Lead Borrower" shall have the meaning provided in the preamble to this Agreement.

"Lender" shall have the meaning provided in the preamble to this Agreement and, as the context requires, includes the Swingline Lender.

"Lender Parties" shall mean, collectively, the Lenders and the Issuing Banks.

"Letter of Credit" shall mean (a) any letter of credit that is (i) issued by an Issuing Bank pursuant to this Agreement for the account of a Borrower, (ii) a Standby Letter of
Credit or Commercial Letter of Credit, issued in connection with the purchase of Inventory by a Borrower and for other purposes for which such Borrower has historically obtained letters of credit, or for any other purpose that is reasonably acceptable to the Administrative Agent and (iii) in form reasonably satisfactory to the applicable Issuing Bank and (b) any Existing Letter of Credit.

"Letter of Credit Disbursement" shall mean a payment made by an Issuing Bank to the beneficiary of, and pursuant to, a Letter of Credit.

"Letter of Credit Fee" shall have the meaning provided in Section 4.1(d).

"Letter of Credit Outstandings" shall mean, at any time, the sum of (a) with respect to Letters of Credit outstanding at such time, the aggregate maximum amount that then is, or at any time thereafter may become, available for drawing or payment thereunder, plus, without duplication, (b) all amounts theretofore drawn or paid under Letters of Credit for which the applicable Issuing Bank has not then been reimbursed.

"Letter of Credit Sublimit" shall mean, at any time, the sum of $125,000,000, as such amount may be increased or reduced in accordance with the terms of this Agreement.

"LIBOR Loan" shall mean any Loan bearing interest at a rate determined by reference to the LIBOR Rate.

"LIBOR Rate" shall mean, for any Interest Period with respect to a LIBOR Loan, the rate per annum equal to British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Bloomberg (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 (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 "LIBOR 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 for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered by the Administrative Agent's London Branch to major banks in the applicable London interbank eurocurrency market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period (or on the first day of such Interest Period in the case of any LIBOR Loan denominated in Sterling).

"Lien" shall mean any mortgage, pledge, security interest, hypothecation, assignment, lien (statutory or other) or similar encumbrance (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof).

"Line Cap" means, at any time of determination, the lesser of (a) the Total Commitment or (b) the Borrowing Base.
“Liquidation” means the exercise by the Administrative Agent or Collateral Agent of those rights and remedies accorded to the Administrative Agent or Collateral Agent, as applicable, under the Credit Documents and applicable law as a creditor of the Credit Parties, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Credit Parties of any public or private sale or other disposition of Collateral for the purpose of liquidating the Collateral. Derivations of the word “Liquidation” (such as “Liquidate”) are used with like meaning in this Agreement.

“Loan Account” shall have the meaning provided in Section 2.23(a).

“Loans” means all Revolving Loans, Swingline Loans and other advances to or for account of any of the Borrowers pursuant to this Agreement (including, if any, Extended Loans).

“Material Adverse Change” shall mean any event, change, occurrence or developments or effect that would have or would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its Subsidiaries taken as a whole, other than any event, change, occurrence or developments or effect resulting from (i) changes in general economic, financial market, business or geopolitical conditions, (ii) changes or developments in any of the industries in which the Company or its Subsidiaries operate, (iii) changes in any applicable laws or applicable accounting regulations or principles or interpretations thereof, (iv) any change in the price or trading volume of the Company’s common stock, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such change that are not otherwise excluded from this definition of “Material Adverse Change” may be taken into account in determining whether there has been a Material Adverse Change), (v) any failure by the Company to meet any published analyst estimates or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period, in and of itself, or any failure by the Company to meet its internal or published projections, budgets, plans or forecasts of its revenues, earnings or other financial performance or results of operations, in and of itself (provided, that the facts or occurrences giving rise to or contributing to such failure that are not otherwise excluded from this definition of “Material Adverse Change” may be taken into account in determining whether there has been a Material Adverse Change), (vi) any outbreak or escalation of hostilities or war or any act of terrorism, (vii) the announcement of the Acquisition Agreement and the transactions contemplated thereby, including the initiation of litigation by any person with respect to the Acquisition Agreement, and including any termination of, reduction in or other negative impact on relationships or dealings, contractual or otherwise, with any customers, suppliers, distributors, partners or employees of the Company and its Subsidiaries due to the announcement and performance of the Acquisition Agreement or the identity of the parties to the Acquisition Agreement (provided, that the exceptions in this clause (vii) shall not be deemed to apply to references to “Material Adverse Effect” in the representations and warranties set forth in Section 3.5 of the Acquisition Agreement, and to the extent related thereto, the condition in Section 7.1(a) thereof), (viii) the performance of the Acquisition Agreement and the transactions contemplated thereby, including compliance with the covenants set forth therein, (ix) any action taken by the Company, or which the Company causes to be taken by any of their Subsidiaries (other than pursuant to Section 5.1 of the Acquisition Agreement), in each case which is required by the Acquisition Agreement or (x) any actions taken (or omitted to be taken (other than...
pursuant to Section 5.1 of the Acquisition Agreement) at the request of Holdings or Merger Sub, except in the case of each of clauses (i) through (iii) and (vi), to the extent such changes have a disproportionately adverse impact on the Company and its Subsidiaries, taken as a whole, relative to other industry participants.

"Material Adverse Effect" shall mean a circumstance or condition affecting the business, assets, operations, properties or financial condition of the Borrowers and their Subsidiaries, taken as a whole, that would, individually or in the aggregate, materially adversely affect (a) the ability of the Borrowers and the other Credit Parties, taken as a whole, to perform their payment obligations under this Agreement or any of the other Credit Documents or (b) the rights and remedies of the Agents and the Lender Parties under this Agreement or any of the other Credit Documents.

"Material Subsidiary" shall mean, at any date of determination, (i) each Restricted Subsidiary of the Lead Borrower (a) whose total assets at the last day of the Test Period ending on the last day of the most recent fiscal period for which Section 9.1 Financials have been delivered were equal to or greater than 5% of the Consolidated Total Assets of the Lead Borrower and the Restricted Subsidiaries at such date or (b) whose revenues during such Test Period were equal to or greater than 5% of the consolidated revenues of the Lead Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP; provided that if, at any time and from time to time after the Closing Date, Restricted Subsidiaries that are not Material Subsidiaries have, in the aggregate, (x) total assets at the last day of such Test Period equal to or greater than 7.5% of the Consolidated Total Assets of the Lead Borrower and the Restricted Subsidiaries at such date or (y) revenues during such Test Period equal to or greater than 7.5% of the consolidated revenues of the Lead Borrower and the Restricted Subsidiaries at such date or (y) revenues during such Test Period equal to or greater than 7.5% of the consolidated revenues of the Lead Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP, then the Lead Borrower shall, on the date on which financial statements for such quarter are delivered pursuant to this Agreement, designate in writing to the Administrative Agent one or more of such Restricted Subsidiaries as "Material Subsidiaries", to the extent necessary to bring either such percentage, as applicable, below 7.5%.

"Maturity Date" shall mean March 8, 2016 or, if such date is not a Business Day, the first Business Day thereafter.

"Merger" shall have the meaning provided in the preamble to this Agreement.

"Merger Sub" shall mean Blue Merger Sub Inc., a Delaware corporation and a direct wholly-owned subsidiary of Holdings.

"Minimum Borrowing Amount" shall mean (a) with respect to a Borrowing of LIBOR Loans, $5,000,000 and (b) with respect to a Borrowing of ABR Loans, $1,000,000 (or, if less, the entire remaining Commitments at the time of such Borrowing).

"Minimum Equity Amount" shall have the meaning provided in the preamble to this Agreement.

"Moody's" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.
“Mortgage” shall mean a mortgage, deed of trust, deed to secure debt, trust deed or other security document entered into by the owner of a Mortgaged Property and the Collateral Agent for the benefit of the Secured Parties in respect of that Mortgaged Property to secure the Obligations, in form and substance reasonably acceptable to the Collateral Agent, together with such terms and conditions as may be required by local laws.

“Mortgaged Property” shall mean, initially, each parcel of real estate and the improvements thereto owned in fee by a Credit Party and identified on Schedule 1.1(b), and includes each other parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 9.14.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Cash Proceeds” shall mean, with respect to any Prepayment Event and any incurrence of Permitted Other Indebtedness, (a) the gross cash proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of any Borrower or any of the Restricted Subsidiaries in respect of such Prepayment Event or incurrence of Permitted Other Indebtedness, as the case may be, less (b) the sum of:

(i) the amount, if any, of all taxes paid or estimated to be payable by any Borrower or any of the Restricted Subsidiaries in connection with such Prepayment Event or incurrence of Permitted Other Indebtedness,

(ii) the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) associated with the assets that are the subject of such Prepayment Event and (y) retained by any Borrower or any of the Restricted Subsidiaries, provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such a Prepayment Event occurring on the date of such reduction,

(iii) the amount of any Indebtedness (other than Permitted Other Indebtedness) secured by a Lien on the assets that are the subject of such Prepayment Event to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event,

(iv) in the case of any Asset Sale Prepayment Event or Casualty Event or Permitted Sale Leaseback, the amount of any proceeds of such Prepayment Event that any Borrower or any Restricted Subsidiary has reinvested (or intends to reinvest within the Reinvestment Period or has entered into a binding commitment prior to the last day of the Reinvestment Period to reinvest) in the business of any Borrower or any of the Restricted Subsidiaries, provided that any portion of such proceeds that has not been so reinvested within such Reinvestment Period (with respect to such Prepayment Event, the “Deferred Net Cash Proceeds”...
Proceeds”) shall, unless such Borrower or such Restricted Subsidiary has entered into a binding commitment prior to the last day of such Reinvestment Period to reinvest such proceeds no later than 180 days following the last day of such Reinvestment Period, (x) be deemed to be Net Cash Proceeds of an Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback occurring on the last day of such Reinvestment Period or, if later, 180 days after the date such Borrower or such Restricted Subsidiary has entered into such binding commitment, as applicable (such last day or 180th day, as applicable, the “Deferred Net Cash Proceeds Payment Date”), and (y) to the extent required by Section 5.2(a)(i) to be applied to a prepayment, be applied in accordance with Section 5.2(b).

(v) in the case of any Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback by a non-wholly-owned Restricted Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (v)) attributable to minority interests and not available for distribution to or for the account of a Borrower or a wholly-owned Restricted Subsidiary as a result thereof,

(vi) reasonable and customary fees paid by a Borrower or a Restricted Subsidiary in connection with any of the foregoing, and

(vii) in the case of a Disposition, in an aggregate amount not to exceed $200,000,000, any cash proceeds and the fair market value of any Cash Equivalents received in connection with sales of manufacturing facilities and related assets, in connection with establishing outsourcing arrangements providing substantially similar functionality,

in each case only to the extent not already deducted in arriving at the amount referred to in clause (a) above.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“NOLV Percentage” shall mean the net orderly liquidation value of Eligible Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all liquidation expenses, as determined from the most recent appraisal of Borrowers’ Inventory performed by an appraiser and on terms reasonably satisfactory to the Administrative Agent.

“Non-Bank Certificate” shall have the meaning provided in Section 5.4(e)(ii)(B)(3).

“Non-Consenting Lender” shall have the meaning provided in Section 13.7(b).

“Non-U.S. Lender” shall mean any Agent or Lender that is not a “United States person” as defined by Section 7701(a)(30) of the Code.
“Noncompliance Notice” shall have the meaning provided in Section 2.16(b).

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a).

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6(a).

“Obligations” shall mean all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Credit Document or otherwise with respect to any Loan or Letter of Credit or under any Secured Cash Management Agreement or Secured Hedge Agreement, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Credit Parties under the Credit Documents (and any of their Subsidiaries to the extent they have obligations under the Credit Documents) include the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, attorney costs, indemnities and other amounts payable by any Credit Party under any Credit Document.

“Other Borrower” means each domestic Person who shall from time to time enter into a Credit Party Joinder Agreement as a “Borrower” hereunder.

“Other Taxes” shall mean all present or future stamp or documentary Taxes or any other excise, property, intangible, mortgage recording or similar Taxes arising from any payment made hereunder or under any other Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Credit Document; provided that such term shall not include (i) any of the foregoing Taxes that result from an assignment, grant of a participation pursuant to Section 13.6(c) or transfer or assignment to or designation of a new lending office or other office for receiving payments under any Credit Document ("Assignment Taxes") to the extent such Assignment Taxes are imposed as a result of a connection between the assignor/participating Lender and/or the assignee/Participant and the taxing jurisdiction (other than a connection arising solely from any Credit Documents or any transactions contemplated thereunder), except to the extent that any such action described in this proviso is requested or required by the Borrowers, or (ii) Excluded Taxes.

“Overadvance” shall mean a Loan or issuance of a Letter of Credit to the extent that, immediately after the making of such Loan or issuance, the aggregate amount of Credit Extensions then outstanding would exceed the Line Cap.

“Overnight Rate” shall mean, for any day, the greater of (i) the Federal Funds Effective Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Participant” shall have the meaning provided in Section 13.6(c).

“Participant Register” shall have the meaning provided in Section 13.6(c).
"Patriot Act" shall have the meaning provided in Section 13.18.

"PBGC" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Pension Plan" shall mean any Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA.

"Perfection Certificate" shall mean a certificate of the Borrowers in the form of Exhibit D or any other form approved by the Administrative Agent.

"Permitted Acquisition" shall mean any Acquisition by any Borrower or Restricted Subsidiary permitted under this Agreement.

"Permitted Additional Debt" shall mean unsecured Indebtedness, issued by a Borrower or a Guarantor, (a) the terms of which (i) do not provide for any scheduled repayment, mandatory redemption or sinking fund obligation prior to the Latest Term Loan Maturity Date (as defined in the Term Facility) (other than customary offers to purchase upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default) and (ii) to the extent the same are subordinated, provide for customary subordination to the Obligations under the Credit Documents, (b) the covenants, events of default, guarantees and other terms of which (other than interest rate and redemption premiums), taken as a whole, are not more restrictive to the Borrowers and the Restricted Subsidiaries than those herein (or to the extent such Permitted Additional Debt constitutes refinancing Indebtedness of the Senior Notes, those applicable to the Senior Notes being refinanced); provided that a certificate of an Authorized Officer of the Lead Borrower is delivered to the Administrative Agent at least five Business Days (or such shorter period as the Administrative Agent may reasonably agree) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Lead Borrower within such period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees) and (c) of which no Subsidiary of a Borrower (other than a Guarantor or any guarantor of the Indebtedness being refinanced by such Permitted Additional Debt, if applicable) is an obligor.

"Permitted Debt Exchange" shall have the meaning provided in Section 2.15(a) of the Term Facility.

"Permitted Debt Exchange Notes" shall have the meaning provided in Section 2.15(a) of the Term Facility.

"Permitted Discretion" shall mean the Administrative Agent's commercially reasonable judgment exercised in good faith in accordance with customary business practices for asset-based lending transactions comparable to the credit facility hereunder. In exercising such judgment, the Administrative Agent may consider, without duplication, factors already included in or tested by eligibility requirements for accounts receivable and inventory, and any of the
following: (i) changes after the Closing Date in any material respect in any concentration of risk with respect to Eligible Accounts and (ii) any other factors arising after the Closing Date that change in any material respect the credit risk of lending to the Borrowers on the security of the Eligible Accounts and Eligible Inventory.

"Permitted Holders" shall mean each of (i) the Initial Investors and their respective Affiliates and members of management of the Lead Borrower (or its direct or indirect parent) who are holders of Equity Interests of the Lead Borrower (or its direct or indirect parent company) on the Closing Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Initial Investors, their respective Affiliates and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Lead Borrower, Holdings or any other direct or indirect parent company of the Borrower and (ii) any direct or indirect parent of the Lead Borrower formed not in connection with, or in contemplation of, a transaction (other than Transactions) that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control.

"Permitted Investments" shall mean:

(a) (i) any Investment in any Credit Party, (ii) any Investment in any Subsidiary that is not a Credit Party by a Credit Party, provided that when such Investment is made, the Adjusted Investment Conditions with respect thereto are satisfied and (iii) any Investment in any Subsidiary that is not a Credit Party by another Subsidiary that is not a Credit Party;

(b) any Investment in cash, Cash Equivalents or Investment Grade Securities;

(c) any Investment by any Borrower or any Restricted Subsidiary in a Person that is engaged in a Similar Business if (i) as a result of such Investment (1) such Person becomes a Restricted Subsidiary or (2) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, a Borrower or a Restricted Subsidiary, and, in each case, any Investment held by such Person; provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer, (ii) such Investment shall have been approved by the Board of Directors of such Person (or similar governing body if such Person is not a corporation) and such Person shall not have announced that it will oppose such Investment and shall not have commenced any action which alleges that such Investment will violate applicable law, (iii) the requirements under Section 9.11 with respect to such Investment are satisfied and (iv) the aggregate amount of Investments made under this clause (c), together with the aggregate amount of Investments made under clause (h) or (m) of this definition or clause (11)(i) or (13)(iii) of Section 10.5(b), does not exceed $75,000,000;

(d) any Investment in securities or other assets not constituting cash, Cash Equivalents or Investment Grade Securities and received in connection with a Disposition

47
made pursuant to Section 10.4 or any other disposition of assets not constituting a Disposition;

c) any Investment existing on the Closing Date and listed on Schedule 10.5;

(f) any Investment acquired by any Borrower or any Restricted Subsidiary (i) in exchange for any other Investment or accounts receivable held by such Borrower or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of a Borrower of such other Investment or accounts receivable or (2) as a result of a foreclosure by such Borrower or such Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(g) Hedging Obligations permitted under clause (j) of Section 10.1;

(h) any Investment made in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (h) and other Investments made under clause (c) or (m) of this definition or clause (11)(i) or (13)(iii) of Section 10.5(b), does not exceed $75,000,000 (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(i) Investments the payment for which consists of Equity Interests of the Lead Borrower, Holdings or any other direct or indirect parent company of the Lead Borrower (exclusive of Disqualified Equity Interests); provided that such Equity Interests will not increase the amount available for Restricted Payments under clause (iii) of Section 10.5(a);

(j) guarantees of Indebtedness permitted under Section 10.1;

(k) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 9.9; provided that when any such Investment is made by any Credit Party in a Person that is not a Credit Party, the Adjusted Investment Conditions with respect thereto are satisfied;

(l) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(m) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (m) that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), and Investments made under clause (c) or (h) of this definition or clause (11)(i) or (13)(iii) of Section 10.5(b), not to exceed $75,000,000 (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(n) [Reserved];
(o) advances to, or guarantees of Indebtedness of, employees not in excess of $25,000,000 outstanding at any one time, in the aggregate; and

(p) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Lead Borrower or any direct or indirect parent company thereof.

"Permitted Liens" shall mean, with respect to any Person:

(1) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Lead Borrower or any direct or indirect parent company thereof.

(2) Liens imposed by law, such as carriers', warehousemen's, materialmen's, repairmen's and mechanics' Liens, in each case for sums not yet overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for Taxes, assessments or other governmental charges not yet overdue for a period of more than 30 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP, or for property Taxes on property the Lead Borrower or one of its Subsidiaries has determined to abandon if the sole recourse for such Tax, assessment, charge, levy or claim is to such property;

(4) Liens in favor of the Borrowers of performance, surety, bid, indemnity, warranty, release, appeal or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph and telephone and cable television lines, gas and oil pipelines and other similar purposes, or zoning, building codes or other restrictions (including, without limitation, minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate

49
materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Indebtedness permitted to be incurred pursuant to clause (a) (provided that such Liens shall be subject to the ABL Intercreditor Agreement), (d), (f)(b), (r), (aa), (bb) or (cc) of Section 10.1; provided that, (i) in the case of clause (d), such Lien may not extend to any property or equipment (or assets affixed or appurtenant thereto) other than the property or equipment being financed or refinanced under such clause (d); (ii) in the case of clause (r), such Lien may not extend to any assets other than the assets owned by the Foreign Subsidiaries incurring such Indebtedness; (iii) in the case of Liens securing Permitted Other Indebtedness Obligations, the applicable Permitted Other Indebtedness Secured Parties (or a representative thereof on behalf of such holders) shall enter into security documents with terms and conditions not materially more restrictive to the Credit Parties, taken as a whole, than the terms and conditions of the Security Documents and the representative for the holders of such Permitted Other Indebtedness Obligations shall have entered into the ABL Intercreditor Agreement; and (iv) such Liens on any property included in the Borrowing Base are at least as subordinated to the Liens thereon securing the Obligations as the Liens securing the Term Facility under the ABL Intercreditor Agreement;

(7) Liens existing on the Closing Date and set forth on Schedule 10.2;

(8) Liens on property or shares of stock of a Person at the time such Person becomes a Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary; provided further, however, that such Liens may not extend to any other property owned by any Borrower or any Restricted Subsidiary;

(9) Liens on property at the time a Borrower or a Restricted Subsidiary acquired the property, including any acquisition by means of a merger or consolidation with or into any Borrower or any Restricted Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, merger or consolidation; provided further that the Liens may not extend to any other property owned by any Borrower or any Restricted Subsidiary;

(10) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to a Borrower or another Restricted Subsidiary permitted to be incurred in accordance with the Section 10.1;

(11) Liens securing Hedging Obligations and Obligations under Cash Management Agreements so long as the related Indebtedness is, and is permitted hereunder to be, secured by a Lien on the same property securing such Hedging Obligations;

(12) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
(13) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of any Borrower or any Restricted Subsidiary and do not secure any Indebtedness;

(14) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or consignments entered into by any Borrower or any Restricted Subsidiary in the ordinary course of business;

(15) Liens in favor of any Borrower or any Guarantor;

(16) Liens on equipment of any Borrower or any Restricted Subsidiary granted in the ordinary course of business to the Borrower's client at which such equipment is located;

(17) [Reserved];

(18) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6) (other than Indebtedness incurred under Section 10.1(aa), 10.1(bb) or 10.1(cc)), (7), (8), (9), (10), (11), (15) and (20) of this definition of "Permitted Liens"; provided that (x) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15) and (20) at the time the original Lien became a Permitted Lien under this Agreement, and (B) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(19) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business;

(20) [Reserved];

(21) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed $50,000,000 at any one time outstanding;

(22) Liens securing judgments for the payment of money not constituting an Event of Default under Section 11.11 so long as such Liens are adequately bonded and any appropriate legal proceedings that may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(23) 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;

(24) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading
accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(25) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 10.1; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(26) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(27) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of any Borrower or any of theirRestricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrowers and their Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of any Borrower or any of their Restricted Subsidiaries in the ordinary course of business;

(28) Liens solely on any cash earnest money deposits made by any Borrower or any of their Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted under this Agreement;

(29) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by any Borrower or any of their Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(30) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(31) security given to a public utility or any municipality or Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business;

(32) zoning by-laws and other land use restrictions, including, without limitation, site plan agreements, development agreements and contract zoning agreements;

(33) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by any Borrower or any Restricted Subsidiary in the ordinary course of business;

(34) Liens on real property located in Topeka, Kansas granted as security for synthetic lease obligations; and
(35) any Lien granted pursuant to a security agreement between any Borrower or any Restricted Subsidiary and a licensee of intellectual property to secure the damages, if any, of such licensee resulting from the rejection of the licensee of such licensee in a bankruptcy, reorganization or similar proceeding with respect to such Borrower or such Restricted Subsidiary; provided that such Liens, in the aggregate, do not encumber any assets of any Borrower or any Restricted Subsidiary other than the assets securing such Liens in existence on the Closing Date.

For purposes of this definition, the term “Indebtedness” shall be deemed to include interest on such Indebtedness.

“Permitted Other Indebtedness” shall mean subordinated or senior Indebtedness (which Indebtedness may (x) be unsecured, (y) have the same lien priority as the Term Facility Obligations or (z) be secured by a Lien ranking junior to the Lien securing the Term Facility Obligations), in each case issued or incurred by a Borrower or a Guarantor, (a) the terms of which do not provide for any scheduled repayment, mandatory repayment or redemption or sinking fund obligations prior to, at the time of incurrence, the Latest Maturity Date (as defined in the Term Facility) (other than, in each case, customary offers to repurchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights after an event of default), (b) the covenants, events of default, guarantees, collateral and other terms of which (other than interest rate and redemption or prepayment premiums), taken as a whole, are not more restrictive to the Borrowers and the Restricted Subsidiaries than those herein; provided that a certificate of an Authorized Officer of the Lead Borrower delivered to the Administrative Agent at least five Business Days (or such shorter period as the Administrative Agent may reasonably agree) prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Lead Borrower within two Business Days after receipt of such certificate that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees), (c) of which no Subsidiary of a Borrower (other than a Guarantor) is an obligor and (d) that, if secured, are not secured by any assets other than the Collateral.

“Permitted Other Indebtedness Documents” shall mean any document or instrument (including any guarantee, security agreement or mortgage and which may include any or all of the Credit Documents) issued or executed and delivered with respect to any Permitted Other Indebtedness by any Credit Party.

“Permitted Other Indebtedness Obligations” shall mean, if any Permitted Other Indebtedness is issued or incurred, all advances to, and debts, liabilities, obligations, covenants and duties of, any Credit Party arising under any Permitted Other Indebtedness Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Credit Party or any Affiliate thereof of any proceeding under any bankruptcy or insolvency law naming such Person as the debtor in
such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the
Permitted Other Indebtedness Obligations of the applicable Credit Parties under the Permitted Other Indebtedness Documents (and any of their Restricted
Subsidiaries to the extent they have obligations under the Permitted Other Indebtedness Documents) include the obligation (including guarantee obligations)
to pay principal, interest, charges, expenses, fees, attorney costs, indemnities and other amounts payable by any such Credit Party under any Permitted Other
Indebtedness Document.

"Permitted Other Indebtedness Secured Parties" shall mean the holders from time to time of secured Permitted Other Indebtedness
Obligations (and any representative on their behalf).

"Permitted Overadvance" shall mean an Overadvance made by the Administrative Agent, in its reasonable discretion, which:

(a) is made to maintain, protect or preserve the Collateral and/or the Secured Parties' rights under the Credit Documents or which is otherwise for
the benefit of the Secured Parties; or

(b) is made to enhance the likelihood of, or maximize the amount of, repayment of any Obligation; or

(c) is made to pay any other amount chargeable to any Borrower hereunder; and

(d) together with all other Permitted Overadvances then outstanding, shall not (i) exceed in the aggregate outstanding at any time the lesser of
(A) $60,000,000 and (B) 10% of the Borrowing Base at such time, (ii) unless a Liquidation is occurring, remain outstanding for more than forty-five
(45) consecutive Business Days, and (iii) unless a Liquidation is occurring, be made more than on one occasion during any 180 consecutive day period or on
more than two occasions in any twelve month period, unless, in the case of clauses (ii) and (iii), the Required Lenders otherwise agree;

provided however, that the foregoing shall not (i) modify or abrogate any of the provisions of Section 2.15 regarding any Lender's obligations with respect to
Letter of Credit Disbursements, or (ii) result in any claim or liability against the Administrative Agent (regardless of the amount of any Overadvance) for
"inadvertent Overadvances" (i.e. where a Overadvance results from changed circumstances beyond the control of the Administrative Agent (such as a
reduction in the collateral value)) and such "inadvertent Overadvances" shall not reduce the amount of Permitted Overadvances allowed hereunder; provided
further that in no event shall the Administrative Agent make a Overadvance, if after giving effect thereto, the principal amount of the Loans and the then
amount of the Letter of Credit Outstandings would exceed the aggregate of the Commitments then in effect.

"Permitted Sale Leaseback" shall mean any Sale Leaseback consummated by any Borrower or any of the Restricted Subsidiaries after the
Closing Date, provided that any such Sale Leaseback not between (a) a Credit Party and another Credit Party or (b) a Restricted Subsidiary that is not a Credit
Party to another Restricted Subsidiary that is not a Credit Party is

54
consummated for fair value as determined at the time of consummation in good faith by (i) such Borrower or such Restricted Subsidiary and (ii) in the case of any Sale Leaseback (or series of related Sales Leasebacks) the aggregate proceeds of which exceed $50,000,000, the board of directors of such Borrower or such Restricted Subsidiary (which such determination may take into account any retained interest or other Investment of such Borrower or such Restricted Subsidiary in connection with, and any other material economic terms of, such Sale Leaseback).

"Person" shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise or any Governmental Authority.

"Plan" shall mean any employee benefit plan as defined in Section 3(3) of ERISA, including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Credit Party or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" shall have the meaning provided in Section 13.17(b).

"Pledge Agreement" shall mean (a) the Pledge Agreement, entered into by the Credit Parties party thereto and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit E, on the Closing Date, and (b) any other pledge agreement with respect to all of the Obligations delivered pursuant to Section 9.12, in each case, as the same may be amended, supplemented or otherwise modified from time to time.

"Post-Acquisition Period" shall mean, with respect to any Permitted Acquisition, the period beginning on the date such Permitted Acquisition is consummated and ending on the last day of the sixth full consecutive fiscal quarter immediately following the date on which such Permitted Acquisition is consummated.

"Prepayment Event" shall mean any Asset Sale Prepayment Event, Debt Incurrence Prepayment Event, Casualty Event or any Permitted Sale Leaseback.

"Pro Forma Adjustment" shall mean, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, with respect to the Acquired EBITDA of the applicable Acquired Entity or Business or Converted Restricted Subsidiary or the Consolidated EBITDA of the Lead Borrower, the pro forma increase or decrease in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, projected by the Lead Borrower in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of such Acquired Entity or Business or Converted Restricted Subsidiary with the operations of the Borrowers and the Restricted Subsidiaries; provided that (i) at the election of the Lead Borrower, such Pro Forma Adjustment shall not be required to be determined for any Acquired Entity or Business or Converted Restricted Subsidiary to the extent the aggregate consideration paid in connection with such acquisition was less than $10,000,000
and (ii) so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, it may be assumed, for purposes of projecting such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, that the applicable amount of such cost savings will be realizable during the entirety of such Test Period, or the applicable amount of such additional costs, as applicable, will be incurred during the entirety of such Test Period; provided further that any such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, shall be without duplication for cost savings or additional costs already included in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, for such Test Period.

"Pro Forma Adjustment Certificate" shall mean any certificate of an Authorized Officer of the Lead Borrower delivered pursuant to Section 9.1(h) or Section 9.1(d).

"Pro Forma Basis", "Pro Forma Compliance" and "Pro Forma Effect" shall mean, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all Stock in any Subsidiary of any Borrower or any division, product line, or facility used for operations of any Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or Investment described in the definition of "Specified Transaction," shall be included, (b) any retirement of Indebtedness and (c) any incurrence or assumption of Indebtedness by any Borrower or any of the Restricted Subsidiaries in connection therewith (it being agreed that if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination).

"Pro Forma Entity" shall have the meaning provided in the definition of the term "Acquired EBITDA."

"Pro Rata Share" of any amount means, with respect to any Lender at any time, the product of such amount times a fraction the numerator of which is the amount of such Lender's Commitment (or, if the Commitments shall have been terminated pursuant to Section 2.21 or Article 11, such Lender's Commitment as in effect immediately prior to such termination) and the denominator of which is Total Commitment (or, if the Commitments shall have been terminated pursuant to Section 2.21 or Article 11, the Total Commitment as in effect immediately prior to such termination).

"Prohibited Transaction" shall have the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"Qualified Proceeds" shall mean assets that are used or useful in, or Stock of any Person engaged in, a Similar Business.
“Real Estate” shall have the meaning provided in Section 9.1(f).

“Refinancing Permitted Other Indebtedness” shall have the meaning provided in Section 10.1(bb)(ii).

“Refunding Capital Stock” shall have the meaning provided in Section 10.5(b).

“Register” shall have the meaning provided in Section 13.6(b)(iv).

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Reinvestment Period” shall mean 12 months following the date of receipt of Net Cash Proceeds of an Asset Sale Prepayment Event, Casualty Event or Permitted Sale Leaseback.

“Related Parties” shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees and advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

“Release” shall mean any release, spill, emission, discharge, deposit, disposal, leaching into the environment, or into, from or through any building.

“Reorganization” shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

“Rent and Charges Reserves” shall mean the aggregate of (a) all past due rent and other amounts owing by any Borrower to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral included in the Borrowing Base or could assert a Lien on any Collateral included in the Borrowing Base and (b) a reserve equal to not more than three months rent and other charges that could be payable to any such Person, unless such Person has executed a Tri-Party Agreement.

“Reportable Event” shall mean any “reportable event,” as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan, other than those events as to which notice is waived pursuant to DOL Reg. § 4043 as in effect on the date hereof (no matter how such notice requirement may be changed in the future).
"Required Lenders" shall mean, at any date, (a) Lenders having or holding at least a majority the Total Commitment at such date, excluding the Commitments held by Affiliated Lenders and Defaulting Lenders, or (b) if the Total Commitment has been terminated or for the purposes of acceleration pursuant to Article 11, Lenders having or holding at least a majority of the outstanding principal amount of the Loans (excluding the Loans of Affiliated Lenders and Defaulting Lenders) in the aggregate at such date.

"Requirement of Law" shall mean, as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"Reserved Secured Cash Management Obligations" means any Obligations in respect of any Secured Cash Management Agreement, up to the maximum amount owing thereunder as specified by the applicable Cash Management Bank in writing to Administrative Agent, which amount may be increased with respect to any existing Secured Cash Management Agreements by further written notice from such Cash Management Bank to Administrative Agent from time to time, provided that in each case (a) no Default or Event of Default exists, (b) establishment of Bank Product Reserves for such amount and all other Reserved Secured Hedge Obligations and Reserved Secured Cash Management Obligations would not result in an Overadvance and (c) the Lead Borrower has been notified of and given a least three Business Days to review any error in the calculation of such maximum amount and increased amount.

"Reserved Secured Hedge Obligations" means any Obligations in respect of any Hedge Agreement owing to a Hedge Bank, up to the maximum amount owing thereunder as specified by the applicable Hedge Bank in writing to Administrative Agent, which amount may be increased with respect to any existing Secured Hedge Agreement at any time by further written notice from such Hedge Bank to Administrative Agent; provided that the Lead Borrower has been notified of and given a least three Business Days to review any error in the calculation of such maximum amount and increased amount.

"Reserves" means such reserves as the Administrative Agent from time to time determines in its Permitted Discretion, including (a) Bank Product Reserves, (b) reserves representing grower payable reserves or reserves related to the Perishable Agricultural Commodities Act, 1930, and Packers and Stockyards Act, 1921, (c) Excess Dilution Reserves, (d) Incremental GAAP Reserves, (e) Rent and Charges Reserves and (f) reserves of the type described in Section 2.19 hereof.

"Responsible Officer" of any Person means any executive officer or financial officer of such Person and any other officer or similar official thereof with responsibility for the administration of the obligations of such Person in respect of this Agreement.

"Restricted Investment" shall mean an Investment other than a Permitted Investment.

"Restricted Payment" shall have the meaning provided in Section 10.5(a).
“Restricted Subsidiary” shall mean any Subsidiary of a Borrower other than an Unrestricted Subsidiary.

“Revolving Loans” means all loans at any time made by any Lender pursuant to Article 2 and, to the extent applicable, shall include Swingline Loans made by the Swingline Lender pursuant to Section 2.16.

“S&P” shall mean Standard & Poor’s Ratings Services or any successor by merger or consolidation to its business.

“Sale Leaseback” shall mean any transaction or series of related transactions pursuant to which any Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

“Scheduled Dispositions” shall have the meaning provided in Section 10.4(k).

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Section 2.14 Additional Amendment” shall have the meaning provided in Section 2.14(f)(iv).

“Section 9.1 Financials” shall mean the financial statements delivered, or required to be delivered, pursuant to Section 9.1(a) or (b) together with the accompanying officer’s certificate delivered, or required to be delivered, pursuant to Section 9.1(d).

“Secured Cash Management Agreement” shall mean any Cash Management Agreement that is entered into by and between any Borrower or any Restricted Subsidiary and any Cash Management Bank.

“Secured Hedge Agreement” shall mean any Hedge Agreement that is entered into by and between any Borrower or any Restricted Subsidiary and any Hedge Bank.

“Secured Parties” shall mean the Administrative Agent, the Collateral Agent and each Lender Party, each Hedge Bank, each Cash Management Bank and each sub-agent pursuant to Article 12 appointed by the Administrative Agent with respect to matters relating to any Security Document.

“Securitization” shall mean a public or private offering by a Lender or any of its Affiliates or their respective successors and assigns of securities or notes which represent an interest in, or which are collateralized, in whole or in part, by the Loans and the Lender's rights under the Credit Documents.

“Security Agreement” shall mean the Security Agreement entered into by the Borrowers, the other grantors party thereto and the Collateral Agent for the benefit of the
Secured Parties, substantially in the form of Exhibit F, as the same may be amended, supplemented or otherwise modified from time to time.

"Security Documents" shall mean, collectively, (a) the Guarantee, (b) the Pledge Agreement, (c) the Security Agreement, (d) the Mortgages, (e) the ABL Intercreditor Agreement, and (f) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.11, 9.12 or 9.14 or pursuant to any other such Security Documents to secure all of the Obligations; provided that each Security Document shall be subject to the 1989 Intercreditor Agreement.

"Senior Notes" shall have the meaning provided in the recitals to this Agreement and (b) any modification, replacement, refinancing, refunding, renewal or extension thereof that constitutes Permitted Additional Debt.

"Senior Notes Indenture" shall mean the Indenture dated as of the Closing Date, among the Lead Borrower, the guarantors party thereto and a trustee, pursuant to which the Senior Notes shall be issued, as the same may be amended, supplemented or otherwise modified from time to time in accordance therewith.

"Senior Notes Offering" shall have the meaning provided in the recitals of this Agreement.

"Settlement Date" shall have the meaning provided in Section 2.17(b).

"Significant Asset Sale" shall mean with respect to the Borrowers and the Restricted Subsidiaries, any Disposition, outside of the ordinary course of business in a single transaction or series of related transactions, of assets with fair market value in excess of $150,000,000.

"Similar Business" shall mean any business conducted or proposed to be conducted by the Borrowers and the Restricted Subsidiaries on the Closing Date or any business that is similar, reasonably related, incidental or ancillary thereto.

"Sold Entity or Business" shall have the meaning provided in the definition of the term "Consolidated EBITDA."

"Solvent" shall mean, with respect to any Person, that as of the Closing Date, (a) (i) the sum of such Person's debt (including contingent liabilities) does not exceed the present fair saleable value of such Person's present assets; (ii) such Person's capital is not unreasonably small in relation to its business as contemplated on the Closing Date; and (iii) such Person has not incurred and does not intend to incur, or believe that it will incur, debts including current obligations beyond its ability to pay such debts as they become due (whether at maturity or otherwise); and (b) such Person is "solvent" within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of
whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Specified Default" means (a) the occurrence of any Default in respect of Section 2.22 or any Event of Default under 11.1 or 11.5, (b) the failure of any Credit Party to comply with the terms of Section 9.1(i) and such failure continues for five (5) Business Days after notice by the Administrative Agent or (c) any representation or warranty contained in any Borrowing Base Certificate shall prove to have been incorrect in any material respect in a manner adverse to interests of the Lenders when made or deemed made.

"Specified Representations" shall mean the representations and warranties relating to the Company, its subsidiaries and their respective businesses made by the Company in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Holdings has the right to terminate its obligations under the Acquisition Agreement as a result of a breach of such representations and warranties in the Acquisition Agreement.

"Specified Transaction" shall mean, with respect to any period, any Investment, any Disposition of assets, incurrence or repayment of Indebtedness, Dividend, Subsidiary designation, Commitment Increase or other event that by the terms of this Agreement requires "Pro Forma Compliance" with a test or covenant hereunder or requires such test or covenant to be calculated on a "Pro Forma Basis."

"Sponsor Management Agreement" shall mean that certain Monitoring Agreement dated as of March 8, 2011, among Holdings, the Lead Borrower, and the Sponsors, as in effect on the Closing Date and as may be amended, modified, supplemented, restated, replaced or substituted so long as such amendment, modification, supplement, restatement, replacement or substitution is not, when taken as a whole, materially disadvantageous to the Lenders as compared to the Management Agreement in effect on the Closing Date.

"Sponsors" shall mean any of (i) KKR and its Affiliates, (ii) Centerview and its Affiliates and (iii) Vestar and its Affiliates, in each case excluding portfolio companies of any of the foregoing.

"Stated Amount" shall mean at any time the maximum amount for which a Letter of Credit may be honored.

"Stock" shall mean shares of capital stock or shares in the capital, as the case may be (whether denominated as common stock or preferred stock or ordinary shares or preferred shares, as the case may be), beneficial, partnership or membership interests, participations or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting.

"Stock Equivalents" shall mean all securities convertible into or exchangeable for Stock and all warrants, options or other rights to purchase or subscribe for any Stock, whether or not presently convertible, exchangeable or exercisable.
“Subordinated Indebtedness” shall mean Indebtedness of any Borrower or any Guarantor that is by its terms subordinated in right of payment to the obligations of such Borrower and such Guarantor, as applicable, under this Agreement.

“Subsidiary” of any Person shall mean and include (a) any corporation more than 50% of whose Stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time Stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries, (b) any limited liability company, partnership, association, joint venture or other entity of which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time. Unless otherwise expressly provided, all references herein to a "Subsidiary" shall mean a Subsidiary of the Lead Borrower.

“Successor Borrower” shall have the meaning provided in Section 10.3(a).

“Supermajority Lenders” shall mean, at any date, (a) Lenders having or holding at least 66 2/3% of the Total Commitment at such date, excluding the Commitments held by Affiliated Lenders and Defaulting Lenders, or (b) if the Total Commitment has been terminated or for the purposes of acceleration pursuant to Article 11, Lenders having or holding at least 66 2/3% of the outstanding principal amount of the Loans (excluding the Loans of Affiliated Lenders and Defaulting Lenders) in the aggregate at such date.

"Swingline Lender“ means Bank of America, N.A., in its capacity as lender of Swingline Loans hereunder to the Borrowers hereunder.

"Swingline Loan” means a Loan made by the Swingline Lender to a Borrower pursuant to Section 2.16.

"Swingline Loan Ceiling” means $75,000,000, as such amount may be increased or reduced in accordance with the provisions of this Agreement.

"Swingline Note” means the promissory note of the Borrowers substantially in the form of Exhibit J-2, payable to the order of the applicable Swingline Lender, evidencing the Swingline Loans made by the Swingline Lender to the Borrowers.

"Taxes” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

"Term Agent” shall mean JPMorgan Chase Bank, N.A., in its capacity as administrative agent and collateral agent under the Term Documents, or any successor administrative agent or collateral agent under the Term Documents.

"Term Documents" shall mean the Term Facility, any guarantees issued thereunder and the collateral and security documents (and intercreditor agreements) entered into in connection therewith.
“Term Facility” shall mean the Credit Agreement entered into as of the Closing Date by and among the Lead Borrower, Holdings, the lenders party thereto in their capacities as lenders thereunder, and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent thereunder, including any guarantees, collateral documents and account control agreements, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any credit, commercial paper or other facilities with banks or other institutional lenders or investors that replace, refund or refinance all or any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof.

“Term Facility Debt” shall mean Indebtedness in respect of the Term Facility.

“Term Facility Obligations” shall mean the “Obligations” as defined in the Term Facility.

“Term Loans” shall mean the loans borrowed under the Term Facility.

“Termination Date” means the earliest to occur of (a) the Maturity Date, (b) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) and the Commitments are irrevocably terminated (or deemed terminated) in accordance with Article 11 or (c) the date the Commitments are permanently terminated in full in accordance with the provisions of Section 2.21 hereof.

“Test Period” shall mean, for any determination under this Agreement, the four consecutive fiscal quarters of the Lead Borrower then last ended.

“Total Commitment” shall mean the sum of the Commitments of all the Lenders.

“Transaction Expenses” shall mean any fees or expenses incurred or paid by the Lead Borrower or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Credit Documents and the transactions contemplated hereby and thereby.

“Transactions” shall mean, collectively, the transactions contemplated by this Agreement, the Senior Notes Indenture, the Merger and the Equity Investments and any repayment, repurchase, prepayment or defeasance of Indebtedness of the Borrowers or any of their Subsidiaries in connection therewith.

“Transferee” shall have the meaning provided in Section 13.6(e).

“Tri-Party Agreement” means an agreement, in form and substance reasonably satisfactory to the Collateral Agent, among a Credit Party, any Person providing freight, warehousing and consolidation services to such Credit Party and the Collateral Agent, in which such Person acknowledges that (a) the Collateral Agent holds a first priority Lien on the Inventory of the Credit Parties, (b) such Person has furnished written acknowledgment to such Credit Party that such Person holds Inventory in its possession as bailee for such Credit Party and

63
that such Credit Party has title to such Inventory, (c) any Inventory delivered to a carrier for shipment will reflect a Credit Party as consignor and consignee, (d) it will promptly notify the Collateral Agent of its receipt of notice from the seller of such Inventory of the seller's stoppage of delivery of such Inventory to the Credit Party, and (e) agrees, upon notice from the Collateral Agent, to hold and dispose of the subject Inventory solely as directed by the Collateral Agent.

"Type" shall mean as to any Loan, its nature as an ABR Loan or a LIBOR Loan.

"UCC" shall mean the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

"Unrestricted Subsidiary" shall mean (1) any Subsidiary of the Lead Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the board of directors of the Lead Borrower, as provided below) and (2) any Subsidiary of an Unrestricted Subsidiary.

The board of directors of the Lead Borrower may designate any Subsidiary of the Lead Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, any Borrower or any Subsidiary of a Borrower (other than any Subsidiary of the Subsidiary to be so designated); provided that

(a) any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or other governing body are owned, directly or indirectly, by the Lead Borrower,

(b) such designation complies with Section 10.5, and

(c) each of (1) the Subsidiary to be so designated and (2) its Subsidiaries has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of any Borrower or any Restricted Subsidiary.

The board of directors of the Lead Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation no Default shall have occurred and be continuing and either: (1) the Lead Borrower could incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 10.1 or (2) the Fixed Charge Coverage Ratio for the Lead Borrower and the Restricted Subsidiaries would be greater than such ratio for the Lead Borrower and the Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the board of directors of the Lead Borrower shall be notified by the Lead Borrower to the Administrative Agent by promptly delivering to the Administrative Agent a copy of the Board Resolution giving effect to such designation and a
certificate of an Authorized Officer certifying that such designation complied with the foregoing provisions.

"Unused Commitment" means, on any day, (a) the then Total Commitment, minus (b) the sum of (i) the principal amount of Loans (other than Swing Line Loans) of the Borrowers then outstanding, and (ii) the then Letter of Credit Outstandings.

"Unused Fee" has the meaning provided in Section 4.1(c).

"U.S." and "United States" shall mean the United States of America.

"U.S. Lender" shall have the meaning provided in Section 5.4(e).

"Vestar" shall mean Vestar Capital Partners V, L.P.

"Voting Stock" shall mean, with respect to any Person, such Person's Stock or Stock Equivalents having the right to vote for the election of directors of such Person under ordinary circumstances.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

SECTION 1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.

(c) Article, Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) 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."
Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

SECTION 1.3 Accounting Terms.

(a) 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.

(b) Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Specified Transaction occurs, the Fixed Charge Coverage Ratio and the Adjusted Fixed Charge Coverage Ratio, if and as applicable, shall be calculated with respect to such period and such Specified Transaction on a Pro Forma Basis.

SECTION 1.4 Rounding. Any financial ratios required to be maintained by the Borrowers pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under 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 1.5 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to organizational documents, agreements (including the Credit Documents) and other Contractual Requirements shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Requirement of Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Requirement of Law.

ARTICLE 2
AMOUNT AND TERMS OF CREDIT

SECTION 2.1 Commitments. Subject to and upon the terms and conditions herein set forth, each Lender having a Commitment severally agrees to make a loan or loans (each, a "Revolving Loan") to the Borrowers in Dollars from time to time on any Business Day during the period from the Closing Date until the Termination Date which in the aggregate will not exceed such Lender's Commitment at such time; provided that the Credit Extensions at any time shall not exceed the Line Cap at such time. Such Revolving Loans (i) may at the option of the Borrowers be incurred and maintained as, and/or converted into, ABR Loans or LIBOR Loans, provided that all Revolving Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Revolving Loans.
Loans of the same Type and (ii) may be repaid or prepaid and reborrowed in accordance with the provisions hereof. On the Maturity Date, all then unpaid Loans shall be repaid in full in Dollars.

SECTION 2.2 Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing of Revolving Loans shall be in a minimum amount of at least the Minimum Borrowing Amount for such Type of Loans and in a multiple of $1,000,000 in excess thereof. More than one Borrowing may be incurred on any date, provided that at no time shall there be outstanding more than 15 Borrowings of LIBOR Loans under this Agreement.

SECTION 2.3 Notice of Borrowing.

(a) The Borrowers shall give the Administrative Agent at the Administrative Agent's Office (i) prior to 11:00 a.m. (New York City time) at least two Business Days' prior written notice (or telephonic notice promptly confirmed in writing) in the case of a Borrowing of Revolving Loans to be made on the Closing Date if such Revolving Loans are to be LIBOR Loans, (ii) prior to 11:00 a.m. (New York City time) at least three Business Days' prior written notice (or telephonic notice promptly confirmed in writing) in the case of a Borrowing of Revolving Loans to be made after the Closing Date if such Revolving Loans are to be LIBOR Loans and (iii) prior to 11:00 a.m. (New York City time) written notice (or telephonic notice promptly confirmed in writing) in the case of a Borrowing of Revolving Loans made on or after the Closing Date if such Revolving Loans are to be ABR Loans. Such notice (a "Notice of Borrowing") shall specify (i) the identity of the Borrower, (ii) the aggregate principal amount of the Revolving Loans to be made, (iii) the date of the Borrowing (which shall be a Business Day) and (iv) whether the Revolving Loans shall consist of ABR Loans and/or LIBOR Loans and, if the Revolving Loans are to include LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of the proposed Borrowing of Revolving Loans, of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing.

(b) Without in any way limiting the obligation of any Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of any Borrower.

SECTION 2.4 Disbursement of Funds.

(a) No later than 2:00 p.m. (New York City time) on the date specified in each Notice of Borrowing, each Lender shall make available its pro rata portion, if any, of each Borrowing requested to be made on such date in the manner provided below; provided that on the Closing Date, such funds may be made available at such earlier time as may be agreed among the Lenders, the Borrowers and the Administrative Agent for the purpose of consummating the Transactions.

(b) Each Lender shall make available all amounts it is to fund to the Borrowers under any Borrowing for its applicable Commitments, and in immediately available

67
funds to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will make available to the Borrowers, by depositing to an account designated by the Borrowers to the Administrative Agent the aggregate of the amounts so made available. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrowers a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available such amount to the Borrowers, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor the Administrative Agent shall promptly notify the Borrowers and the Borrowers shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from such Lender or the Borrowers interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowers to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Overnight Rate or (ii) if paid by the Borrowers, the then-applicable rate of interest or fees, calculated in accordance with Section 2.8, for the respective Loans.

Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to, fulfill its commitments hereunder or to prejudice any rights that the Borrowers may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

SECTION 2.5 Evidence of Debt.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(b) The Administrative Agent shall maintain the Register pursuant to Section 13.6(b), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, the Type of each Loan made, and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrowers and each Lender's share thereof.

(c) The entries made in the Register and accounts and subaccounts maintained pursuant to clauses (d) and (e) of this Section 2.5 shall, to the extent permitted by applicable law,
be prima facie evidence of the existence and amounts of the obligations of the Borrowers therein recorded; provided, however, that the failure of any Lender or the Administrative Agent to maintain such account, such Register or subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrowers to repay (with applicable interest) the Loans made to the Borrowers by such Lender in accordance with the terms of this Agreement.

SECTION 2.6 Conversions and Continuations.

(a) Subject to the penultimate sentence of this clause (a), (x) the Borrowers shall have the option on any Business Day to convert all or a portion equal to at least $5,000,000 of the outstanding principal amount of Revolving Loans of one Type into a Borrowing or Borrowings of another Type and (y) the Borrowers shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Loans as LIBOR Loans for an additional Interest Period, provided that (i) no partial conversion of LIBOR Loans shall reduce the outstanding principal amount of LIBOR Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount, (ii) ABR Loans may not be converted into LIBOR Loans if a Default or Event of Default is in existence on the date of the conversion and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such conversion, (iii) LIBOR Loans may not be continued as LIBOR Loans for an additional Interest Period if a Default or Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion or continuation shall be effected by the Borrowers by giving the Administrative Agent at the Administrative Agent's Office prior to 1:00 p.m. (New York City time) at least (i) three Business Days' notice, in the case of a continuation of or conversion to LIBOR Loans (other than in the case of a notice delivered on the Closing Date pursuant to clause (d), which shall be deemed to be effective on the Closing Date) or (ii) one Business Day's notice in the case of a conversion into ABR Loans prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans are to be converted into or continued as LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If any Default or Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans denominated in Dollars and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans. If upon the expiration of any Interest Period in respect of LIBOR Loans, the Borrowers have failed to elect a new Interest Period to be applicable thereto as provided in clause (a), the Borrowers shall be deemed to have elected to convert such Borrowing of LIBOR Loans into a Borrowing of ABR Loans, effective as of the expiration date of such current Interest Period.
(c) Notwithstanding anything to the contrary herein, the Borrowers may deliver a Notice of Conversion or Continuation pursuant to which the Borrowers elect to irrevocably continue the outstanding principal amount of any Revolving Loans subject to an interest rate Hedge Agreement as LIBOR Loans for each Interest Period until the expiration of the term of such applicable Hedge Agreement.

SECTION 2.7 Pro Rata Borrowings. Each Borrowing of Revolving Loans under this Agreement shall be made by the Lenders pro rata on the basis of their then-applicable Commitments. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender severally but not jointly shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder and (b) failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligation under any Credit Document.

SECTION 2.8 Interest.

(a) Subject to clause (c) below, the unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until repayment thereof at a rate per annum that shall at all times be the Applicable Margin plus the ABR, in each case, in effect from time to time.

(b) Subject to clause (c) below, the unpaid principal amount of each LIBOR Loan shall bear interest from the date of the Borrowing thereof until repayment thereof at a rate per annum that shall at all times be the Applicable Margin plus the relevant LIBOR Rate.

(c) If all or a portion of (i) the principal amount of any Loan or (ii) any interest payable thereon or any other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum that is (the “Default Rate”) (x) in the case of overdue principal, the rate that would otherwise be applicable thereto plus 2% or (y) in the case of any other overdue amount, including overdue interest, to the extent permitted by applicable law, the rate described in Section 2.8(a) plus 2% from the date of such non-payment to the date on which such amount is paid in full (after as well as before judgment).

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day. Except as provided below, interest shall be payable (i) in respect of each ABR Loan, quarterly in arrears on the last Business Day of each March, June, September and December (provided that the first such payment shall be on March 31, 2011), (ii) in respect of each LIBOR Loan, on the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, (iii) in respect of each Loan, (A) on any prepayment in respect of LIBOR Loans, (B) at maturity (whether by acceleration or otherwise) and (C) after such maturity, on demand.
(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of LIBOR Loans, shall promptly notify the Borrowers and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

SECTION 2.9 Interest Periods. At the time the Borrowers give a Notice of Borrowing or Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans in accordance with Section 2.6(a), the Borrowers shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of the Interest Period applicable to such Borrowing, which Interest Period shall, at the option of the Borrowers be a one, two, three or six or (if available to all the Lenders making such LIBOR Loans as determined by such Lenders in good faith based on prevailing market conditions) a nine or twelve month or shorter period.

Notwithstanding anything to the contrary contained above:

(a) the initial Interest Period for any Borrowing of LIBOR Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(b) if any Interest Period relating to a Borrowing of LIBOR Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided that if any Interest Period in respect of a LIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day; and

(d) the Borrowers shall not be entitled to elect any Interest Period in respect of any LIBOR Loan if such Interest Period would extend beyond the Maturity Date of such Loan.

SECTION 2.10 Increased Costs, Illegality, Etc.

(a) In the event that (x) in the case of clause (i) below, the Administrative Agent and (y) in the case of clauses (ii) and (iii) below, the Required Lenders (or, in case of clause (ii), the Issuing Bank with respect to Letters of Credit) shall have reasonably determined
(which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the LIBOR Rate for any Interest Period that (x) deposits in the principal amounts and currencies of the Loans comprising such LIBOR Borrowing are not generally available in the relevant market or (y) by reason of any changes arising on or after the Closing Date affecting the interbank LIBOR market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate; or

(ii) at any time, that such Lender or Issuing Bank shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any LIBOR Loans or Letter of Credit (including the issuance or maintenance thereof or participating therein or an agreement to issue or maintain a Letter of Credit or participate therein) (other than any increase or reduction attributable to Taxes, described in paragraph (d) of this Section 2.10) because of (x) any Change in Law, such as, for example, without limitation, a change in official reserve requirements, and/or (y) other circumstances affecting the interbank LIBOR market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any LIBOR Loan has become unlawful by compliance by such Lender in good faith with any law, governmental rule, regulation, guideline or order (or would conflict with any such governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Closing Date that materially and adversely affects the interbank LIBOR market;

then, and in any such event, the Required Lenders (or the Administrative Agent, in the case of clause (i) above or Issuing Bank in the case of clause (ii) above, as applicable) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrowers and to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Borrowers and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion given by the Borrowers with respect to LIBOR Loans that have not yet been incurred shall be deemed rescinded by the Borrowers, (y) in the case of clause (ii) above, the Borrowers shall pay to such Lenders or Issuing Bank, promptly after receipt of written demand therefor such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lenders or Issuing Bank in its reasonable discretion shall determine) as shall be required to compensate such Lenders or Issuing Bank for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to any such Lender or Issuing Bank, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrowers by such Lender or Issuing Bank shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties.
hereto) and (z) in the case of clause (iii) above, the Borrowers shall take one of the actions specified in subclause (x) or (y), as applicable, of Section 2.10(b) as promptly as possible and, in any event, within the time period required by law.

(b) At any time that any LIBOR Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrowers may (and in the case of a LIBOR Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if the affected LIBOR Loan is then being made pursuant to a Borrowing, cancel such Borrowing by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Borrowers were notified by the Lenders pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected LIBOR Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such LIBOR Loan into an ABR Loan, provided that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the Closing Date, any Change in Law relating to capital adequacy of any Lender or Issuing Bank or compliance by any Lender (or Issuing Bank) or its parent with any Change in Law relating to capital adequacy occurring after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's (or Issuing Bank's) or its parent's or its Affiliate's capital or assets as a consequence of such Lender's (or Issuing Bank's) commitments or obligations hereunder to a level below that which such Lender (or Issuing Bank) or its parent or its Affiliate could have achieved but for such Change in Law (taking into consideration such Lender's (or Issuing Bank's) or its parent's policies with respect to capital adequacy), then from time to time, promptly after demand by such Lender or Issuing Bank (with a copy to the Administrative Agent), the Borrowers shall pay to such Lender or Issuing Bank such additional amount or amounts as will compensate such Lender (or Issuing Bank) or its parent for such reduction, it being understood and agreed, provided, however, that subject to the second sentence in the definition of "Change in Law", a Lender and Issuing Bank shall not be entitled to such compensation as a result of any Lender's or Issuing Bank's compliance with, or pursuant to any request or directive to comply with, any law, rule or regulation as in effect on the Closing Date. Each Lender and Issuing Bank, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Borrowers, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish the Borrowers' obligations to pay additional amounts pursuant to this Section 2.10(c) upon receipt of such notice.

(d) It is understood that this Section 2.10 shall not apply to (i) Taxes indemnifiable under Section 5.4, (ii) Taxes imposed on gross or net income, profits or revenue, including value-added or similar Taxes, (iii) Excluded Taxes or (iv) Other Taxes.

SECTION 2.11 Compensation. If (a) any payment of principal of any LIBOR Loan is made by the Borrowers to or for the account of a Lender other than on the last day of the Interest Period for such LIBOR Loan as a result of a payment or conversion pursuant to Section 2.5, 2.6, 2.10, 5.1, 5.2 or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Article 11 or for any other reason, (b) any Borrowing of LIBOR Loans is not made as a result of a withdrawn Notice of Borrowing, (c) any ABR Loan is not converted into a
LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation, (d) any LIBOR Loan is not continued as a LIBOR Loan, as the case may be, as a result of a withdrawn Notice of Conversion or Continuation or (e) any prepayment of principal of any LIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or 5.2, the Borrowers shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan.

SECTION 2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 5.4 with respect to such Lender, it will, if requested by the Borrowers use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event, provided that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrowers or the right of any Lender provided in Section 2.10 or 5.4.

SECTION 2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 5.4 is given by any Lender more than 120 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 5.4, as the case may be, for any such amounts incurred or accruing prior to the 121st day prior to the giving of such notice to the Borrowers.

SECTION 2.14 Incremental Facilities.

(a) The Borrowers may by written notice to Administrative Agent elect to increase the Total Commitment (each such increase, a "Commitment Increase", and each Person issuing, or Lender increasing, its Commitment, an "Additional Commitment Lender") such that the Total Commitment does not exceed $1,000,000,000. Each such increase shall be in an aggregate amount of not less than $50,000,000 individually (or such lesser amount as may be approved by the Administrative Agent). Each such notice shall specify the date (each, an "Increased Amount Date") on which the Borrowers propose that the Commitment Increase shall be effective, which shall be a date not less than ten Business Days after the date on which such notice is delivered to the Administrative Agent. The Borrowers may approach any Lender or any Person (other than a natural person, Holdings, the Lead Borrower and any Subsidiary) (it being understood if such Person is an Affiliated Lender, such Person is subject to the requirements of Section 13.6(b) as if such Commitment Increase were an assignment described therein) to provide all or a portion of the Commitment Increase; provided that any Lender
offered or approached to provide all or a portion of the Commitment Increase may elect or decline, in its sole discretion, to provide a Commitment Increase. In each case, such Commitment Increase shall become effective as of the applicable Increased Amount Date; provided that (i) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to such Commitment Increase, (ii) all representations and warranties made by any Credit Party contained herein or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date), (iii) the Commitment Increase shall be effected pursuant to one or more Joinder Agreements executed and delivered by the Borrowers, the Additional Commitment Lenders and Administrative Agent, and each of which shall be recorded in the Register and shall be subject to the requirements set forth in Section 5.4(c), (iv) the Borrowers shall make any payments required pursuant to Section 2.11 in connection with the Commitment Increase, as applicable, and (v) the Borrowers shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by Administrative Agent in connection with any such transaction.

(b) In connection with Commitment Increases hereunder, the Lenders and the Borrowers agree that, notwithstanding anything to the contrary in this Agreement, (i) the Borrowers shall, in coordination with the Administrative Agent, (A) repay outstanding Revolving Loans of certain Lenders, and obtain Revolving Loans from certain other Lenders (including the Lenders providing the applicable Commitment Increase), or (B) take such other actions as reasonably may be required by the Administrative Agent, in each case to the extent necessary so that all of the Lenders effectively participate in each of the outstanding Revolving Loans pro rata on the basis of their Pro Rata Shares, as applicable (determined after giving effect to any increase in the Commitments pursuant to this Section 2.14), and (ii) the Borrowers shall pay to the Lenders any costs of the type referred to in Section 2.11 in connection with any repayment and/or Revolving Loans required pursuant to preceding clause (i). Without limiting the obligations of the Borrowers provided for in this Section 2.14, the Administrative Agent and the Lenders agree that they will use their commercially reasonable efforts to minimize the costs of the type referred to in Section 2.11 which the Borrowers would otherwise incur in connection with the implementation of an increase in the Commitments.

(c) [Reserved]

(d) [Reserved]

(e) Each Joinder Agreement may, without the consent of any other Lenders, effect such technical amendments to this Agreement and the other Credit Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provision of this Section 2.14.

(f) (i) The Borrowers may at any time and from time to time request that all or a portion of the Commitments existing at the time of such request (each, an "Existing Commitment") (and Loans related thereto ("Existing Loans")) of any Class (an "Existing Class") be converted to extend the scheduled maturity date(s) of any payment of principal with
respect to all or a portion of any principal amount of such Loans (any such Loans which have been so converted, "Extended Loans" and any such Commitments so converted, "Extended Commitments") and to provide for other terms consistent with this Section 2.14(f) and Section 13.1. In order to establish any Extended Loans, the Borrowers shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Existing Class) (an "Extension Request") setting forth the proposed terms of the Extended Loans to be established, which shall be identical to the Loans of the Existing Class from which they are to be converted except (x) the scheduled final maturity date shall be extended and (y) (A) the interest margins with respect to the Extended Loans may be higher or lower than the interest margins for the Loans of such Existing Class and/or (B) additional fees may be payable to the Lenders providing such Extended Loans in addition to or in lieu of any increased margins contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Amendment; provided that each optional prepayment of Extended Loans accompanied by a corresponding permanent reduction in Extended Commitments shall be made in compliance with Section 5.1(b). No Lender shall have any obligation to agree to have any of its Loans of any Existing Class converted into Extended Loans pursuant to any Extension Request. Any Extended Loans of any Extension Series shall constitute a separate Class of Loans from the Existing Class from which they were converted.

(ii) [Reserved]

(iii) The Borrowers shall provide the applicable Extension Request at least five (5) Business Days prior to the date on which Lenders under the applicable Existing Class or Existing Classes are requested to respond. Any Lender (an "Extending Lender") wishing to have all or a portion of its Loans of the Existing Class or Existing Classes subject to such Extension Request converted into Extended Loans shall notify the Administrative Agent (an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Loans of the Existing Class or Existing Classes subject to such Extension Request that it has elected to convert into Extended Loans; provided that if any Lenders of an Existing Class fail to respond, such Lenders will be deemed to have declined to extend their Loans. In the event that the aggregate amount of Loans of the Existing Class or Existing Classes subject to Extension Elections exceeds the amount of Extended Loans requested pursuant to the Extension Request, Loans of the Existing Class or Existing Classes subject to Extension Elections shall be converted to Extended Loans on a pro rata basis based on the amount of Loans included in each such Extension Election.

(iv) Extended Loans shall be established pursuant to an amendment (an "Extension Amendment") to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.14(f)(iv) and notwithstanding anything to the contrary set forth in Section 13.1, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Loans established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. No Extension Amendment shall provide for any tranche of Extended Commitments in an aggregate principal amount that is less than $75,000,000. Notwithstanding anything to the contrary in this Section 2.14(f) and without limiting the generality or applicability of Section 13.1 to any Section 2.14 Additional Amendments
(as defined below), any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a "Section 2.14 Additional Amendment") to this Agreement and the other Credit Documents; provided that such Section 2.14 Additional Amendments are within the requirements of Section 2.14(f)(i) and do not become effective prior to the time that such Section 2.14 Additional Amendments have been consented to (including, without limitation, pursuant to consents applicable to holders of any Extended Loans provided for in any Extension Amendment) by such of the Lenders, Credit Parties and other parties (if any) as may be required in order for such Section 2.14 Additional Amendments to become effective in accordance with Section 13.1.

(v) Notwithstanding anything to the contrary contained in this Agreement, on any date on which any Existing Class is converted to extend the related scheduled maturity date(s) in accordance with clauses (i) and/or (ii) above (an "Extension Date"), in the case of the existing Loans of each Extending Lender, the aggregate principal amount of such existing Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Loans so converted by such Lender on such date, and the Extended Loans shall be established as a separate Class of Loans (together with any other Extended Loans so established on such date).

SECTION 2.15 Letters of Credit.

(a) Upon the terms and subject to the conditions herein set forth, at any time and from time to time after the date hereof and prior to the Termination Date, the Lead Borrower on behalf of the Borrowers, may request an Issuing Bank to issue, and subject to the terms and conditions contained herein, such Issuing Bank shall issue, for the account of the relevant Borrower (or any Subsidiary of a Borrower so long as a Borrower is a joint and several co-applicant), one or more Letters of Credit denominated in Dollars; provided, however, that no Letter of Credit shall be issued if, after giving effect to such issuance, (i) the aggregate Letter of Credit Outstandings shall exceed the Letter of Credit Sublimit, or (ii) the aggregate Credit Extensions (including Swingline Loans) would exceed the Line Cap; provided further that no Letter of Credit shall be issued unless an Issuing Bank shall have received notice from the Administrative Agent that the conditions to such issuance have been met (such notice shall be deemed given if the Issuing Bank has not received notice that the conditions have not been met, within two (2) Business Days of the initial request to the Issuing Bank and the Administrative Agent pursuant to Section 2.15(h)); and provided further that an Issuing Bank shall not be required to issue any such Letter of Credit in its reasonable discretion if: (A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms enjoin or restrain the Issuing Bank from issuing such Letter of Credit, or any applicable law relating to the Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Bank shall prohibit, or request that the Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the Issuing Bank in good faith deems material to it, (B) the issuance of such Letter of Credit
would violate one or more policies of the Issuing Bank applicable to letters of credit generally, or (C) any Lender is at such time a Defaulting Lender hereunder, unless the Issuing Bank has entered into satisfactory arrangements with the Borrowers or such Lender to eliminate the Issuing Bank's risk of full reimbursement with respect to such Letter of Credit. A request of a Borrower (or a Borrower's Subsidiary) that an Issuing Bank issue any Letter of Credit shall be deemed a representation that the applicable conditions for issuing such Letter of Credit under Article 7 are satisfied. If the conditions for borrowing under Article 7 cannot in fact be fulfilled, the Required Lenders may direct such Issuing Bank to, and such Issuing Bank thereupon shall, cease issuing Letters of Credit until such conditions can be satisfied or are waived in accordance with Section 13.1. A permanent reduction of the Commitments shall not require a corresponding pro rata reduction in the Letter of Credit Sublimit; provided, however, that if the Total Commitment is reduced to an amount less than the Letter of Credit Sublimit, then the Letter of Credit Sublimit shall be reduced to an amount equal to (or, at Lead Borrower's option, less than) the Total Commitment; provided further, that if at any time the Letter of Credit Outstandings exceed the Letter of Credit Sublimit, the Borrowers shall, on the Business Day that the Lead Borrower receives notice from the Administrative Agent demanding the deposit of cash collateral pursuant to this clause (a), deposit in the Cash Collateral Account an amount in cash equal to such excess. Any Issuing Bank (other than Bank of America or any of its Affiliates) shall notify the Administrative Agent in writing on each Business Day of all Letters of Credit issued on the prior Business Day by such Issuing Bank.

(b) Each Standby Letter of Credit shall expire at or prior to the close of business on the earlier of the date which is (i) one (1) year after the date of the issuance of such Letter of Credit (or such other longer period of time as the Administrative Agent and the applicable Issuing Bank may agree) (or, in the case of any renewal or extension thereof, one (1) year after such renewal or extension) and (ii) unless Cash Collateralized or otherwise credit supported to the reasonable satisfaction of the Administrative Agent and the applicable Issuing Bank, five (5) Business Days prior to the Maturity Date; provided, however, that each Standby Letter of Credit may, upon the request of the Lead Borrower, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of twelve (12) months or less (but not beyond the date that is five (5) Business Days prior to the Maturity Date unless Cash Collateralized or otherwise credit supported to the reasonable satisfaction of the Administrative Agent and the applicable Issuing Bank) unless the applicable Issuing Bank notifies the beneficiary thereof at least thirty (30) days prior to the then-applicable expiration date that such Letter of Credit will not be renewed.

(c) Each Commercial Letter of Credit shall expire at or prior to the close of business on the earlier of the date which is (i) one year after the date of the issuance of such Commercial Letter of Credit (or such other period as may be acceptable to the Administrative Agent and the applicable Issuing Bank) and (ii) unless Cash Collateralized or otherwise credit supported to the reasonable satisfaction of the Administrative Agent and the applicable Issuing Bank, five (5) Business Days prior to the Maturity Date.

(d) Drafts drawn under each Letter of Credit shall be reimbursed by the Borrowers in an amount equal to such drawing not later than 12:00 noon (New York City time) on the Business Day immediately following the day that the Lead Borrower receives notice of such drawing and demand for payment by the applicable Issuing Bank, provided that (i) in the
absence of written notice to the contrary from the Lead Borrower and subject to the other provisions of this Agreement, such payments shall be financed when due with an ABR Loan or Swingline Loan to the applicable Borrower in an equivalent amount and, to the extent so financed, the respective Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Loan or Swingline Loan, and (ii) in the event that the Lead Borrower has notified the Administrative Agent that it will not so finance any such payments, the applicable Borrowers will make payment directly to the applicable Issuing Bank when due. Such payments shall be due on the date specified in the demand for payment by the Issuing Bank. The Administrative Agent shall promptly remit the payments received by it from any Borrower in reimbursement of a draw under a Letter of Credit to the applicable Issuing Bank or the proceeds of an ABR Loan or Swingline Loan, as the case may be, used to finance such payment. The Issuing Banks shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Banks shall promptly notify the Administrative Agent and the Lead Borrower by telephone (confirmed by telecopy) of such demand for payment and whether the applicable Issuing Bank has made or will make payment thereunder; provided, however, that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligations to reimburse the applicable Issuing Bank and the Lenders with respect to any such payment.

(e) If an Issuing Bank shall make any Letter of Credit Disbursement, then, unless the applicable Borrowers shall reimburse such Issuing Bank in full on the date provided in Section 2.15(d), above, the unpaid amount thereof shall bear interest at the rate per annum then applicable to ABR Loans for each day from and including the date such payment is made to, but excluding, the date that such Borrowers reimburse such Issuing Bank therefor; provided, however, that, if such Borrowers fail to reimburse such Issuing Bank when due pursuant to this Section 2.15(e), then interest shall accrue at the rate set forth in Section 2.8(c). Interest accrued pursuant to this paragraph shall be for the account of, and promptly remitted by the Administrative Agent upon receipt to, the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to Section 2.15(g) to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(f) Immediately upon the issuance of any Letter of Credit by an Issuing Bank (or the amendment of a Letter of Credit increasing the amount thereof), and without any further action on the part of such Issuing Bank, such Issuing Bank shall be deemed to have purchased from such Issuing Bank, without recourse or warranty, an undivided interest and participation, to the extent of such Lender's Pro Rata Share in such Letter of Credit, each drawing thereunder and the obligations of the Borrowers under this Agreement and the other Credit Documents with respect thereto. Upon any change in the Commitments pursuant to Section 2.14, 2.21 or 13.6 of this Agreement, it is hereby agreed that with respect to all Letter of Credit Outstandings, there shall be an automatic adjustment to the participations hereby created to reflect the new Pro Rata Shares of the assigning and assignee Lenders and the Additional Commitment Lenders, if applicable. Any action taken or omitted by an Issuing Bank under or in connection with a Letter of Credit, if taken or omitted in the absence of gross negligence or willful misconduct, shall not create for such Issuing Bank any resulting liability to any Lender.
In the event that an Issuing Bank makes any Letter of Credit Disbursement and the Borrowers shall not have reimbursed such amount in full to such Issuing Bank pursuant to this Section 2.15, such Issuing Bank shall promptly notify the Administrative Agent, which shall promptly notify each Lender of such failure, and each Lender shall promptly and unconditionally pay to the Administrative Agent for the account of such Issuing Bank the amount of such Lender’s Pro Rata Share of such unreimbursed payment, in Dollars and in same day funds. If an Issuing Bank so notifies the Administrative Agent, and the Administrative Agent so notifies the applicable Lenders prior to 11:00 a.m. (New York City time) on any Business Day, each such Lender shall make available to such Issuing Bank such Lender’s Pro Rata Share of the amount of such payment on such Business Day in same day funds (or if such notice is received by the Lenders after 11:00 a.m. (New York City time) on the day of receipt, payment shall be made on the immediately following Business Day in same day funds). If and to the extent such Lender shall not have so made its Pro Rata Share of the amount of such payment available to the applicable Issuing Bank, such Lender agrees to pay to such Issuing Bank forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent for the account of such Issuing Bank at the Federal Funds Effective Rate. Each Lender agrees to fund its Pro Rata Share of such unreimbursed payment notwithstanding a failure to satisfy any applicable lending conditions or the provisions of Article 2 or Article 7, or the occurrence of the Termination Date. The failure of any Lender to make available to the applicable Issuing Bank its Pro Rata Share of any payment under any Letter of Credit shall neither relieve any Lender of its obligation hereunder to make available to such Issuing Bank its Pro Rata Share of any payment under any Letter of Credit on the date required, as specified above, nor increase the obligation of such other Lender. Whenever any Lender has made payments to an Issuing Bank in respect of any reimbursement obligation for any Letter of Credit, such Lender shall be entitled to share ratably, based on its Pro Rata Share, in all payments and collections thereafter received on account of such reimbursement obligation. All participations in Letters of Credit by the Lenders shall be made in Dollars.

Whenever the Lead Borrower desires that an Issuing Bank issue a Letter of Credit (or the amendment, renewal or extension (other than automatic renewal or extensions) of an outstanding Letter of Credit), the Lead Borrower shall give to the applicable Issuing Bank and the Administrative Agent at least two (2) Business Days’ prior written (including, without limitation, by telegraphic, telex, facsimile or cable communication) notice (or such shorter period as may be agreed upon in writing by the applicable Issuing Bank and the Lead Borrower) specifying the date on which the proposed Letter of Credit is to be issued, amended, renewed or extended (which shall be a Business Day), the Stated Amount of the Letter of Credit so requested, the expiration date of such Letter of Credit, the name and address of the beneficiary thereof, and the provisions thereof. If requested by an Issuing Bank, the Lead Borrower shall also submit documentation on such Issuing Bank’s standard form in connection with any request for the issuance, amendment, renewal or extension of a Letter of Credit; provided that, in the event of a conflict or inconsistency between the terms of such documentation and this Agreement, the terms of this Agreement shall supersede any inconsistent or contrary terms in such documentation and this Agreement shall control.

Subject to the limitations set forth below, the obligations of the Borrowers to reimburse the Issuing Banks for any Letter of Credit Disbursement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all
circumstances, including, without limitation (it being understood that any such payment by the Borrowers shall be without prejudice to, and shall not constitute a waiver of, any rights the Borrowers might have or might acquire as a result of the payment by an Issuing Bank of any draft or the reimbursement by the Borrowers thereof): (i) any lack of validity or enforceability of a Letter of Credit; (ii) the existence of any claim, setoff, defense or other right which a Borrower may have at any time against a beneficiary of any Letter of Credit or against any Issuing Bank or any of the Lenders or Agents, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction; (iii) any draft, demand, certificate or other document presented under any Letter of Credit proving to be forged or fraudulent in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by an Issuing Bank of any Letter of Credit against presentation of a demand, draft or certificate or other document which does not strictly comply with the terms of such Letter of Credit; (v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 2.15, constitute a legal or equitable discharge of, or provide a right of setoff against, any Credit Party's obligations hereunder; or (vi) the fact that any Event of Default shall have occurred and be continuing; provided that the Borrowers shall have no obligation to reimburse the Issuing Bank to the extent that such payment was made in error due to the gross negligence or willful misconduct of the Issuing Bank (as determined by a court of competent jurisdiction in a final and non-appealable decision). No Issuing Bank, Lender or Agent 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 the Issuing Banks; provided that the foregoing shall not be construed to excuse the Issuing Banks from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by the Borrowers that are caused by the applicable Issuing Bank's gross negligence or willful misconduct when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in compliance with the terms of a Letter of Credit, an Issuing Bank may, in its reasonable discretion, 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.

(j) If any Event of Default shall occur and be continuing, on the Business Day that the Lead Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the applicable Credit Parties shall immediately Cash Collateralize the Letter of Credit Outstandings owing by such Credit Parties as of such date. For purposes of this Agreement, "Cash Collateralize" means to deposit in the Cash Collateral Account an amount in cash equal to 103% of the Letter of Credit Outstandings owing by such Credit Parties as of such date, plus any accrued and unpaid interest thereon. Each such deposit shall be held by the Administrative Agent for the payment and
performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Cash Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and in the sole discretion of the Administrative Agent (at the request of the Lead Borrower and at the Borrowers' risk and expense), such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in the Cash Collateral Account shall be applied by the Administrative Agent to reimburse the Issuing Banks for payments on account of drawings under Letters of Credit for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the Letter of Credit Outstandings at such time or, if the maturity of the Loans has been accelerated, shall be applied to satisfy the other respective Obligations of the applicable Borrower. If the applicable Borrower is required to provide an amount of 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 promptly to the respective Borrower but in no event later than two (2) Business Days after all such Defaults and Events of Default have been cured or waived.

(k) The Lenders (including each Lender that issued any Existing Letter of Credit) and the Borrowers agree that effective as of the Closing Date, the Existing Letters of Credit shall be deemed to have been issued and maintained under, and to be governed by the terms and conditions of, this Agreement as Letters of Credit.

SECTION 2.16 Swingline Loans.

(a) The Swingline Lender is authorized by the Lenders to, and may, in its sole discretion, make Swingline Loans at any time (subject to Section 2.16(b)) to the Borrowers up to the amount of the sum of the Swingline Loan Ceiling, plus any Permitted Overadvances, upon a notice of Borrowing from Lead Borrower received by the Administrative Agent and the Swingline Lender (which notice, at the Swingline Lender's discretion, may be submitted prior to 2:00 p.m. (New York City time) for the Borrowers); provided that the Swingline Lender shall not be obligated to make any Swingline Loan. Swingline Loans shall be ABR Loans and shall be subject to periodic settlement with the Lenders under Section 2.17 below. Immediately upon the making of a Swingline Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swingline Lender a risk participation in such Swingline Loan in an amount equal to the product of such Lender's Pro Rata Share, times the amount of such Swingline Loan. The Swingline Lender shall have all of the benefits and immunities (A) provided to the Agents in Article 12 with respect to any acts taken or omissions suffered by the Swingline Lender in connection with Swingline Loans made by it or proposed to be made by it as if the term "Agents" as used in Article 12 included the Swingline Lender with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Swingline Lender.

(b) The Lead Borrower's request for a Swingline Loan shall be deemed a representation that the applicable conditions for borrowing under Article 7 are satisfied. If the conditions for borrowing under Article 7 cannot in fact be fulfilled, (i) the Lead Borrower shall give immediate notice (a "Noncompliance Notice") thereof to the Administrative Agent and the Swingline Lender, and the Administrative Agent shall promptly provide each Lender with a copy
of the Noncompliance Notice, and (ii) the Required Lenders may direct the Swingline Lender to, and the Swingline Lender thereupon shall, cease making Swingline Loans (other than Permitted Overadvances) until such conditions can be satisfied or are waived in accordance with Section 13.1. Unless the Required Lenders so direct the Swingline Lender, the Swingline Lender may, but is not obligated to, continue to make Swingline Loans commencing one (1) Business Day after the Non-Compliance Notice is furnished to the Lenders. Notwithstanding the foregoing, no Swingline Loans (other than Permitted Overadvances) shall be made pursuant to this Section 2.16(b) if the aggregate outstanding amount of the Credit Extensions and Swingline Loans would exceed the Line Cap.

SECTION 2.17 Settlement Amongst Lenders.

(a) The Swingline Lender may, at any time (but, in any event shall weekly, as provided in Section 2.17(b)), on behalf of the Borrowers (which hereby authorize the Swingline Lender to act on their behalf in that regard) request the Administrative Agent to cause the Lenders to make a Revolving Loan (which shall be an ABR Loan) in an amount equal to such Lender's Pro Rata Share of the outstanding amount of Swingline Loans made in accordance with Section 2.16, which request may be made regardless of whether the conditions set forth in Article 7 have been satisfied. Upon such request, each Lender shall make available to the Administrative Agent the proceeds of such Revolving Loan for the account of the Swingline Lender. If the Swingline Lender requires a Revolving Loan to be made by the Lenders and the request therefor is received prior to 12:00 Noon (New York City time) on a Business Day, such transfers shall be made in immediately available funds no later than 2:00 p.m. (New York City time) that day; and, if the request therefor is received after 12:00 Noon (New York City time), then no later than 2:00 p.m. (New York City time) on the next Business Day. The obligation of each such Lender to transfer such funds is irrevocable, unconditional and without recourse to, or warranty by, the Administrative Agent or the Swingline Lender. If and to the extent any Lender shall not have so made its transfer to the Administrative Agent, such Lender agrees to pay to the Administrative Agent forthwith on demand, such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent, at the Federal Funds Effective Rate.

(b) The amount of each Lender's Pro Rata Share of outstanding Revolving Loans (including outstanding Swingline Loans) shall be computed weekly (or more frequently in the Administrative Agent's discretion) and shall be adjusted upward or downward based on all Revolving Loans (including Swingline Loans) and repayments of Revolving Loans (including Swingline Loans) received by the Administrative Agent as of 2:00 p.m. (New York City time) on the first Business Day (such date, the "Settlement Date") following the end of the weekly settlement period specified by the Administrative Agent.

(c) The Administrative Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Revolving Loans (including Swingline Loans) for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Administrative Agent shall transfer to each Lender its applicable Pro Rata Share of repayments, and (ii) each Lender shall transfer to the Administrative Agent, or the Administrative Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of

83
Revolving Loans made by each Lender with respect to Revolving Loans to the Borrowers (including Swingline Loans), shall be equal to such Lender's Pro Rata Share of Revolving Loans (including Swingline Loans) outstanding as of such Settlement Date. If the summary statement requires transfers to be made to the Administrative Agent by the Lenders and is received prior to 12:00 Noon (New York City time) on a Business Day, such transfers shall be made in immediately available funds no later than 2:00 p.m. (New York City time) that day; and, if received after 12:00 Noon (New York City time), then no later than 2:00 p.m. (New York City time) on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Administrative Agent. If and to the extent any Lender shall not have so made its transfer to the Administrative Agent, such Lender agrees to pay to the Administrative Agent forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent, at the Federal Funds Effective Rate.

SECTION 2.18 Overadvances.

(a) The Agents and the Lender Parties shall have no obligation to make any Loan (including, without limitation, any Swingline Loan) or to provide any Letter of Credit if an Overadvance would result.

(b) The Administrative Agent may, in its discretion, make Permitted Overadvances to the Borrowers without the consent of the Lenders and each Lender shall be bound thereby. Any Permitted Overadvances may constitute Swingline Loans. The making of a Permitted Overadvance is for the benefit of the Borrowers and shall constitute a Revolving Loan and an Obligation. The making of any such Permitted Overadvance on any one occasion shall not obligate the Administrative Agent or any Lender Party to make or permit any Permitted Overadvance on any other occasion or to permit such Permitted Overadvances to remain outstanding.

The making by the Administrative Agent of a Permitted Overadvance shall not modify or abrogate any of the provisions of Section 2.15(g) regarding the Lenders' obligations to purchase participations with respect to Letter of Credit Disbursements.

SECTION 2.19 Reserves; Changes to Reserves.

(a) The initial Reserves as of the Closing Date are those set forth in the Borrowing Base Certificate delivered to the Administrative Agent on the Closing Date.

(b) Notwithstanding anything contained herein to the contrary, the Administrative Agent may, subject to clause (vi) in the second proviso to Section 13.1, hereafter establish additional Reserves or change any of the Reserves or modify standards of eligibility in effect on the Closing Date to the extent it deems necessary or appropriate in its Permitted Discretion; provided that such Reserves shall not be established or changed except upon not less than five (5) Business Days notice to the Borrowers (during which period the Administrative Agent shall be available to discuss any such proposed Reserve with the Borrowers); provided further that no such prior notice shall be required for (1) changes to any Reserves resulting solely by virtue of mathematical calculations of the amount of the Reserve in accordance with the
methodology of calculation previously utilized, or (2) changes to Reserves or the establishment of additional Reserves if a Material Adverse Effect under clause (b) of the definition thereof has occurred or it would be reasonably likely that a Material Adverse Effect under clause (b) of the definition thereof would occur were such Reserves not changed or established prior to the expiration of such five (5) Business Day period.

SECTION 2.20 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the Commitment of such Defaulting Lender pursuant to Section 4.1;

(b) the Total Commitment and Pro Rata Share of Credit Extensions of such Defaulting Lender shall not be included in determining whether all Lenders, all affected Lenders, the Required Lenders or the Supermajority Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 13.1); provided that any waiver, amendment or modification which requires the consent of all Lenders, or which requires the consent of each affected Lender and which affects such Defaulting Lender differently than other affected Lenders, or which extends the final expiration date of such Defaulting Lender's Commitment or increases its aggregate Commitments, shall require the consent of such Defaulting Lender;

(c) if any Swingline Loans or Letters of Credit are outstanding at the time a Lender becomes a Defaulting Lender then:

(i) all or any portion of such Swingline Loans and Letter of Credit Outstandings shall be reallocated among the non-Defaulting Lenders in accordance with their respective Pro Rata Share but only to the extent (x) the sum of all non-Defaulting Lenders' Credit Extensions plus such Defaulting Lender's Pro Rata Share of Swingline Loans and Letter of Credit Outstandings does not exceed the lesser of the total of all non-Defaulting Lenders' Total Commitment and the Borrowing Base, (y) the conditions set forth in Article 7 are satisfied at such time and (z) with respect to any Lender, after giving effect to such reallocation the sum of such Lender's Loans then outstanding plus such Lender's Pro Rata Share of Swingline Loans and Letter of Credit Outstandings does not exceed such Lender's Commitment;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within three (3) Business Days following notice by the Administrative Agent (x) first, prepay the Pro Rata Share of Swingline Loans of such Defaulting Lender and (y) second, cash collateralize such Defaulting Lender's Letter of Credit Outstandings (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.15 for so long as such Letter of Credit Outstandings remain in effect;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender's Letter of Credit Outstandings pursuant to this Section 2.20(c), the Borrowers

85
shall not be required to pay any fees to such Defaulting Lender pursuant to Section 4.1 with respect to such Defaulting Lender's Letter of Credit Outstandings during the period such Defaulting Lender's Letter of Credit Outstandings is cash collateralized;

(iv) if the Letter of Credit Outstandings of the non-Defaulting Lenders are reallocated pursuant to this Section 2.20(c), then the fees payable to the Lenders pursuant to Section 4.1 shall be adjusted in accordance with such non-Defaulting Lenders' Pro Rata Share after giving effect to such reallocation; and

(v) if any Defaulting Lender's Letter of Credit Outstandings are neither cash collateralized nor reallocated pursuant to this Section 2.20(c), then, without prejudice to any rights or remedies of the applicable Issuing Bank or any Lender hereunder, all letter of credit fees payable under Section 4.1 with respect to such Defaulting Lender's Letter of Credit Outstandings shall be payable to the applicable Issuing Bank until such Letter of Credit Outstandings are cash collateralized and/or reallocated;

(d) so long as any Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Banks shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with Section 2.20(c), and participating interests in any such newly issued or increased Letter of Credit or newly made Swingline Loan shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(c)(i) (and Defaulting Lenders shall not participate therein); and

(e) in the event and on the date that each of the Administrative Agent, the Lead Borrower, the Issuing Banks and the Swingline Lender agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Credit Extensions in respect of Swingline Loans and Letter of Credit Outstandings of the other Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Pro Rata Share.

SECTION 2.21 Repayment of Loans; Termination or Reduction of Commitments.

(a) Upon the Maturity Date, the Commitments of the Lenders (other than any Extension Series) shall be terminated in full, and the Borrowers shall pay, in full and in cash, all outstanding Loans (other than any Extended Loans) and all other outstanding Obligations (other than Obligations related to any Extension Series) then owing by them to the Lender Parties. Upon the relevant maturity date for any Extension Series of Extended Commitments, such Extended Commitments of the Lenders shall be terminated in full, and the Borrowers shall pay, in full and in cash, all outstanding Extended Loans of such Extension Series and all other outstanding Obligations (other than Obligations related to an Extension Series with a later maturity) then owing by them to the Lender Parties. Upon the Termination Date that is not the
Maturity Date, the Commitments of the Lenders shall be terminated in full, and the Borrowers shall pay, in full and in cash, all outstanding Loans and all other outstanding Obligations then owing by them to the Lender Parties. The Borrowers shall repay, in full and in cash, each Swingline Loan on the earlier to occur of (i) the date ten Business Days after such Swingline Loan is made and (ii) the Termination Date.

(b) Upon at least two (2) Business Days’ prior written notice to the Administrative Agent, the Lead Borrower may, at any time, in whole permanently terminate, or from time to time in part permanently reduce, the Commitments. Each such reduction shall be in the principal amount of $5,000,000 or any integral multiple thereof. Each such reduction or termination shall (i) be applied ratably to the Commitments of each Lender and (ii) be irrevocable at the effective time of any such termination or reduction. The Borrowers shall pay to the Administrative Agent, for application as provided in clause (i) of this Section 2.21(b), (A) at the effective time of any such termination (but not any partial reduction), all earned and unpaid Unused Fees accrued on the Commitments so terminated and (B) at the effective time of any such reduction or termination, any amount by which the Credit Extensions to the Borrowers outstanding on such date exceed the amount to which the Commitments are to be reduced effective on such date.

SECTION 2.22 Cash Management.

(a) Immediately upon the occurrence of a Cash Dominion Event, the Credit Parties, upon the request of the Collateral Agent, shall deliver to the Collateral Agent a schedule of all DDAs, that to the knowledge of the Responsible Officers of the Credit Parties, are maintained by the Credit Parties, which Schedule includes, with respect to each depository, (i) the name and address of such depository, (ii) the account number(s) maintained with such depository, and (iii) a contact person at such depository.

(b) Within 90 days after the Closing Date (or such later date as may be acceptable to the Administrative Agent in its sole discretion), each Credit Party shall have entered into a blocked account agreement (each, a ”Blocked Account Agreement”) in form and substance reasonably satisfactory to the Administrative Agent with any bank with which such Credit Party maintains a DDA (other than Excluded Accounts) (collectively, the ”Blocked Accounts”), which as of the Closing Date are listed on Schedule 2.22(b) attached hereto.

(c) Each Blocked Account Agreement shall require, during the continuance of a Cash Dominion Trigger Period (and delivery of notice thereof from the Administrative Agent), the wire transfer on each Business Day (and whether or not there is then an outstanding balance in the Loan Account) of all available cash receipts (the ”Cash Receipts”) (other than amounts not to exceed $10,000,000 in the aggregate which may be deposited into a segregated DDA which the Lead Borrower designates in writing to the Administrative Agent as being the “uncontrolled cash account” (the ”Designated Account”)) to the concentration account maintained by the Administrative Agent at Bank of America (the ”Concentration Account”), from:

(i) the sale of Inventory and other Collateral:
(ii) all proceeds of collections of Accounts;
(iii) all Net Proceeds on account of any Prepayment Event; and
(iv) each Blocked Account (including all cash deposited therein from each DDA (other than the Designated Account)).

(d) If, at any time during the continuance of a Cash Dominion Event, any cash or cash equivalents owned by any Credit Party (other than (i) an amount of up to $10,000,000 that is on deposit in the Designated Account, which funds shall not be funded from, or when withdrawn from the Designated Account, shall not be replenished by, funds constituting proceeds of Collateral so long as such Cash Dominion Event continues, (ii) de minimis cash or cash equivalents inadvertently misapplied by the Credit Parties and (iii) payroll, trust and tax withholding accounts funded in the ordinary course of business and required by applicable law) are deposited to any account, or held or invested in any manner, otherwise than in a Blocked Account that is subject to a Blocked Account Agreement (or a DDA which is swept daily to a Blocked Account), the applicable Credit Party shall close such account and have all funds therein and all future deposits thereto transferred to a Blocked Account which is subject to a Blocked Account Agreement.

(e) The Credit Parties may close DDAs or Blocked Accounts and/or open new DDAs or Blocked Accounts, subject to the execution and delivery to the Administrative Agent of appropriate Blocked Account Agreements consistent with the provisions of this Section 2.22 and otherwise reasonably satisfactory to the Administrative Agent. The Credit Parties shall furnish the Collateral Agent with prior written notice of their intention to open or close a Blocked Account and the Collateral Agent shall promptly notify the Lead Borrower as to whether the Collateral Agent shall require a Blocked Account Agreement with the Person with whom such account will be maintained.

(f) The Credit Parties may also maintain one or more disbursement accounts (the “Disbursement Accounts”) to be used by the Credit Parties for disbursements and payments (including payroll) in the ordinary course of business.

(g) The Concentration Account shall at all times be under the sole dominion and control of the Administrative Agent. Each Credit Party hereby acknowledges and agrees that (i) such Credit Party has no right of withdrawal from the Concentration Account, (ii) the funds on deposit in the Concentration Account shall at all times continue to be collateral security for all of the Obligations, and (iii) the funds on deposit in the Concentration Account shall be applied as provided in this Agreement. In the event that, notwithstanding the provisions of this Section 2.22, any Credit Party receives or otherwise has dominion and control of any such proceeds or collections, such proceeds and collections shall be held in trust by such Credit Party for the Administrative Agent shall not be commingled with any of such Credit Party's other funds or deposited in any account of such Credit Party and shall promptly be deposited into the Concentration Account or dealt with in such other fashion as such Credit Party may be instructed by the Administrative Agent.
(h) Any amounts received in the Concentration Account at any time when all of the Obligations then due have been and remain fully repaid shall be remitted to the operating account of the Borrowers maintained with the Administrative Agent.

(i) The Administrative Agent shall promptly (but in any event within two (2) Business Days) furnish written notice to each Person with whom a Blocked Account is maintained of any termination of a Cash Dominion Trigger Period.

(j) The following shall apply to deposits and payments under and pursuant to this Agreement:

(i) Funds shall be deemed to have been deposited to the Concentration Account on the Business Day on which deposited, provided that such deposit is available to the Administrative Agent by 1:00 p.m. (New York City time) on that Business Day (except that, if the Obligations are being paid in full, by 2:00 p.m. (New York City time) on that Business Day);

(ii) Funds paid to the Administrative Agent, other than by deposit to the Concentration Account, shall be deemed to have been received on the Business Day when they are good and collected funds, provided that such payment is available to the Administrative Agent by 1:00 p.m. (New York City time) on that Business Day;

(iii) If a deposit to the Concentration Account or payment is not available to the Administrative Agent until after 1:00 p.m. (New York City time) on a Business Day, such deposit or payment shall be deemed to have been made at 9:00 a.m. (New York City time) on the then next Business Day; and

(iv) If any item deposited to the Concentration Account and credited to the Loan Account is dishonored or returned unpaid for any reason, whether or not such return is rightful or timely, the Administrative Agent shall have the right to reverse such credit and charge the amount of such item to the applicable Loan Account and the applicable Credit Parties shall indemnify the Secured Parties against all out-of-pocket claims and losses resulting from such dishonor or return.

SECTION 2.23 Maintenance of Loan Account; Statements of Account.

(a) The Administrative Agent shall maintain an account on its books in the name of the Borrowers (the "Loan Account") which will reflect (i) all Loans and other advances made by the Lenders to the Borrowers or for the Borrowers' account, (ii) all Letter of Credit Disbursements, fees and interest that have become payable as herein set forth, and (iii) any and all other monetary Obligations that have become payable.

(b) The Loan Account will be credited with all amounts received by the Administrative Agent from any Borrower or from others for the Borrowers' account, including all amounts received in the Concentration Account from the Blocked Account Banks, and the amounts so credited shall be applied as set forth in and to the extent required by Section 5.2(b) or 11.13, as applicable. After the end of each month, the Administrative Agent shall send or otherwise provide to the Borrowers a statement accounting for the charges (including interest).
loans, advances and other transactions occurring among and between the Administrative Agent, the Lender Parties and the Borrowers during that month. The monthly statements shall, absent manifest error, shall be deemed presumptively correct.

ARTICLE 3
[RESERVED]

ARTICLE 4
FEES

SECTION 4.1 Fees.

(a) The Borrowers shall pay to the Agents the fees in the amounts and on the dates as set forth in any fee letters or fee agreements with the Agents and to perform any other obligations contained therein.

(b) [Reserved]

(c) The Borrowers shall pay the Administrative Agent, for the account of the Lenders having Commitments, an aggregate fee (the "Unused Fee") equal to (i) prior to the date that is three months after the Closing Date, 0.500% per annum and (ii) thereafter, the percentages per annum set forth in the grid below, of the average daily balance of the Unused Commitment, during the calendar quarter just ended (or relevant period with respect to the payment being made for the first calendar quarter ending after the Closing Date or on the Termination Date):

<table>
<thead>
<tr>
<th>Level</th>
<th>Average Daily Balance of Unused Commitment</th>
<th>Unused Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Less than 60% of the Total Commitment</td>
<td>0.375%</td>
</tr>
<tr>
<td>II</td>
<td>Greater than or equal to 60% of the Total Commitment</td>
<td>0.500%</td>
</tr>
</tbody>
</table>

The Unused Fee shall be paid quarterly in arrears on the last Business Day of each March, June, September and December (provided that the first such payment shall be on March 31, 2011) after the execution of this Agreement and on the Termination Date. The Administrative Agent shall pay the Unused Fee to the Lenders having Commitments upon the Administrative Agent's receipt of the Unused Fee based upon their pro rata share of an amount equal to the aggregate Unused Fee to all Lenders having Commitments.

(d) The Borrowers shall pay the Administrative Agent, for the account of the Lenders, on the first Business Day of each April, July, October and January, in arrears, a fee calculated on the basis of a 360 day year and actual days elapsed (each, a "Letter of Credit Fee"), at a rate per annum equal to the then Applicable Margin for LIBOR Loans, on the average
face amount of the Letters of Credit outstanding during the three month period then ended; provided that after the occurrence and during the continuance of any Event of Default and acceleration of the Obligations, if the Letter of Credit Outstandings as of such date, plus accrued and unpaid interest thereon, have not been Cash Collateralized, effective upon written notice from the Administrative Agent, the Letter of Credit Fee shall be increased, at the option of the Administrative Agent, by an amount equal to two percent (2%) per annum.

(e) The Borrowers shall pay to the applicable Issuing Bank, in addition to all Letter of Credit Fees otherwise provided for hereunder, a fronting fee for each Letter of Credit issued by such Issuing Bank, in an amount equal to 0.125% of the Stated Amount of such Letter of Credit on the date of the issuance thereof, payable on such date, as well as the other reasonable and customary fees and charges of such Issuing Bank in connection with the issuance, negotiation, settlement, amendment and processing of each Letter of Credit issued by such Issuing Bank.

(f) Notwithstanding anything to the contrary herein contained, the Borrowers shall not be obligated to pay any Unused Fees to or for the account of any Lender to the extent and during the period such Lender is a Defaulting Lender.

(g) All fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent, for the respective accounts of the Administrative Agent and the other Agents, the Lenders and the Issuing Banks as provided herein. Once due, all fees shall be fully earned and shall not be refundable under any circumstances.

ARTICLE 5
PAYMENTS

SECTION 5.1 Voluntary Prepayments.

(a) The Borrowers shall have the right to prepay the Loans without premium or penalty, subject to clause (c) below, in whole or in part from time to time on the following terms and conditions: (a) the Borrowers shall give the Administrative Agent at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and (in the case of LIBOR Loans) the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrowers no later than 3:00 p.m. (New York City time) (i) in the case of LIBOR Loans, three Business Days prior to or (ii) in the case of ABR Loans, one Business Day prior to, the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the Lenders; (b) each partial prepayment of any Borrowing of LIBOR Loans shall be in a minimum amount of $5,000,000 and in multiples of $1,000,000 in excess thereof and (ii) any ABR Loans shall be in a minimum amount of $1,000,000 and in multiples of $100,000 in excess thereof, provided that no partial prepayment of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding LIBOR Loans made pursuant to such Borrowing to an amount less than the applicable Minimum Borrowing Amount for such LIBOR Loans; and (c) in the case of any prepayment of LIBOR Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto, the Borrowers shall, after receipt of a written request by any
applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such LIBOR Loan.

(b) Each prepayment in respect of any Loans pursuant to this Section 5.1 shall be (a) applied to the Class or Classes as the Borrowers may specify and (b) applied within each Class in such order as the Borrowers may specify. Notwithstanding the foregoing, the Borrowers may not repay Extended Loans and permanently reduce the corresponding Extended Commitments of any Extension Series unless such prepayment is accompanied by a pro rata repayment of Loans and permanent reduction of the corresponding Commitments of the Existing Class from which such Extended Loans and Extended Commitments were converted (or such Loans and Commitments of the Existing Class have otherwise been repaid and terminated in full).

SECTION 5.2 Mandatory Prepayments.

(a) Prepayments. If, at any time, the amount of the Credit Extensions by the Lender Parties exceeds the Line Cap, the Borrowers will, immediately upon notice from the Administrative Agent, (i) prepay the Loans in an amount necessary to eliminate such excess; and (ii) if, after giving effect to the prepayment in full of all outstanding Loans such excess has not been eliminated, Cash Collateralize the Letter of Credit Outstandings.

(b) Application to Repayment Amounts. Each prepayment of Loans required by Section 5.2(a) shall be allocated pro rata among the Existing Loans and the Extended Loans and shall be applied within each Class of Loans (i) first to the ratable repayment of any Letter of Credit Disbursements and to Swingline Loans then outstanding, (ii) second to the repayment of Revolving Loans then outstanding and (iii) third to Cash Collateralization of all Letter of Credit Outstandings.

SECTION 5.3 Method and Place of Payment.

(a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrowers, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders and Issuing Banks entitled thereto, not later than 2:00 p.m. (New York City time), in each case, on the date when due and shall be made in immediately available funds at the Administrative Agent’s Office or at such other office as the Administrative Agent shall specify for such purpose by notice to the Borrowers, it being understood that written or facsimile notice by the Borrowers to the Administrative Agent to make a payment from the funds in a Borrower’s account at the Administrative Agent’s Office shall constitute the making of such payment to the extent of such funds held in such account. All repayments or prepayments of any Loans (whether of principal, interest or otherwise) hereunder and all other payments under each Credit Document shall be made in Dollars. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York
City time) or, otherwise, on the next Business Day) like funds relating to the payment of principal or interest or Fees ratably to the Lender Parties entitled thereto.

(b) Any payments under this Agreement that are made later than 2:00 p.m. (New York City time) may be deemed to have been made on the next succeeding Business Day in the Administrative Agent’s sole discretion. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

SECTION 5.4 Net Payments.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable laws require any Credit Party or the Administrative Agent to withhold or deduct any Tax, such Tax shall be withheld or deducted in accordance with such laws as reasonably determined by such withholding agent.

(ii) If any Credit Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States federal backup withholding and withholding Taxes, from any payment, then (A) such withholding agent shall withhold or make such deductions as are reasonably determined by such withholding agent to be required by applicable law, (B) such withholding agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Credit Party shall be increased as necessary so that after any required withholding or deductions have been made (including withholding or deductions applicable to additional sums payable under this Section) the Administrative Agent or such Lender, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(b) Payment of Other Taxes by the Borrowers. Without limiting the provisions of subsection (a) above, the Borrowers shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Tax Indemnifications. Without limiting the provisions of subsection (a) or (b) above, the Borrowers shall, and does hereby, indemnify the Administrative Agent and each Lender, and shall make payment in respect thereof within 15 days after 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) payable by the Administrative Agent or such Lender, as the case may be, and any reasonable expenses...
arising therefrom or with respect thereto, 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 any such payment or liability (along with a written statement setting forth in reasonable detail the basis and calculation of such amounts) delivered to the Borrowers by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. If the Borrowers reasonably believe that any such Indemnified Taxes or Other Taxes were not correctly or legally asserted, the Administrative Agent and/or each affected Lender will use reasonable efforts to cooperate with the Borrowers in pursuing a refund of such Indemnified Taxes or Other Taxes so long as such efforts would not, in the sole determination of the Administrative Agent or affected Lender, result in any additional costs, expenses or risks or be otherwise disadvantageous to it.

(d) Evidence of Payments. After any payment of Taxes by any Credit Party or the Administrative Agent to a Governmental Authority as provided in this Section 5.4, the Borrowers shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrowers, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrowers or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Each Lender shall deliver to the Borrowers and to the Administrative Agent, at such time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrowers or the Administrative Agent, as the case may be, to determine (A) whether or not any payments made hereunder or under any other Credit Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of any payments to be made to such Lender by any Credit Party pursuant to any Credit Document or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction. Any documentation and information required to be delivered by a Lender pursuant to this Section 5.4(e) (including any specific documentation set forth in subsection (ii) below) shall be delivered by such Lender (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before any date on which such documentation expires or becomes obsolete, (iii) after the occurrence of any change in the Lender's circumstances requiring a change in the most recent documentation previously delivered by it to the Borrowers and the Administrative Agent and (iv) from time to time thereafter if reasonably requested by the Borrowers or the Administrative Agent, and each such Lender shall promptly notify in writing the Borrowers and the Administrative Agent if such Lender is no longer legally eligible to provide any documentation previously provided.

(ii) Without limiting the generality of the foregoing:
(A) any Lender that is a “United States person” within the meaning of Section 7701(a)(30) of the Code (a “U.S. Lender”) shall deliver to the Borrowers and the Administrative Agent executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable laws or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements; and

(B) each Non-U.S. Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to any payments hereunder or under any other Credit Document shall deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) whichever of the following is applicable:

1. executed originals of Internal Revenue Service Form W-8BEN (or any successor form thereto) claiming eligibility for benefits of an income tax treaty to which the United States is a party;

2. executed originals of Internal Revenue Service Form W-8ECI (or any successor form thereto);

3. in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, substantially in the form of Exhibit N-1, N-2, N-3 or N-4 (a “Non-Bank Certificate”), to the effect that such Non-U.S. Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of a Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code, and that no interest payments are effectively connected income and (y) executed originals of Internal Revenue Service Form W-8BEN;

4. where such Lender is a partnership (for U.S. federal income tax purposes) or otherwise not a beneficial owner (e.g., where such Lender has sold a participation), IRS Form W-8IMY (or any successor thereto) and all required supporting documentation (including, where one or more of the underlying beneficial owner(s) is) the benefits of the portfolio interest exemption, a Non-Bank Certificate of such beneficial owner(s) (provided that, if the Non-U.S. Lender is a partnership and not a participating Lender, the Non-Bank Certificate(s) may be provided by the Non-U.S. Lender on behalf of the beneficial owner(s)); or
(5) executed originals of any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in United States federal withholding tax together with such supplementary documentation as may be prescribed by applicable laws to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made.

(iii) Notwithstanding anything to the contrary in this Section 5.4, no Lender shall be required to deliver any documentation that it is not legally eligible to deliver.

(f) Treatment of Certain Refunds. Subject to the last sentence in Section 5.4(c), at no time shall the Administrative Agent or any Lender have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section, the Administrative Agent or such Lender (as applicable) shall pay to the Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Credit Parties under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) incurred by the Administrative Agent or such Lender, 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 Borrowers, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. In such event, the Administrative Agent or such Lender, as the case may be, shall, at the Borrowers' request, provide the Borrowers with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that the Administrative Agent or such Lender may delete any information therein that it deems confidential). This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Credit Party or any other Person.

SECTION 5.5 Computations of Interest and Fees.

(a) Except as provided in the next succeeding sentence, interest on LIBOR Loans and ABR Loans shall be calculated on the basis of a 360-day year for the actual days elapsed. Interest on ABR Loans in respect of which the rate of interest is calculated on the basis of the Administrative Agent's prime rate shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

(b) Fees shall be calculated on the basis of a 360-day year for the actual days elapsed.
SECTION 5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrowers shall not be obliged to pay any interest or other amounts under or in connection with this Agreement or otherwise in respect of the Obligations in excess of the amount or rate permitted under or consistent with any applicable law, rule or regulation.

(b) Payment at Highest Lawful Rate. If the Borrowers are not obliged to make a payment that it would otherwise be required to make, as a result of Section 5.6(a), the Borrowers shall make such payment to the maximum extent permitted by or consistent with applicable laws, rules and regulations.

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrowers to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate that would be prohibited by any applicable law, rule or regulation, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law, such adjustment to be effected, to the extent necessary, by reducing the amount or rate of interest required to be paid by the Borrowers to the affected Lender under Section 2.8.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrowers an amount in excess of the maximum permitted by any applicable law, rule or regulation, then the Borrowers shall be entitled, by notice in writing to the Administrative Agent to obtain reimbursement from that Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by that Lender to the Borrowers.

ARTICLE 6
CONDITIONS PRECEDENT TO INITIAL BORROWING

The obligation of the Lenders to make Revolving Advances, and the obligation of any Issuing Bank to issue any Letter of Credit, are in each case subject to the satisfaction of the following conditions precedent.

SECTION 6.1 Credit Documents. The Administrative Agent shall have received:

(a) this Agreement, executed and delivered by a duly authorized officer of each Borrower and each Lender;
(b) the Guarantee, executed and delivered by a duly authorized officer of each Guarantor;
(c) the Pledge Agreement, executed and delivered by a duly authorized officer of each pledgor party thereto;
(d) the Security Agreement, executed and delivered by a duly authorized officer of each grantor party thereto; and
(e) the ABL Intercreditor Agreement executed and delivered by a duly authorized officer of each party thereto.

SECTION 6.2 Collateral. Except for any items referred to on Schedule 9.14(e):

(a) (i) All outstanding equity interests in whatever form of each Restricted Subsidiary directly owned by or on behalf of any Credit Party and required to be pledged pursuant to the Pledge Agreement shall have been pledged pursuant thereto and (ii) the Collateral Agent shall have received, except to the extent delivered to the Term Agent pursuant to the Term Documents and ABL Intercreditor Agreement, all certificates representing securities pledged under the Pledge Agreement to the extent certificated, accompanied by instruments of transfer and undated stock powers endorsed in blank;

(b) All Uniform Commercial Code or other applicable personal property and financing statements, reasonably requested by the Collateral Agent to be filed, registered or recorded to create the Liens intended to be created by any Security Document and perfect such Liens to the extent required by, and with the priority required by, such Security Document shall have been delivered to the Collateral Agent for filing, registration or recording;

(c) The Borrowers shall deliver to the Collateral Agent a completed Perfection Certificate, executed and delivered by an Authorized Officer of the Lead Borrower, together with all attachments contemplated thereby; and

(d) The Guarantee shall be in full force and effect.

SECTION 6.3 Legal Opinions. The Administrative Agent shall have received the executed legal opinion of Simpson Thacher & Bartlett LLP, special counsel to the Borrowers, substantially in the form of Exhibit G. The Borrowers, the other Credit Parties and the Administrative Agent hereby instruct such counsel to deliver such legal opinion.

SECTION 6.4 Equity Investments. Equity Investments, which, to the extent constituting Stock other than common Stock, shall be on terms and conditions and pursuant to documentation reasonably satisfactory to the Joint Lead Arrangers and Bookrunners to the extent material to the interests of the Lenders, in an amount not less than the Minimum Equity Amount shall have been made.

SECTION 6.5 Closing Certificates. The Administrative Agent shall have received a certificate of the Credit Parties, dated the Closing Date, substantially in the form of Exhibit H, with appropriate insertions, of each Credit Party, executed by the President or any Vice President and the Secretary or any Assistant Secretary of each Credit Party, and attaching the documents referred to in Section 6.6.
SECTION 6.6 Authorization of Proceedings of Each Credit Party; Corporate Documents. The Administrative Agent shall have received (i) a copy of the resolutions, in form and substance satisfactory to the Administrative Agent, of the board of directors or other managers of each Credit Party (or a duly authorized committee thereof) authorizing (a) the execution, delivery and performance of the Credit Documents (and any agreements relating thereto) to which it is a party and (b) in the case of the Borrowers, the extensions of credit contemplated hereunder, (ii) the Certificate of Incorporation and By-Laws, Certificate of Formation and Operating Agreement or other comparable organizational documents, as applicable, of each Credit Party and (iii) signature and incumbency certificates of the Authorized Officers of each Credit Party executing the Credit Documents to which it is a party.

SECTION 6.7 Fees. The Agents and Lenders shall have received the fees in the amounts previously agreed in writing to be received on the Closing Date and all expenses (including the reasonable fees, disbursements and other charges of counsel) payable by the Credit Parties for which invoices have been presented prior to the Closing Date shall have been paid.

SECTION 6.8 Representations and Warranties. On the Closing Date, (x) the Specified Representations and (y) the representations and warranties with respect to Holdings and the Borrowers set forth in Sections 8.1(a), 8.2, 8.3(c), 8.5, 8.7, 8.17 and 8.18 of this Agreement and in Section 3.2(a) and (b) of the Security Agreement, shall be true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification)).

SECTION 6.9 Solvency Certificate. On the Closing Date, the Administrative Agent shall have received a certificate from the Chief Executive Officer, President, the Chief Financial Officer, the Treasurer, the Vice President-Finance or any other senior financial officer of the Lead Borrower to the effect that after giving effect to the consummation of the Transactions, the Lead Borrower on a consolidated basis with its Subsidiaries is Solvent.

SECTION 6.10 Merger. On or before the Closing Date, the Merger shall have been consummated in accordance with the terms of the Acquisition Agreement (or the Joint Lead Arrangers and Joint Bookrunners shall be reasonably satisfied with the arrangements in place for the consummation of the Merger reasonably promptly after the initial Credit Event hereunder and shall have received confirmation from representatives of the Lead Borrower that such actions shall be taken promptly after the initial Credit Event hereunder), without giving effect to any modifications, amendments or express waivers thereto that are materially adverse to the Lenders (it being understood and agreed that any reduction in the purchase price of the Acquisition contemplated by the Acquisition Agreement shall not be deemed to be materially adverse to the Lenders so long as 75% of such reduction serves to reduce the principal amount of Senior Notes and 25% to reduce the Equity Investments) without the reasonable consent of the Joint Lead Arrangers and Bookrunners.

SECTION 6.11 Patriot Act. The Joint Lead Arrangers and Bookrunners shall have received such documentation and information as is reasonably requested in writing at least 10 days prior to the Closing Date by the Administrative Agent about the Borrowers and the Guarantors to the extent the Administrative Agent and the Borrowers in good faith mutually
agree is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

SECTION 6.12 Pro Forma Balance Sheet. The Administrative Agent shall have received a pro forma consolidated balance sheet and related pro forma consolidated statements of income of the Lead Borrower as of and for the twelve-month period ending October 31, 2010, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or as of May 4, 2009 (in the case of such other statements of income).

SECTION 6.13 No Material Adverse Change. No Material Adverse Change shall have occurred since May 2, 2010.

SECTION 6.14 Excess Availability; Borrowing Base Certificate. (a) After giving effect to the initial Borrowings and issuance of Letters of Credit on the Closing Date, the Excess Availability on the Closing Date shall be no less than $250,000,000 and (ii) the Administrative Agent shall have received a Borrowing Base Certificate prepared as of the last day of the most recent month ended at least 15 Business Days prior to the Closing Date.

SECTION 6.15 Availability Model. The Joint Lead Arrangers shall have received from the Lead Borrower the twelve-month model (on a monthly basis) of Excess Availability for the twelve-month period after the Closing Date.

ARTICLE 7

CONDITIONS PRECEDENT TO EACH LOAN AND EACH LETTER OF CREDIT

SECTION 7.1 Conditions to Credit Extensions. The obligation of the Lenders to make each Revolving Loan and of the Issuing Banks to issue each Letter of Credit (other than any Existing Letter of Credit) is also subject to the following conditions precedent (provided that the conditions precedent described in clauses (b) and (c) below shall not apply to the initial Credit Events on the Closing Date):

(a) The Administrative Agent shall have received a notice with respect to such Borrowing or issuance, as the case may be, as required by Article 2, and in the case of the issuance of a Letter of Credit, the applicable Issuing Bank shall have received notice with respect thereto in accordance Section 2.15.

(b) All representations and warranties contained in this Agreement and the other Credit Documents or otherwise made in writing in connection herewith or therewith (including in any Borrowing Base Certificate) shall be true and correct in all material respects on and as of the date of each Borrowing or the issuance of each Letter of Credit hereunder with the same effect as if made on and as of such date, other than representations and warranties that relate solely to an earlier date and other than representations and warranties which are qualified by "materiality" or "Material Adverse Effect", each of which shall be true and correct in all respects.

100
(c) On the date of each Borrowing hereunder and the issuance of each Letter of Credit and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing.

The request by the Lead Borrower for, and the acceptance by any Borrower of, each extension of credit hereunder shall be deemed to be a representation and warranty by the Credit Parties that the conditions specified in this Section 7.1 have been satisfied at that time and that, after giving effect to such extension of credit, the Borrowers shall continue to be in compliance with the Borrowing Base.

ARTICLE 8

REPRESENTATIONS, WARRANTIES AND AGREEMENTS.

In order to induce the Lenders to enter into this Agreement and to make the Loans as provided for herein, the Borrowers and Holdings make the following representations and warranties to, and agreements with, the Lenders, all of which shall survive the execution and delivery of this Agreement and the making of the Loans (it being understood that the following representations and warranties shall be deemed made with respect to any Foreign Subsidiary only to the extent relevant under applicable law):

SECTION 8.1 Corporate Status. Holdings, each Borrower and each Material Subsidiary (a) is a duly organized and validly existing corporation or other entity in good standing under the laws of the jurisdiction of its organization and has the corporate or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing (if applicable) in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

SECTION 8.2 Corporate Power and Authority. Each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and each such Credit Document constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms (provided, that, with respect to the creation and perfection of security interests with respect to Stock and Stock Equivalents of Foreign Subsidiaries, only to the extent enforceability of such obligation with respect to which Stock and Stock Equivalents of Foreign Subsidiaries is governed by the Uniform Commercial Code), except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally and subject to general principles of equity.

SECTION 8.3 No Violation. Neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party nor compliance with the terms and provisions thereof nor the consummation of the Merger and the other transactions...
contemplated hereby or thereby will (a) contravene any applicable provision of any material law, statute, rule, regulation, order, writ, injunction or decree of any court or governmental instrumentality, (b) except as set forth in Schedule 8.3, result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of such Credit Party or any of the Restricted Subsidiaries (other than Liens created under the Credit Documents) pursuant to, the terms of any material indenture, loan agreement, lease agreement, mortgage, deed of trust, agreement or other material instrument to which such Credit Party or any of the Restricted Subsidiaries is a party or by which it or any of its property or assets is bound (any such term, covenant, condition or provision, a "Contractual Requirement") other than any such breach, default or Lien that could not reasonably be expected to result in a Material Adverse Effect or (c) violate any provision of the certificate of incorporation, by-laws or other organizational documents of such Credit Party or any of the Restricted Subsidiaries.

SECTION 8.4 Litigation. Except as set forth on Schedule 8.4, there are no actions, suits or proceedings pending or, to the knowledge of Holdings or the Borrowers, threatened with respect to Holdings, any Borrower or any of the Subsidiaries that could reasonably be expected to result in a Material Adverse Effect.

SECTION 8.5 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, U or X of the Board.

SECTION 8.6 Governmental Approvals. The execution, delivery and performance of the Acquisition Agreement or any Credit Document do not require any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except for (i) such as have been obtained or made and are in full force and effect, (ii) filings and recordings in respect of the Liens created pursuant to the Security Documents and (iii) such licenses, approvals, authorizations or consents the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

SECTION 8.7 Investment Company Act. None of Holdings, any Borrower or any Restricted Subsidiary is an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

SECTION 8.8 True and Complete Disclosure.

(a) None of the written factual information and written data (taken as a whole) heretofore or contemporaneously furnished by or on behalf of Holdings, any Borrower, any of the Subsidiaries or any of their respective authorized representatives to the Administrative Agent, any Joint Lead Arranger, and/or any Lender on or before the Closing Date (including all such information and data contained in (i) the Confidential Information Memorandum (as updated prior to the Closing Date and including all information incorporated by reference therein) and (ii) the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein contained any untrue statement of any material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not misleading at such time in light of the circumstances under which such information or data...
was furnished, it being understood and agreed that for purposes of this Section 8.8(a), such factual information and data shall not include pro forma financial information, projections or estimates (including financial estimates, forecasts and other forward-looking information) and information of a general economic or general industry nature.

(b) The projections (including financial estimates, forecasts and other forward-looking information) contained in the information and data referred to in paragraph (a) above were based on good faith estimates and assumptions believed by such Persons to be reasonable at the time made, it being recognized by the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results.

SECTION 8.9 Financial Condition; Financial Statements. (a) The unaudited historical consolidated financial information of the Lead Borrower as set forth in the Confidential Information Memorandum, and (b) the Historical Financial Statements, in each case present fairly in all material respects the consolidated financial position of the Lead Borrower at the respective dates of said information, statements and results of operations for the respective periods covered thereby. The unaudited pro forma consolidated balance sheet of the Lead Borrower and its Subsidiaries as at October 31, 2010 (including the notes thereto) (the "Pro Forma Balance Sheet") and the unaudited pro forma consolidated statement of operations of the Lead Borrower and its Subsidiaries for the 12-month period ending on such date (together with the Pro Forma Balance Sheet, the "Pro Forma Financial Statements"), copies of which have heretofore been furnished to the Administrative Agent, have been prepared based on (x) the Historical Financial Statements and (y) the unaudited historical consolidated financial information described in clause (a) of this Section 8.9 and have been prepared in good faith, based on assumptions believed by the Lead Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a Pro Forma Basis the estimated financial position of the Lead Borrower and its Subsidiaries as at October 31, 2010 and their estimated results of operations as if the Transactions had been consummated on May 4, 2009. The financial statements referred to in clause (b) of this Section 8.9 have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes to said financial statements. Since May 2, 2010, there has been no Material Adverse Effect.

SECTION 8.10 Compliance with Laws; No Default. Each Credit Party is in compliance with all Requirements of Law applicable to it or its property, except where the failure to be so in compliance, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 8.11 Tax Matters. Except as could not reasonably be expected to have a Material Adverse Effect, (a) each of Holdings, the Borrowers and the Subsidiaries has filed all federal income tax returns and all other tax returns, domestic and foreign, required to be filed by it and has timely paid all taxes payable by it (whether or not shown on a tax return) that have become due, (b) each of Holdings, the Borrowers and the Subsidiaries have paid, or have provided adequate reserves (in the good faith judgment of management of Holdings, the Borrowers or such Subsidiary) in accordance with GAAP for the payment of, all federal, state, provincial and foreign taxes applicable for the current fiscal year to the Closing Date and (c) each of Holdings, the Borrowers and the Subsidiaries has withheld amounts from their
respective employees for all periods in compliance with the tax, social, security and unemployment withholding provisions of applicable law and timely paid such withholdings to the respective Governmental Authorities.

SECTION 8.12 Compliance with ERISA.

(a) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Credit Party and each of their respective ERISA Affiliates is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Pension Plans and the regulations and published interpretations thereunder; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) all amounts required by applicable law with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Credit Party or any ERISA Affiliate or to which any Credit Party or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with Statement of Financial Accounting Standards No. 106. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the present value of all accumulated benefit obligations under each Pension Plan (based on the assumptions used for purposes of Accounting Standards Codification No. 715: Compensation-Retirement Benefits) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Pension Plan allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Pension Plans did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Pension Plans.

(b) Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, no Foreign Plan Event has occurred or is reasonably expected to occur.

SECTION 8.13 Subsidiaries. Schedule 8.12 lists each Subsidiary of Holdings and the Lead Borrower (and the direct and indirect ownership interest of Holdings and the Lead Borrower therein), in each case existing on the Closing Date.

SECTION 8.14 Intellectual Property. Each of Holdings, the Lead Borrower and each of the Restricted Subsidiaries owns or has the right to use all Intellectual Property that is necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, except where the failure of the foregoing could not reasonably be expected to have a Material Adverse Effect.

SECTION 8.15 Environmental Laws.

(a) Except as could not reasonably be expected to have a Material Adverse Effect: (i) each of Holdings, the Borrowers and each of the Subsidiaries and their respective operations and properties are in compliance with all Environmental Laws; (ii) neither Holdings, any Borrower nor any Subsidiary is subject to any Environmental Claim or any other liability under any Environmental Law; (iii) neither Holdings, any Borrower nor any Subsidiary is conducting any investigation, removal, remedial or other corrective action pursuant to any Environmental Law at any location; and (iv) to the knowledge of the Borrowers, no underground
or above ground storage tank or related piping, or any impoundment or other disposal area containing Hazardous Materials is located at, on or under any Real Estate currently owned or leased by Holdings, any Borrower or any of its Subsidiaries.

(b) Neither Holdings, any Borrower nor any of the Subsidiaries has treated, stored, transported, Released or disposed or arranged for disposal or transport for disposal or treatment of Hazardous Materials at, on, under or from any currently or, formerly owned or operated property nor, to the knowledge of Borrowers, has there been any other Release of Hazardous Materials at, on, under or from any such properties, in each case, in a manner that could reasonably be expected to have a Material Adverse Effect.

SECTION 8.16 Properties. (a) Each of Holdings, the Borrowers and the Subsidiaries have good and valid record title to or valid leasehold interests in all properties that are necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, free and clear of all Liens (other than any Liens permitted by this Agreement) and except where the failure to have such good title could not reasonably be expected to have a Material Adverse Effect and (b) no Mortgage encumbers improved Real Estate that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards within the meaning of the National Flood Insurance Act of 1968, as amended, unless flood insurance available under such Act has been obtained in accordance with Section 9.3(b).

SECTION 8.17 Solvency. On the Closing Date (after giving effect to the Transactions), immediately following the making of each Loan and after giving effect to the application of the proceeds of such Loans, the Lead Borrower on a consolidated basis with its Subsidiaries will be Solvent.

SECTION 8.18 Patriot Act. On the Closing Date, each of Holdings, the Borrowers and their Restricted Subsidiaries is in compliance in all material respects with the Patriot Act, and Holdings and the Borrowers have provided to the Administrative Agent all information related to Holdings, the Borrowers and the Restricted Subsidiaries (including but not limited to names, addresses and tax identification numbers (if applicable)) reasonably requested in writing by the Administrative Agent and mutually agreed to be required by the Patriot Act to be obtained by the Administrative Agent or any Lender.

SECTION 8.19 Borrowing Base Certificate. At the time of delivery of each Borrowing Base Certificate, each Account reflected therein as eligible for inclusion in the Borrowing Base is an Eligible Account and the Inventory reflected therein as eligible for inclusion in the Borrowing Base constitutes Eligible Inventory.

ARTICLE 9
AFFIRMATIVE COVENANTS

Each of Holdings and the Borrowers hereby covenants and agrees that until the Commitments have terminated and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full,
and all Letters of Credit have expired or terminated and all Letter of Credit Outstandings have been reduced to zero (or all such Letters of Credit and Letter of Credit Outstandings have been Cash Collateralized or back-stopped in a manner reasonably satisfactory to the applicable Issuing Banks):

SECTION 9.1 Information Covenants. The Borrowers will furnish to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) Annual Financial Statements. As soon as available and in any event within 5 days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 90 days after the end of each such fiscal year (120 days in the case of the fiscal year ending May 1, 2011)), the consolidated balance sheets of the Lead Borrower and the Subsidiaries and, if different, the Lead Borrower and the Restricted Subsidiaries, in each case as at the end of such fiscal year, and the related consolidated statements of operations and cash flows for such fiscal year, setting forth comparative consolidated figures for the preceding fiscal years (or, in lieu of such audited financial statements of the Lead Borrower and the Restricted Subsidiaries, a detailed reconciliation, reflecting such financial information for the Lead Borrower and the Restricted Subsidiaries, on the one hand, and the Lead Borrower and the Subsidiaries, on the other hand), all in reasonable detail and prepared in accordance with GAAP, and, in each case, certified by independent certified public accountants of recognized national standing whose opinion shall not be qualified as to the scope of audit or as to the status of the Lead Borrower or any of the Material Subsidiaries (or group of Subsidiaries that together would constitute a Material Subsidiary) as a going concern.
(b) **Quarterly Financial Statements.** As soon as available and in any event within 5 days after the date on which such financial statements are required to be filed with the SEC (after giving effect to any permitted extensions) with respect to each of the first three quarterly accounting periods in each fiscal year of the Lead Borrower (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days after the end of each such quarterly accounting period (60 days for the fiscal quarter ended January 30, 2011)), the consolidated balance sheets of the Lead Borrower and the Subsidiaries and, if different, the Lead Borrower and the Restricted Subsidiaries, in each case as at the end of such quarterly period and the related consolidated statements of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and setting forth comparative consolidated figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the prior fiscal year (or, in lieu of such unaudited financial statements of the Lead Borrower and the Restricted Subsidiaries, a detailed reconciliation reflecting such financial information for the Lead Borrower and the Restricted Subsidiaries, on the one hand, and the Lead Borrower and the Subsidiaries, on the other hand), all of which shall be certified by an Authorized Officer of the Lead Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Lead Borrower and its Subsidiaries in accordance with GAAP, subject to changes resulting from normal year-end adjustments.

(c) **Budgets.** Within 90 days after the commencement of each fiscal year of the Lead Borrower, a consolidated budget of the Lead Borrower in reasonable detail on a quarterly basis for such fiscal year as customarily prepared by management of the Lead Borrower for its internal use consistent in scope with the financial statements provided pursuant to Section 9.1(a), setting forth the principal assumptions upon which such budget is based (collectively, the "**Projections**"), which Projections shall in each case be accompanied by a certificate of an Authorized Officer of the Lead Borrower stating that such Projections have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such Projections, it being understood that actual results may vary from such Projections.

(d) **Officer's Certificates.** At the time of the delivery of the financial statements provided for in Sections 9.1(a) and (b), a certificate of an Authorized Officer of the Lead Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, as the case may be, which certificate shall set forth (i) a specification of any change in the identity of the Restricted Subsidiaries and Unrestricted Subsidiaries as at the end of such fiscal year or period, as the case may be, from the Restricted Subsidiaries and Unrestricted Subsidiaries, respectively, provided to the Lenders on the Closing Date or the most recent fiscal year or period, as the case may be, (ii) the amount of any Pro Forma Adjustment not previously set forth in a Pro Forma Adjustment Certificate or any change in the amount of a Pro Forma Adjustment set forth in any Pro Forma Adjustment Certificate previously provided and, in either case, in reasonable detail, the calculations.
and basis therefor and (iii) reasonably detailed calculations with respect to the Adjusted Fixed Charge Coverage Ratio for such period, whether or not an Adjusted Fixed Charge Testing Period is then effective. At the time of the delivery of the financial statements provided for in Section 9.1(a), the Borrowers shall deliver to the Administrative Agent a certificate of an Authorized Officer of the Lead Borrower setting forth the information required pursuant to Section 1(a) of the Perfection Certificate or confirming that there has been no change in such information since the Closing Date or the date of the most recent certificate delivered pursuant to this clause (d), as the case may be.

(e) Notices. Promptly after an Authorized Officer of any Borrower or any of the Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event that constitutes a Default or Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action such Borrower proposes to take with respect thereto and (ii) any litigation or governmental proceeding pending against any Borrower or any of the Subsidiaries that could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect.

(f) Environmental Matters. Promptly after an Authorized Officer of any Borrower or any of the Subsidiaries obtains knowledge of any one or more of the following environmental matters, unless such environmental matters would not, individually or when aggregated with all other such matters, be reasonably expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against any Credit Party or any Real Estate;

(ii) any condition or occurrence on any Real Estate that (x) could reasonably be expected to result in noncompliance by any Credit Party with any applicable Environmental Law or (y) could reasonably be anticipated to form the basis of an Environmental Claim against any Credit Party or any Real Estate;

(iii) any condition or occurrence on any Real Estate that could reasonably be anticipated to cause such Real Estate to be subject to any restrictions on the ownership, occupancy, use or transferability of such Real Estate under any Environmental Law; and

(iv) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, release or threatened release of any Hazardous Material on, at, under or from any Real Estate.

All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal or remedial action and the response thereto. The term “Real Estate” shall mean land, buildings, facilities and improvements owned or leased by any Credit Party, but excluding all operating fixtures and equipment, whether or not incorporated into improvements.
(g) **Other Information.** Promptly upon filing thereof, copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by any Borrower or any of the Restricted Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and copies of all financial statements, proxy statements, notices and reports that any Borrower or any of the Subsidiaries shall send to the holders of any publicly issued debt of any Borrower and/or any of the Subsidiaries (including the Senior Notes (whether publicly issued or not)), in their capacity as such holders, lenders or agents (in each case to the extent not theretofore delivered to the Administrative Agent pursuant to this Agreement) and, with reasonable promptness, such other information (financial or otherwise) as the Administrative Agent on its own behalf or on behalf of any Lender (acting through the Administrative Agent) may reasonably request in writing from time to time.

(h) **Pro Forma Adjustment Certificate.** Not later than any date on which financial statements are delivered with respect to any Test Period in which a Pro Forma Adjustment is made as a result of the consummation of the acquisition of any Acquired Entity or Business by any Borrower or any Restricted Subsidiary for which there shall be a Pro Forma Adjustment, a certificate of an Authorized Officer of the Lead Borrower setting forth the amount of such Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor.

(i) **Borrowing Base Certificate.** A certificate in the form of Exhibit K (a "**Borrowing Base Certificate**") showing the Borrowing Base, each Borrowing Base Certificate to be certified as complete and correct in all material respects on behalf of the Lead Borrower by an Authorized Officer of the Lead Borrower, as follows:

   (i) On the 15th Business Day of each month, the Lead Borrower shall furnish a Borrowing Base Certificate as of the close of business on the immediately preceding calendar month;

   (ii) During any Cash Dominion Trigger Period or the continuance of any Specified Default, the Lead Borrower shall furnish a Borrowing Base Certificate on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Saturday, and during the continuance of any Specified Default, the Lead Borrower shall furnish a Borrowing Base Certificate more frequently than weekly as may be required by the Administrative Agent;

   (iii) Upon the sale or other disposition of Collateral of any Credit Party included in the Borrowing Base outside of the ordinary course of business, if the Net Proceeds are in excess of $20,000,000, the Lead Borrower shall also furnish an updated Borrowing Base Certificate promptly upon the receipt of the Net Proceeds from such Prepayment Event; and
(iv) The Borrowers may, at their option, elect to furnish the Administrative Agent with a Borrowing Base Certificate on a more frequent basis than is otherwise required pursuant to this Section 9.1(i); provided that, if the Borrowers elect to deliver a Borrowing Base Certificate on a more frequent basis than is required by the other provisions of this Section 9.1(i), then the Lead Borrower shall continue to furnish a Borrowing Base Certificate on such basis from the date of such election through the remainder of the Fiscal Year in which such election was made.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 9.1 may be satisfied with respect to financial information of the Lead Borrower and the Restricted Subsidiaries by furnishing (A) the applicable financial statements of any direct or indirect parent of the Lead Borrower or (B) the Lead Borrower's (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; provided that, with respect to each of subclauses (A) and (B) of this paragraph, to the extent such information relates to a parent of the Lead Borrower, such information is accompanied by consolidating or other information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Lead Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand.

SECTION 9.2

Books, Records and Inspections.

(a) Each Borrower will, and will cause each Restricted Subsidiary to, permit officers and designated representatives of the Administrative Agent or the Required Lenders to visit and inspect any of the properties or assets of such Borrower and any such Subsidiary in whomsoever's possession to the extent that it is within such party's control to permit such inspection (and shall use commercially reasonable efforts to cause such inspection to be permitted to the extent that it is not within such party's control to permit such inspection), and to examine the books and records of such Borrower and any such Subsidiary and discuss the affairs, finances and accounts of such Borrower and of any such Subsidiary with, and be advised as to the same by, its and their officers and independent accountants, all at such reasonable times and intervals and to such reasonable extent as the Administrative Agent or the Required Lenders may desire (and subject, in the case of any such meetings or advice from such independent accountants, to such accountants' customary policies and procedures); provided that, excluding any such visits and inspections during the continuation of an Event of Default (a) only the Administrative Agent on behalf of the Required Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 9.2, (b) the Administrative Agent shall not exercise such rights more than two times in any calendar year and (c) only one such visit shall be at the Borrowers' expense; provided further that when an Event of Default exists, the Administrative Agent (or any of its respective representatives or independent contractors) or any representative of the Required Lenders may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Required Lenders shall give the Borrowers the opportunity to participate in any discussions with the Borrowers' independent public accountants.

(b) Each Credit Party will (and will cause its Restricted Subsidiaries to) from time to time upon the request of the Administrative Agent, permit the Administrative Agent or professionals (including consultants, accountants, lawyers and appraisers) retained by the
Administrative Agent, on reasonable prior notice and during normal business hours, to conduct appraisals and commercial finance examinations, including, without limitation, of (i) the Borrowers' practices in the computation of the Borrowing Base, and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. Subject to the following, the Credit Parties shall pay the reasonable out-of-pocket fees and expenses of the Administrative Agent and such professionals with respect to such evaluations and appraisals:

(i) The Administrative Agent may conduct one (1) commercial finance examination and one (1) inventory appraisal in each calendar year for each of the Credit Parties each at the Credit Parties' expense; provided that, the Administrative Agent may conduct (A) up to two (2) commercial finance examinations and two (2) inventory appraisals in a calendar year if Excess Availability falls below 40% of the Line Cap for ten (10) consecutive Business Days at any time in such calendar year and (B) up to three (3) commercial finance examinations and three (3) inventory appraisals in a calendar year if Excess Availability falls below 12.5% of the Line Cap for five (5) consecutive Business Days at any time in such calendar year, each at the Credit Parties' expense. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuance of any Event of Default, the Administrative Agent may cause such additional commercial finance examinations and inventory appraisals to be taken for each of the Credit Parties as the Administrative Agent in its reasonable discretion determines are necessary or appropriate (each, at the expense of the Credit Parties).

SECTION 9.3 Maintenance of Insurance. (a) Each Borrowers will, and will cause each Material Subsidiary to, at all times maintain in full force and effect, pursuant to self-insurance arrangements or with insurance companies that such Borrower believes (in the good faith judgment of the management of such Borrower) are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts (after giving effect to any self-insurance which such Borrowers believes (in the good faith judgment of management of such Borrower) is reasonable and prudent in light of the size and nature of its business) and against at least such risks (and with such risk retentions) as such Borrower believes (in the good faith judgment of management of such Borrower) is reasonable and prudent in light of the size and nature of its business; and will furnish to the Administrative Agent, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried and (b) with respect to each Mortgaged Property, the Borrowers will obtain flood insurance in such total amount as may reasonably be required by the Collateral Agent, if at any time the area in which any improvements located on any Mortgaged Property is designated a “flood hazard area” in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), and otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended from time to time. All such insurance shall name the Collateral Agent as mortgagee/loss payee (in the case of property insurance) or additional insured on behalf of the Secured Parties (in the case of liability insurance) and all such insurance shall otherwise be in form and substance reasonably satisfactory to the Collateral Agent.

SECTION 9.4 Payment of Taxes. The Borrowers will pay and discharge, and will cause each of the Subsidiaries to pay and discharge, all material taxes, assessments and
governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which material penalties attach thereto, and all lawful material claims in respect of any Taxes imposed, assessed or levied that, if unpaid, could reasonably be expected to become a material Lien upon any properties of any Borrower or any of the Restricted Subsidiaries, provided that neither any Borrower, nor any of the Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim that is being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of management of the Borrower) with respect thereto in accordance with GAAP and the failure to pay could not reasonably be expected to result in a Material Adverse Effect.

SECTION 9.5 Preservation of Existence; Consolidated Corporate Franchises. Each Borrower will, and will cause each Material Subsidiary to, take all actions necessary (a) to preserve and keep in full force and effect its existence, corporate rights and authority and (b) to maintain its rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable in the normal conduct of its business, in each case, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided, however, that the Borrowers and their Subsidiaries may consummate any transaction permitted under "Permitted Investments" and Sections 10.3, 10.4 or 10.5.

SECTION 9.6 Compliance with Statutes, Regulations, Etc. Each Borrower will, and will cause each Subsidiary to, (a) comply with all applicable laws, rules, regulations and orders applicable to it or its property, including all governmental approvals or authorizations required to conduct its business, and to maintain all such governmental approvals or authorizations in full force and effect, (b) comply with, and use commercially reasonable efforts to ensure compliance by all tenants and subtenants, if any, with all applicable Environmental Laws, and obtain and comply with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws and (c) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws, except in each case of (a), (b) and (c) of this Section 9.6, where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 9.7 ERISA. (i) The Borrowers will furnish to the Administrative Agent promptly following receipt thereof, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Credit Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided, that if the Credit Parties or any of their ERISA Affiliates have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, the Credit Parties and/or their ERISA Affiliates shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrowers shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof and (ii) the Borrowers will notify the Administrative Agent promptly following the occurrence of any ERISA Event and/or Foreign Plan Event that, alone or together with any other ERISA Events and/or Foreign Plan Events that have occurred, could reasonably be expected to result in liability

112
of any Credit Party or any of its ERISA Affiliates in an aggregate amount exceeding $10,000,000.

SECTION 9.8 Maintenance of Properties. The Borrowers will, and will cause each of the Restricted Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 9.9 Transactions with Affiliates. Each Borrower will conduct, and cause each of the Restricted Subsidiaries to conduct, all transactions with any of its Affiliates (other than the Borrowers and the Restricted Subsidiaries) on terms that are substantially as favorable to such Borrower or such Restricted Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate, provided that the foregoing restrictions shall not apply to (a) the payment of customary fees to the Sponsors for management, consulting and financial services rendered to the Lead Borrower and the Restricted Subsidiaries pursuant to the Sponsor Management Agreement and customary investment banking fees paid to the Sponsors for services rendered to the Lead Borrower and the Subsidiaries in connection with divestitures, acquisitions, financings and other transactions which payments are approved by a majority of the board of directors of the Lead Borrower in good faith, (b) transactions permitted by Section 10.5, (c) the payment of the Transaction Expenses, (d) the issuance of Stock or Stock Equivalents of Holdings to the management of the Lead Borrower (or any direct or indirect parent thereof) or any of its Subsidiaries in connection with the Transactions or pursuant to arrangements described in clause (f) of this Section 9.9, (e) loans, advances and other transactions between or among any Borrower, any Restricted Subsidiary or any joint venture (regardless of the form of legal entity) in which any Borrower or any Subsidiary has invested (and which Subsidiary or joint venture would not be an Affiliate of a Borrower but for the Borrower's or a Subsidiary's ownership of Stock or Stock Equivalents in such joint venture or Subsidiary) to the extent permitted under Article 10, (f) employment and severance arrangements between the Borrowers and the Restricted Subsidiaries and their respective officers, employees or consultants (including management and employee benefit plans or agreements, stock option plans and other compensatory arrangements) in the ordinary course of business, (g) payments by any Borrower (and any direct or indirect parent thereof) and the Subsidiaries pursuant to the tax sharing agreements among any Borrower (and any such parent) and the Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that such Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of the amount received from Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were such Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such direct or indirect parent company of such Borrower, (h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers, employees of the Borrowers (or any direct or indirect parent thereof) and the Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Borrowers and the Subsidiaries, (i) transactions undertaken pursuant to membership in a purchasing consortium and (j) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 9.9 or any amendment
thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect.

SECTION 9.10 End of Fiscal Years; Fiscal Quarters. The Lead Borrower will, for financial reporting purposes, cause (a) each of its, and each of its Restricted Subsidiaries', fiscal years to end on the Sunday closest to April 30 of each year and (b) each of its, and each of its Restricted Subsidiaries', fiscal quarters to end on dates consistent with such fiscal year-end and the Lead Borrower's past practice; provided, however, that the Lead Borrower may, upon written notice to the Administrative Agent change the financial reporting convention specified above to any other financial reporting convention reasonably acceptable to the Administrative Agent, in which case the Lead Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

SECTION 9.11 Additional Credit Parties.

(a) Subject to any applicable limitations set forth in the Security Documents, the Borrowers will cause each direct or indirect Domestic Subsidiary (other than any Excluded Subsidiary or any Other Borrower) formed or otherwise purchased or acquired after the Closing Date (including pursuant to a Permitted Acquisition), and each other Domestic Subsidiary that ceases to constitute an Excluded Subsidiary, within 45 days from the date of such formation, acquisition or cessation, as applicable (or such longer period as the Administrative Agent may agree in its reasonable discretion), and the Lead Borrower may at its option cause any Subsidiary, to execute a supplement to each of the Guarantee, the Pledge Agreement and the Security Agreement in order to become a Guarantor under the Guarantee and a grantor under such Security Documents or, to the extent reasonably requested by the Collateral Agent, enter into a new Security Document substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to such Collateral Agent and take all other action reasonably requested by the Collateral Agent to grant a perfected security interest in its assets to substantially the same extent as created by the Credit Parties on the Closing Date.

(b) Subject to any applicable limitations set forth in the Security Documents, upon the request of the Lead Borrower from time to time, any direct or indirect Domestic Subsidiary (other than any Excluded Subsidiary (except any Subsidiary that is an Excluded Subsidiary solely by virtue of clause (a) of the definition of "Excluded Subsidiary")) formed or otherwise purchased or acquired after the Closing Date (including pursuant to a Permitted Acquisition), or that ceases to constitute an Excluded Subsidiary after the Closing Date and that owns assets eligible to be included in the Borrowing Base may be added as an Other Borrower hereunder, effective upon the execution and delivery to the Administrative Agent of (i) by such Domestic Subsidiary of (A) a Credit Party Joinder Agreement and amendments or joinders to any outstanding promissory notes issued under Section 13.6(d) and (B) any other Security Documents and other documents that such Domestic Subsidiary would be required to deliver pursuant to clause (a) above if it were becoming a Guarantor (with such modifications thereto as are reasonably necessary to accommodate such Domestic Subsidiary becoming a Borrower and not a Guarantor) and (ii) by the Guarantors of their reaffirmation of each Guarantee.
SECTION 9.12 Pledge of Additional Stock and Evidence of Indebtedness.

(a) Subject to any applicable limitations set forth in the Security Documents and other than (x) when in the reasonable determination of the Administrative Agent and the Lead Borrower (as agreed in writing), the cost or other consequences of doing so would be excessive in view of the benefits to be obtained by the Borrowers therefrom, (y) to the extent doing so would result in adverse tax consequences as reasonably determined by the Lead Borrower or (z) to the extent delivered and pledged to the Term Agent pursuant to the Term Documents and the ABL Intercreditor Agreement, the Borrowers will cause (i) all certificates representing Stock and Stock Equivalents of any Subsidiary (other than (x) any Excluded Stock and Stock Equivalents and (y) any Stock and Stock Equivalents issued by any Subsidiary for so long as such Subsidiary does not (on a consolidated basis with its Restricted Subsidiaries) constitute a Material Subsidiary) held directly by any Borrower or any Guarantor, (ii) all evidences of Indebtedness in excess of $10,000,000 received by any Borrower or any of the Guarantors in connection with any disposition of assets pursuant to Section 10.4(b) and (iii) any promissory notes executed after the Closing Date evidencing Indebtedness in excess of $10,000,000 of any Borrower or any Subsidiary that is owing to any Borrower or any Guarantor, in each case, to be delivered to the Collateral Agent as security for the Obligations under the Pledge Agreement.

SECTION 9.13 Use of Proceeds. The Borrowers will use the proceeds of the loans under the Term Facility, the Senior Notes Offering and a portion of the proceeds of the Loans to effect the Transactions. All proceeds of the Loans will be used for the working capital and general corporate purposes (including, without limitation, to effect the Transactions and Permitted Acquisitions) of the Borrowers and their respective Subsidiaries.

SECTION 9.14 Further Assurances.

(a) Each Borrower will, and will cause each other Credit Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents) that may be required under any applicable law, or that the Collateral Agent or the Required Lenders may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the applicable Security Documents, all at the expense of the Borrowers and the Restricted Subsidiaries.

(b) Subject to any applicable limitations set forth in the Security Documents and other than (x) when in the reasonable determination of the Administrative Agent and the Lead Borrower (as agreed in writing), the cost or other consequences of doing so would be excessive in view of the benefits to be obtained by the Lenders theretofrom or (y) to the extent doing so would result in adverse tax consequences as reasonably determined by the Lead Borrower, if any assets (including any real estate or improvements thereto or any interest therein but excluding Stock and Stock Equivalents of any Subsidiary) with a book value or fair market value in excess of $10,000,000 are acquired by any Borrower or any other Credit Party after the Closing Date (other than assets constituting Collateral under a Security Document that become subject to the Lien of the applicable Security Document upon acquisition thereof) that are of a nature secured by a Security Document or that constitute real property, the Borrowers will notify
the Collateral Agent, and, if requested by the Collateral Agent, the Borrowers will cause such assets to be subjected to a Lien securing the applicable Obligations and will take, and cause the other applicable Credit Parties to take, such actions as shall be necessary or reasonably requested by the Collateral Agent, as soon as commercially reasonable but in no event later than 90 days, unless extended by the Administrative Agent in its sole discretion, to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in clause (a) of this Section 9.14.

(c) Any Mortgage delivered to the Collateral Agent in accordance with the preceding clause (b) shall, if requested by the Collateral Agent, be received as soon as commercially reasonable but in no event later than 90 days, unless extended by the Administrative Agent in its sole discretion and accompanied by (x) a policy or policies (or an unconditional binding commitment therefor to be replaced by a final title policy) of title insurance issued by a nationally recognized title insurance company, in such amounts as reasonably acceptable to the Collateral Agent not to exceed the fair market value of the applicable Mortgaged Property, insuring the Lien of each Mortgage as a valid Lien (second in priority pursuant to the ABL Intercreditor Agreement) on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2 or as otherwise permitted by the Collateral Agent and otherwise in form and substance reasonably acceptable to the Collateral Agent, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request but only to the extent such endorsements are (i) available in the relevant jurisdiction (provided in no event shall the Collateral Agent request a creditors' rights endorsement) and (ii) available at commercially reasonable rates, and (y) an opinion of local counsel to the applicable Credit Party in form and substance reasonably acceptable to the Collateral Agent and (z) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination, and if such Mortgaged Property is located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Parties and (ii) certificates of insurance evidencing the insurance required by Section 9.3 in form and substance satisfactory to the Collateral Agent.

(d) The Collateral Agent shall have received, within 90 days after the Closing Date (unless waived or extended by Administrative Agent in its sole discretion), to the extent such items have not been delivered as of the Closing Date, the following:

(i) a Mortgage encumbering each Mortgaged Property in favor of the Collateral Agent, for the benefit of the Secured Parties, duly executed and acknowledged by each Credit Party that is the owner of or holder of any interest in such Mortgaged Property, and otherwise in form for recording in the recording office of each applicable political subdivision where each such Mortgaged Property is situated, together with such certificates, affidavits, questionnaires or returns as shall be required in connection with the recording or filing thereof to create a lien under applicable Requirements of Law, and such financing statements and any other instruments necessary to grant a mortgage lien under the laws of any applicable jurisdiction, all of which shall be in form and substance reasonably satisfactory to Collateral Agent;
(ii) with respect to each Mortgage, a policy of title insurance (or an unconditional binding commitment therefor to be replaced by a final title policy) insuring the Lien of such Mortgage as a valid mortgage Lien (second in priority pursuant to the ABL Intercreditor Agreement) on the Mortgaged Property and fixtures described therein, free of any other Liens except as permitted by Section 10.2 or as otherwise permitted by the Collateral Agent, in amounts reasonably acceptable to the Collateral Agent not to exceed the fair market value of the applicable Mortgaged Property, which policy (or such commitment) (each, a "Title Policy") shall (A) be issued by a nationally recognized title insurance company, (B) together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, but only to the extent such endorsements are (1) available in the relevant jurisdiction (provided in no event shall the Collateral Agent request a creditors' rights endorsement) and (2) available at commercially reasonable rates, and (C) contain no exceptions to title other than Liens permitted by Section 10.2 or as otherwise permitted by the Collateral Agent;

(iii) with respect to each Mortgaged Property, such affidavits (including a so-called "gap" indemnification) as are customarily required to induce the title company to issue the Title Policy/ies and endorsements contemplated above;

(iv) evidence reasonably acceptable to the Collateral Agent of payment by Borrower of all Title Policy premiums, search and examination charges, escrow charges and related charges, mortgage recording taxes, fees, charges, costs and expenses required for the recording of the Mortgages and issuance of the Title Policies referred to above;

(v) a completed Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property and if such Mortgaged Property is located in a special flood hazard area, (i) a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Credit Party and (ii) certificates of insurance evidencing the insurance required by Section 9.3 in form and substance satisfactory to the Collateral Agent; and

(vi) an opinion of counsel to the Borrowers or applicable Credit Parties with respect to the Mortgages, which shall include opinions as to (i) the enforceability of the Mortgages, (ii) the power and authority of Borrower or the applicable Credit Parties to execute the Mortgages, (iii) the due execution and delivery of the Mortgages and shall otherwise be in form and substance reasonably acceptable to the Collateral Agent.

(e) The Borrowers agrees that they will, or will cause their relevant Subsidiaries to, complete each of the actions described on Schedule 9.14(e) as soon as commercially reasonable and by no later than the date set forth in Schedule 9.14(e) with respect to such action or such later date as the Administrative Agent may reasonably agree.

SECTION 9.15 Maintenance of Ratings. The Borrowers will use commercially reasonable efforts to obtain and maintain a corporate family and/or corporate credit rating, as applicable, and ratings in respect of the Credit Facilities, in each case, from each of S&P and Moody's.
SECTION 9.16 Lines of Business. The Borrowers and the Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Borrowers and the Subsidiaries, taken as a whole, on the Closing Date and other business activities incidental or reasonably related to any of the foregoing.

ARTICLE 10
NEGATIVE COVENANTS

Each of Holdings and the Borrowers hereby covenants and agrees that on the Closing Date (immediately after consummation of the Merger) and thereafter, until the Commitments have terminated and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than contingent indemnity obligations), are paid in full, and all Letters of Credit have expired or terminated and all Letter of Credit Outstandings have been reduced to zero (or all such Letters of Credit and Letter of Credit Outstandings have been Cash Collateralized or back-stopped in a manner reasonably satisfactory to the applicable Issuing Banks):

SECTION 10.1 Limitation on Indebtedness. The Borrowers will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, "incur" and collectively, an "incurrence") with respect to any Indebtedness (including Acquired Indebtedness) and the Borrowers will not issue any shares of Disqualified Equity Interests and will not permit any Restricted Subsidiary to issue any shares of Disqualified Equity Interests or preferred stock; provided that the Borrowers may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Equity Interests and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Equity Interests and issue shares of preferred stock, if, after giving effect thereto, the Fixed Charge Coverage Ratio of the Lead Borrower and the Restricted Subsidiaries would be at least 2.00 to 1.00; provided further that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Equity Interests and preferred stock that may be incurred pursuant to the foregoing together with any amounts incurred under Section 10.1(n)(x) by Restricted Subsidiaries that are not Credit Parties shall not exceed $200,000,000 at any one time outstanding.

The foregoing limitations will not apply to:

(a) (x) Indebtedness incurred pursuant to the Term Facility by the Lead Borrower or any Restricted Subsidiary; provided that immediately after giving effect to any such incurrence, the then-outstanding aggregate principal amount of all Indebtedness incurred under this clause (x), plus the aggregate principal amount of all Indebtedness incurred under clause (cc) below, does not exceed $2,700,000,000 plus the Maximum Incremental Facilities Amount (as defined in the Term Facility) and (y) Indebtedness incurred pursuant to this Agreement;
(b) Indebtedness represented by the Senior Notes (including any guarantee thereof) and exchange notes issued in respect of such notes and any guarantee thereof in an aggregate amount not to exceed $1,300,000,000;

(c) Indebtedness outstanding on the Closing Date listed on Schedule 10.1 and the Existing Notes (provided substantially all or all of the Existing Notes are purchased by a Credit Party, repurchased, redeemed or defeased within 90 days after the Closing Date);

(d) Indebtedness (including Capitalized Lease Obligations), Disqualified Equity Interests and preferred stock incurred by any Borrower or any Restricted Subsidiary, to finance the purchase, lease, construction, installation or improvement of property (real or personal) or equipment that is used or useful in a Similar Business, whether through the direct purchase of assets or the Stock of any Person owning such assets and Indebtedness arising from the conversion of the obligations of any Borrower or any Restricted Subsidiary under or pursuant to the "synthetic lease" transactions to on-balance sheet Indebtedness of such Borrower or such Restricted Subsidiary, in an aggregate principal amount which, when aggregated with the principal amount of all other Indebtedness, Disqualified Equity Interests and preferred stock then outstanding and incurred pursuant to this clause (d) and all Refinancing Indebtedness incurred to Refinance any other Indebtedness, Disqualified Equity Interests and preferred stock incurred pursuant to this clause (d), does not exceed the greater of (x) $175,000,000 and (y) 2.25% of Consolidated Total Assets at the time of incurrence;

(e) Indebtedness incurred by any Borrower or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance; provided that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(f) Indebtedness arising from agreements of a Borrower or a Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnout or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided that such Indebtedness is not reflected on the balance sheet of the Lead Borrower or any Restricted Subsidiary (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (f));
(g) Indebtedness of a Borrower to a Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a Credit Party is subordinated in right of payment to the Obligations; provided further that any subsequent issuance or transfer of any Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to a Borrower or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(h) Indebtedness of a Restricted Subsidiary owing to a Borrower or another Restricted Subsidiary; provided that if a Credit Party incurs such Indebtedness owing to a Restricted Subsidiary that is not a Credit Party, such Indebtedness is subordinated in right of payment to the Obligations of such Credit Party; provided further that any subsequent transfer of any such Indebtedness (except to a Credit Party or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(i) shares of preferred stock of a Restricted Subsidiary issued to a Borrower or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of preferred stock (except to a Borrower or another Restricted Subsidiary) shall be deemed in each case to be an issuance of such shares of preferred stock not permitted by this clause;

(j) Indebtedness in respect of Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to this Agreement, exchange rate risk or commodity pricing risk;

(k) obligations in respect of self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by any Borrower or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business;

(l) (a) Indebtedness, Disqualified Equity Interests and preferred stock of any Borrower or any Restricted Subsidiary in an aggregate principal amount or liquidation preference of up to 100% of the net cash proceeds received by the Borrowers since immediately after the Closing Date from the issue or sale of Equity Interests of the Lead Borrower or cash contributed to the capital of the Lead Borrower (in each case, other than Excluded Contributions under and as defined in the Term Facility or proceeds of Disqualified Equity Interests or sales of Equity Interests to a Borrower or any of its Subsidiaries) as determined in accordance with Sections 10.5(a)(iii)(2) and 10.5(a)(iii)(3) of the Term Facility to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments and as defined in the Term Facility or to make other Investments, payments or exchanges pursuant to Section 10.5(b) or to make Permitted Investments (other than Permitted Investments specified in
clauses (a) and (c) of the definition thereof) and (b) Indebtedness, Disqualified Equity Interests or preferred stock of a Borrower or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Equity Interests and preferred stock then outstanding and incurred pursuant to this clause (l)(b), does not at any one time outstanding exceed $225,000,000 (it being understood that any Indebtedness, Disqualified Equity Interests or preferred stock incurred pursuant to this clause (l)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (l)(b) but shall be deemed incurred for the purposes of the first paragraph of this Section 10.1 from and after the first date on which the Borrowers or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Equity Interests or preferred stock under the first paragraph of this Section 10.1 without reliance on this clause (l)(b));

(m) the incurrence by any Borrower or any Restricted Subsidiary of Indebtedness, Disqualified Equity Interests or preferred stock which serves to Refinance any Indebtedness, Disqualified Equity Interests or preferred stock incurred as permitted under the first paragraph of this Section 10.1 and clauses (b) and (c) above, clause (l)(a), this clause (m) and clause (n) below or any Indebtedness, Disqualified Equity Interests or preferred stock issued to so Refinance such Indebtedness, Disqualified Equity Interests or preferred stock including additional Indebtedness, Disqualified Equity Interests or preferred stock incurred to pay premiums (including reasonable tender premiums), defeasance costs and fees in connection therewith (the "Refinancing Indebtedness") prior to its respective maturity; provided, that such Refinancing Indebtedness (1) has a weighted average life to maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining weighted average life to maturity of the Indebtedness, Disqualified Equity Interests or preferred stock being Refinanced, (2) to the extent such Refinancing Indebtedness refinances (i) Indebtedness that is unsecured or secured by a Lien ranking junior to the Liens securing the Obligations, such Refinancing Indebtedness is unsecured or secured by a Lien ranking junior to the Liens securing the Obligations or (ii) Disqualified Equity Interests or preferred stock, such Refinancing Indebtedness must be Disqualified Equity Interests or preferred stock or preferred stock of a Subsidiary of a Borrower that is not a Credit Party that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of a Borrower, (y) Indebtedness, Disqualified Equity Interests or preferred stock of a Subsidiary of a Borrower that is not a Credit Party that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of a Guarantor, or (z) Indebtedness, Disqualified Equity Interests or preferred stock of a Borrower or a Restricted Subsidiary that Refinances Indebtedness, Disqualified Equity Interests or preferred stock of an Unrestricted Subsidiary;

(n) Indebtedness, Disqualified Equity Interests or preferred stock of (x) a Borrower or a Restricted Subsidiary incurred or issued to finance an acquisition; provided that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Equity Interests and preferred stock that may be incurred pursuant to the foregoing, together with any amounts incurred under the first paragraph of Section 10.1 by Restricted Subsidiaries that are not Credit Parties shall not exceed $200,000,000 at any one time outstanding, or
(y) Persons that are acquired by any Borrower or any Restricted Subsidiary or merged into or consolidated with a Borrower or a Restricted Subsidiary in accordance with the terms hereof; provided that after giving effect to such acquisition or merger, either: (1) the Borrowers would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 10.1 or (2) the Fixed Charge Coverage Ratio of the Lead Borrower and the Restricted Subsidiaries is greater than immediately prior to such acquisition, merger or consolidation;

(o) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(p) Indebtedness of any Borrower or any Restricted Subsidiary supported by a Letter of Credit, in a principal amount not in excess of the Stated Amount of such Letter of Credit;

(q) (1) any guarantee by any Borrower or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as, in the case of a guarantee by a Restricted Subsidiary that is not a Credit Party, such Indebtedness could have been incurred directly by the Restricted Subsidiary providing such guarantee, or (2) any guarantee by a Restricted Subsidiary of Indebtedness of any Borrower;

(r) Indebtedness of Foreign Subsidiaries of the Lead Borrower in an amount not to exceed, in the aggregate, at any one time outstanding 5.0% of the Consolidated Total Assets of the Foreign Subsidiaries at the time of incurrence;

(s) [Reserved]

(t) Indebtedness of any Borrower or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take or pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business;

(u) Indebtedness of any Borrower or any of its Restricted Subsidiaries undertaken in connection with cash management and related activities with respect to any Subsidiary or joint venture in the ordinary course of business;

(v) Indebtedness consisting of Indebtedness issued by any Borrower or any of its Restricted Subsidiaries to future current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of any Borrower or any direct or indirect parent company of any Borrower to the extent described in clause (d) of Section 10.5(b);

(w) guarantees furnished by any Borrower or any of its Restricted Subsidiaries in the ordinary course of business of Indebtedness of another Person in an aggregate amount not to exceed $50,000,000 at any time outstanding;
(x) Indebtedness incurred in connection with any Sale Leaseback: provided that the aggregate Indebtedness incurred pursuant to this clause shall not exceed $50,000,000 at any time outstanding;

(y) Indebtedness in respect of (i) Permitted Additional Debt to the extent that the Net Cash Proceeds therefrom are, immediately after the receipt thereof, applied to the prepayment of Term Loans in accordance with Section 5.2 of the Term Facility and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above, provided that, except to the extent otherwise permitted hereunder, (w) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension, (x) the direct and contingent obligors with respect to such Indebtedness are not changed, (y) if the Indebtedness being refinanced, or any guarantee thereof, constituted Subordinated Indebtedness, then such replacement or refinancing Indebtedness, or such guarantee, respectively, shall be subordinated to the Obligations to substantially the same extent and (z) such Indebtedness otherwise complies with the definition of "Permitted Additional Debt”;

(z) [Reserved]

(aa) Indebtedness in respect of (i) Permitted Other Indebtedness to the extent that the Net Cash Proceeds therefrom are applied to the prepayment of Term Loans in the manner set forth in Section 5.2(a)(i) of the Term Facility; and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; provided that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing) and (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness”;

(bb) Indebtedness in respect of (i) Permitted Other Indebtedness: provided that either (a) the aggregate principal amount of all such Permitted Other Indebtedness issued or incurred pursuant to this clause (i)(a) shall not exceed the Maximum Incremental Facilities Amount (as defined in the Term Facility) or (b) if such Permitted Other Indebtedness is unsecured or secured by a Lien ranking junior to the Lien securing the Obligations, the Net Cash Proceeds thereof shall be applied no later than ten (10) Business Days after the receipt thereof to repurchase, repay, redeem or otherwise defease Senior Notes and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; provided that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing), (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness,” and (z) in the case of a refinancing of Permitted Other Indebtedness incurred pursuant to clause (i)(b) above with other Permitted Other Indebtedness

123
("Refinancing Permitted Other Indebtedness"), such Refinancing Permitted Other Indebtedness, if secured, may only be secured by a Lien ranking junior to the Lien securing the Obligations; and

(cc) (i) Indebtedness in respect of Permitted Debt Exchange Notes incurred pursuant to a Permitted Debt Exchange in accordance with Section 2.15 of the Term Facility (and which does not generate any additional proceeds) and (ii) any refinancing, refunding, renewal or extension of any Indebtedness specified in subclause (i) above; provided that except to the extent otherwise permitted hereunder, (x) the principal amount of any such Indebtedness is not increased above the principal amount thereof outstanding immediately prior to such refinancing, refunding, renewal or extension (except for any original issue discount thereon and the amount of fees, expenses and premium in connection with such refinancing), (y) such Indebtedness otherwise complies with the definition of "Permitted Other Indebtedness" and (z) the aggregate principal amount of all Indebtedness incurred under this clause (cc), plus the aggregate principal amount of all Indebtedness incurred under clause (a) above, does not at any time exceed $2,700,000,000 plus the Maximum Incremental Facilities Amount.

For purposes of determining compliance with this Section 10.1: (i) in the event that an item of Indebtedness, Disqualified Equity Interests or preferred stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Equity Interests or preferred stock described in clauses (a) through (cc) above or is entitled to be incurred pursuant to the first paragraph of this Section 10.1, the Borrowers, in their sole discretion, will classify or reclassify such item of Indebtedness, Disqualified Equity Interests or preferred stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness, Disqualified Equity Interests or preferred stock in one of the above clauses or paragraphs; provided that all Indebtedness outstanding under the Term Facility on the Closing Date after giving effect to the Transactions will be treated as incurred on the Closing Date under Section 10.1(a)(x); and (ii) at the time of incurrence, the Borrowers will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in this Section 10.1. Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Equity Interests or preferred stock will not be deemed to be an incurrence of Indebtedness, Disqualified Equity Interests or preferred stock for purposes of this covenant. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the principal amount of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses incurred in connection with such refinancing. The principal amount of any Indebtedness incurred to Refinance other Indebtedness, if incurred in a
different currency from the Indebtedness being Refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

SECTION 10.2 Limitation on Liens.

(a) The Borrowers will not, and will not permit any of the Restricted Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any Borrower or any Restricted Subsidiary, whether now owned or hereafter acquired (each, a “Subject Lien”) that secures obligations under any Indebtedness on any asset or property of any Borrower or any Restricted Subsidiary, except:

(i) in the case of Subject Liens on any Collateral, if such Subject Lien is a Permitted Lien; and

(ii) in the case of any other asset or property, any Subject Lien if (A) the Obligations are equally and ratably secured with (or on a senior basis to, in the case such Subject Lien secures any Junior Debt) the obligations secured by such Subject Lien or (B) such Subject Lien is a Permitted Lien.

(b) Any Lien created for the benefit of the Secured Parties pursuant to Section 10.2(a)(ii)(A) shall provide by its terms that such Lien shall be automatically and unconditionally be released and discharged upon the release and discharge of the Subject Lien that gave rise to the obligation to so secure the Obligations.

SECTION 10.3 Limitation on Fundamental Changes. Each Borrower will not, and will not permit any of the Restricted Subsidiaries to, enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease, assign, transfer or otherwise dispose of, all or substantially all its business units, assets or other properties, except:

(a) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, any Subsidiary of a Borrower or any other Person may be merged, amalgamated or consolidated with or into a Borrower, provided that (A) such Borrower shall be the continuing or surviving corporation or (B) if the Person formed by or surviving any such merger, amalgamation or consolidation is not such Borrower (such other Person, the “Successor Borrower”), (1) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory thereof, (2) the Successor Borrower shall expressly assume all the obligations of such Borrower under this Agreement and the other Credit Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (3) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guarantee confirmed that its guarantee thereunder shall apply to any Successor Borrower’s obligations under this Agreement, (4) each Subsidiary grantor and each Subsidiary pledgor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement or the
Pledge Agreement, as applicable, affirmed that its obligations thereunder shall apply to its Guarantee as reaffirmed pursuant to clause (3), (5) each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have affirmed that its obligations under the applicable Mortgage shall apply to its Guarantee as reaffirmed pursuant to clause (3) and (6) the Successor Borrower shall have delivered to the Administrative Agent (x) an officer's certificate stating that such merger or consolidation and such supplements preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the applicable Security Documents and (y) if requested by the Administrative Agent, an opinion of counsel to the effect that such merger or consolidation does not violate this Agreement or any other Credit Document and that the provisions set forth in the preceding clauses (3) through (5) preserve the enforceability of the Guarantee and the perfection of the Liens created under the applicable Security Documents (it being understood that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, such Borrower under this Agreement);

(b) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, any Subsidiary of a Borrower or any other Person (in each case, other than the Lead Borrower) may be merged, amalgamated or consolidated with or into any one or more Subsidiaries of the Lead Borrower, provided that (i) in the case of any merger, amalgamation or consolidation involving one or more Restricted Subsidiaries, (A) a Restricted Subsidiary shall be the continuing or surviving Person or (B) the Lead Borrower shall take all steps necessary to cause the Person formed by or surviving any such merger, amalgamation or consolidation (if other than a Restricted Subsidiary) to become a Restricted Subsidiary, (ii) in the case of any merger, amalgamation or consolidation involving one or more Guarantors or Borrowers, a Guarantor or Borrower, as the case may be, shall be the continuing or surviving Person or the Person formed by or surviving any such merger, amalgamation or consolidation (if other than a Guarantor) shall execute a supplement to the Guarantee Agreement and the relevant Security Documents in form and substance reasonably satisfactory to the Administrative Agent in order to become a Guarantor and pledgor, mortgagor and grantor, as applicable, thereunder for the benefit of the Secured Parties, (iii) no Default or Event of Default has occurred and is continuing or would result from the consummation of such merger, amalgamation or consolidation and (iv) the Lead Borrower shall have delivered to the Administrative Agent an officers' certificate stating that such merger, amalgamation or consolidation and any such supplements to any Security Document preserve the enforceability of the Guarantees and the perfection and priority of the Liens under the applicable Security Documents;

(c) the Merger may be consummated;

(d) any Restricted Subsidiary that is not a Credit Party may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to any Borrower or any other Restricted Subsidiary;

(e) any Subsidiary may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to any Credit Party, provided that
the consideration for any such disposition by any Person other than a Guarantor shall not exceed the fair value of such assets;

(f) any Restricted Subsidiary may liquidate or dissolve if (i) the Lead Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Lead Borrower and is not materially disadvantageous to the Lenders and (ii) to the extent such Restricted Subsidiary is a Credit Party, any assets or business of such Restricted Subsidiary not otherwise disposed of or transferred in accordance with Section 10.4 or 10.5 or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, a Credit Party after giving effect to such liquidation or dissolution;

(g) to the extent that no Default or Event of Default would result from the consummation of such disposition or investment, the Borrowers and the Restricted Subsidiaries may consummate a merger, dissolution, liquidation, consolidation, investment or disposition, the purpose of which is to effect a disposition permitted pursuant to Section 10.4 or an investment permitted pursuant to Section 10.5 or an investment that constitutes a "Permitted Investment"; and

(h) the Borrowers and the Restricted Subsidiaries may consummate a Disposition constituting the sale of manufacturing facilities and related assets, in connection with establishing outsourcing arrangements providing substantially similar functionality.

SECTION 10.4 Limitation on Sale of Assets. The Borrowers will not, and will not permit any of the Restricted Subsidiaries to, (i) convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including receivables, Stock and Stock Equivalents of any other Person) and leasehold interests), whether now owned or hereafter acquired or (ii) sell to any Person (other than a Borrower or a Guarantor) any shares owned by it of any Restricted Subsidiary's Stock and Stock Equivalents, except that:

(a) the Borrowers and the Restricted Subsidiaries may sell, transfer or otherwise dispose of (i) inventory, used or surplus equipment, vehicles and other assets in the ordinary course of business, and (ii) Cash Equivalents and Investment Grade Securities;

(b) the Borrowers and the Restricted Subsidiaries may sell, transfer or otherwise dispose of assets (each of the foregoing, a "Disposition") for fair value, provided that (i) to the extent required, the Net Cash Proceeds thereof to the Borrowers and the Restricted Subsidiaries are promptly applied to prepayment of Term Loans in accordance with Section 5.2 of the Term Facility, (ii) after giving effect to any such sale, transfer or disposition, no Default or Event of Default shall have occurred and be continuing and (iii) with respect to any Disposition pursuant to this clause (b) for a purchase price in excess of $10,000,000, the Person making such Disposition shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; provided that for the purposes of this subclause (iii) the following shall be deemed to be cash: (A) any liabilities (as shown on such Borrower's or such Restricted Subsidiary's
most recent balance sheet provided hereunder or in the footnotes thereto) of such Borrower or such Restricted Subsidiary, other than liabilities that are by their terms (1) subordinated to the payment in cash of the Obligations or (2) not secured by the assets that are the subject of such Disposition, that are assumed by the transferee with respect to the applicable Disposition and for which such Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities received by the Person making such Disposition from the purchaser that are converted by such Person into cash (to the extent of the cash received) within 180 days following the closing of the applicable Disposition, (C) any Designated Non-Cash Consideration received by the Person making such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this Section 10.4(b) that is at that time outstanding, not in excess of the greater of $150,000,000 and 2.0% of Consolidated Total Assets and with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value;

(c) (i) the Borrowers and the Restricted Subsidiaries may make Dispositions to any Borrower or any other Credit Party and (ii) any Restricted Subsidiary that is not a Credit Party may make Dispositions to any Borrower or any other Subsidiary, provided that with respect to any such Dispositions, such sale, transfer or disposition shall be for fair value;

(d) any Borrower and any Restricted Subsidiary may effect any transaction permitted by Section 10.3 or 10.5;

(e) the Borrowers and the Restricted Subsidiaries may lease, sublease, license or sublicense real, personal or Intellectual Property in the ordinary course of business;

(f) the Borrowers and the Restricted Subsidiaries may make Dispositions of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are applied to the purchase price of such replacement property, in each case under Section 1031 of the Code or otherwise;

(g) the Borrowers and the Restricted Subsidiaries may make Dispositions of property pursuant to Permitted Sale Leaseback transactions;

(h) the Borrowers and the Restricted Subsidiaries may make Dispositions of Investments in joint ventures (regardless of the form of legal entity) to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(i) [Reserved];

(j) [Reserved];

(k) the Borrowers and the Restricted Subsidiaries may make Dispositions listed on Schedule 10.4 ("Scheduled Dispositions");
(l) transfers of property subject to a Casualty Event upon receipt of the Net Cash Proceeds of such Casualty Event;
(m) the Borrowers and the Restricted Subsidiaries may make Dispositions of accounts receivable or other obligations owing to any Borrower or any Restricted Subsidiary in connection with the collection, compromise or realization thereof;
(n) the Borrowers and the Restricted Subsidiaries may effect the unwinding of any Hedge Agreement;
(o) [Reserved];
(p) the Borrowers and the Restricted Subsidiaries may make Dispositions of any Foreign Subsidiary to any other Foreign Subsidiary;
(q) the Borrowers and the Restricted Subsidiaries may allow the lapse or abandonment of Intellectual Property in the ordinary course of business; and
(r) the Borrowers and the Restricted Subsidiaries may make Dispositions of any assets between or among the Borrowers and/or their Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to clauses (a) through (q) above.

SECTION 10.5 Limitation on Restricted Payments.
(a) The Lead Borrower will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(1) declare or pay any dividend or make any payment or distribution on account of the Borrower's or any Restricted Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:

(A) dividends or distributions by a Borrower payable in Equity Interests (other than Disqualified Equity Interests) of such Borrower or in options, warrants or other rights to purchase such Equity Interests, or

(B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Subsidiary other than a wholly-owned Subsidiary, a Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

(2) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Lead Borrower or Holdings or any other direct or indirect parent company of the Lead Borrower, including in connection with any
merger or consolidation (together with the payments and distributions described in the foregoing clause (1), "dividends");

(3) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, Term Facility Debt or any Junior Debt of any Borrower or any Restricted Subsidiary, other than (A) Indebtedness permitted under clauses (g) and (h) of Section 10.1, (B) the purchase, repurchase or other acquisition of Term Facility Debt or Junior Debt purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition or (C) mandatory prepayments as required under the Term Facility; or

(4) make any Restricted Investment

(all such payments and other actions set forth in clauses (1) through (4) above (other than any exception thereto) being collectively referred to as "Restricted Payments"), except that this Section 10.5 shall not prohibit (i) any transaction described in clause (1) or (2) above when the Adjusted Payment Conditions with respect thereto are satisfied, (ii) any transaction described in clause (3) above when the Adjusted Prepayment Conditions with respect thereto are satisfied or (iii) any transaction described in clause (4) above when the Adjusted Investment Conditions with respect thereto are satisfied.

(b) The foregoing provisions of Section 10.5(a) will not prohibit:

(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration thereof or the giving of such irrevocable notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with this Section 10.5 (other than this clause (1));

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock"), Term Facility Debt or Junior Debt of the Lead Borrower, or any Equity Interests of Holdings or any other direct or indirect parent company of the Lead Borrower, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Lead Borrower or any direct or indirect parent company of the Lead Borrower to the extent contributed to the Lead Borrower (in each case, other than any Disqualified Equity Interests) ("Refunding Capital Stock") and (b) the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of Holdings or any other direct or indirect parent company of the Lead Borrower) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that was declarable and payable on such Retired Capital Stock immediately prior to such retirement;
(3) the prepayment, redemption, defeasance, repurchase or other acquisition or retirement for value of Term Facility Debt or Junior Debt of the Lead Borrower or a Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Lead Borrower, or a Guarantor, as the case may be, which is incurred in compliance with Section 10.1 so long as: (A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on the Term Facility Debt or Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired for value, plus the amount of any reasonable premium (including reasonable tender premiums), defeasance costs and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness, (B) such new Indebtedness is subordinated to the Obligations, or the applicable Guarantee at least to the same extent as such Term Facility Debt or Junior Debt so purchased, exchanged, redeemed, repurchased, acquired or retired for value, (C) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Term Facility Debt or Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired, (D) if such Term Facility Debt or Junior Debt so purchased, exchanged, redeemed, repurchased, acquired or retired for value is (i) unsecured then such new Indebtedness shall be unsecured; (provided that Senior Notes may be refinanced with the Net Cash Proceeds of Permitted Other Indebtedness that is unsecured or secured by a Lien ranking junior to the Liens securing the Obligations to the extent permitted by Section 10.1(bb)(i)(b)) or (ii) Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b) and is secured by a Lien ranking junior to the Liens securing the Obligations then such new Indebtedness shall be unsecured or secured by a Lien ranking junior to the Liens securing the Obligations and (E) such new Indebtedness has a weighted average life to maturity equal to or greater than the remaining weighted average life to maturity of the Term Facility Debt or Junior Debt being so redeemed, defeased, repurchased, exchanged, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Equity Interests) of the Lead Borrower or Holdings or any other direct or indirect parent company of the Lead Borrower held by any future, present or former employee, director or consultant of the Lead Borrower, any of its Subsidiaries, Holdings or any other direct or indirect parent company of the Lead Borrower pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any stock subscription or shareholder agreement (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Lead Borrower or any direct or indirect parent company of the Lead Borrower in connection with such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management of the Lead Borrower or any direct or indirect parent company of the Lead Borrower in connection with the Transactions; provided that the aggregate Restricted Payments made under this clause (4) do not exceed in
any calendar year $40,000,000 (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of $60,000,000 in any calendar year); provided further that such amount in any calendar year may be increased by an amount not to exceed: (A) the cash proceeds from the sale of Equity Interests (other than Disqualified Equity Interests) of the Lead Borrower and, to the extent contributed to the Lead Borrower, the cash proceeds from the sale of Equity Interests of Holdings or any other direct or indirect parent company of the Lead Borrower, in each case to any future, present or former employees, directors or consultants of the Lead Borrower, any of its Subsidiaries, Holdings or any other direct or indirect parent company of the Lead Borrower that occurs after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (iii) of Section 10.5(a) of the Term Facility, plus (B) the cash proceeds of key man life insurance policies received by the Lead Borrower and the Restricted Subsidiaries after the Closing Date, less (C) the amount of any Restricted Payments previously made pursuant to clauses (A) and (B) of this clause (4); and provided further that cancellation of Indebtedness owing to any Borrower or any Restricted Subsidiary from any future, present or former employees, directors or consultants of the Lead Borrower, Holdings, any other direct or indirect parent company of the Lead Borrower or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Lead Borrower, Holdings or any other direct or indirect parent company of the Lead Borrower will not be deemed to constitute a Restricted Payment for purposes of this Section 10.5 or any other provision of this Agreement;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Equity Interests of any Borrower or any Restricted Subsidiary or any class or series of preferred stock of any Restricted Subsidiary, in each case, issued in accordance with Section 10.1 to the extent such dividends are included in the definition of Adjusted Fixed Charges, in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (5) and other Restricted Payments of such type described in clauses (1) and (2) of Section 10.5(a) made under clause (11)(iii) or (13)(v) of this Section 10.5(b), not to exceed $25,000,000;

(6) [Reserved]

(7) Investments in Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed $100,000,000 at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);
(8) payments made or expected to be made by any Borrower or any Restricted Subsidiary in respect of withholding or similar taxes payable upon exercise of Equity Interests by any future, present or former employee, director or consultant and repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(9) the declaration and payment of dividends on the Lead Borrower's common stock (or the payment of dividends to Holdings or any other direct or indirect parent company of the Lead Borrower to fund a payment of dividends on such company's common stock), following the consummation of the first public offering of the Lead Borrower's common stock or the common stock of Holdings or any other direct or indirect parent company of the Lead Borrower after the Closing Date, of up to 6.0% per annum of the net cash proceeds received by or contributed to the Lead Borrower in or from any such public offering, other than public offerings with respect to the Lead Borrower's common stock registered on Form S-8;

(10) [Reserved];

(11) (i) other Investments in an aggregate amount, taken together with the aggregate amount of all other Investments made under clause (c), (h) or (m) of the definition of "Permitted Investments" or clause (13)(iii) of this Section 10.5(b), not to exceed $75,000,000. (ii) other Restricted Payments of the type described in clause (3) of Section 10.5(a) in an aggregate amount, taken together with the aggregate amount of such type of Restricted Payments made under clause (13)(iv) or (19) of this Section 10.5(b), not to exceed $25,000,000 and (iii) other Restricted Payments of the type described in clauses (1) and (2) of Section 10.5(a) in an aggregate amount, taken together with the aggregate amount of such type of Restricted Payments made under clause (5) or (13)(v) of this Section 10.5(b), not to exceed $25,000,000.

(12) [Reserved];

(13) any Restricted Payment (i) made in connection with the consummation of the Transactions and the fees and expenses related thereto, (ii) used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Lead Borrower to permit payment by such parent of such amount), in each case to the extent permitted by Section 9.9 (other than Sections 9.9(b) and 9.9(e)), (iii) used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Lead Borrower to permit payment by such parent of such amount), in each case to the extent permitted by Section 9.9(e), (iv) used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Lead Borrower to permit payment by such parent of such amount), in each case to the extent permitted by Section 9.9(e), to the extent constituting an Investment, in an aggregate amount, taken together with the aggregate amount of all other Investments made under clause (c), (h) or (m) of the definition of "Permitted Investments" or clause (11)(i) of this Section 10.5(b), not to exceed $75,000,000, (iv) used to fund amounts owed to Affiliates (including dividends to any direct or
 indirect parent company of the Lead Borrower to permit payment by such parent of such amount), in each case to the extent permitted by
Section 9.9(e), to the extent constituting Restricted Payments of the type described in clause (3) of Section 10.5(a), in an aggregate amount, taken
together with the aggregate amount of such type of Restricted Payments made under clause (1)(ii) or (19) of this Section 10.5(b), not to exceed
$25,000,000 or (v) used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Lead Borrower
to permit payment by such parent of such amount), in each case to the extent permitted by Section 9.9(e), to the extent constituting Restricted
Payments of the type described in clauses (1) and (2) of Section 10.5(a), in an aggregate amount, taken together with the aggregate amount of
such type of Restricted Payments made under clause (5) or (11)(iii) of this Section 10.5(b), not to exceed $25,000,000;

(14) [reserved];

(15) the declaration and payment of dividends by the Lead Borrower to, or the making of loans to, Holdings or any other direct or indirect
parent company of the Lead Borrower in amounts required for such parent company to pay: (A) franchise and excise taxes and other fees, taxes
and expenses required to maintain its corporate existence, (B) foreign, federal, state and local income and similar taxes, to the extent such income
taxes are attributable to the income, revenue, receipts, capital or margin of the Lead Borrower and the Restricted Subsidiaries and, to the extent of
the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of
such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the
Lead Borrower and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year
were the Lead Borrower, its Restricted and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any
such direct or indirect parent company of the Lead Borrower, (C) customary salary, bonus and other benefits payable to officers, employees and
directors of Holdings or any other direct or indirect parent company of the Lead Borrower to the extent such salaries, bonuses and other benefits
are attributable to the ownership or operation of the Lead Borrower and the Restricted Subsidiaries, including the Lead Borrower's proportionate
share of such amount relating to such parent company being a public company, (D) general corporate operating (including, without limitation,
expenses related to auditing or other accounting matters) and overhead costs and expenses of Holdings or any other direct or indirect parent
company of the Lead Borrower to the extent such costs and expenses are attributable to the ownership or operation of the Lead Borrower and the
Restricted Subsidiaries, including the Lead Borrower's proportionate share of such amount relating to such parent company being a public
company, (E) amounts required for any direct or indirect parent company of the Lead Borrower to pay fees and expenses incurred by any direct
or indirect parent company of the Lead Borrower related to (i) the maintenance by such parent entity of its corporate or other entity existence and

134
(ii) any unsuccessful equity or debt offering of such parent company of the Lead Borrower, (F) taxes with respect to income of any direct or indirect parent company of the Lead Borrower derived from funding made available to the Lead Borrower and its Restricted Subsidiaries by such direct or indirect parent company, and (G) 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 Lead Borrower or any such direct or indirect parent company of the Lead Borrower;

(16) the repurchase, redemption or other acquisition for value of Equity Interests of the Lead Borrower deemed to occur in connection with paying cash in lieu of fractional shares of such Equity Interests in connection with a share dividend, distribution, share split, reverse share split, merger, consolidation, amalgamation or other business combination of the Lead Borrower, in each case, permitted under this Agreement;

(17) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Lead Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents);

(18) Restricted Payments made in connection with the repurchase, redemption, defeasance or other acquisition of the Existing Notes, in each case, made within 90 days after the Closing Date; and

(19) the prepayment, redemption, defeasance, repurchase or other acquisition or retirement for value of Term Facility Debt, Senior Notes or any Permitted Other Indebtedness incurred pursuant to Section 10.1(bb)(i)(b) of any Borrower or any Restricted Subsidiary in an aggregate amount pursuant to this clause (19) not to exceed, taken together with the aggregate amount of such type of Restricted Payments made under clause (11)(ii) or (13)(iv) of this Section 10.5(b), $25,000,000;

provided that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11), (17) and (19), no Default shall have occurred and be continuing or would occur as a consequence thereof.

The Borrowers will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of “Unrestricted Subsidiary.” For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Borrowers and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of “Investment.” Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to Section 10.5(a) or under clauses (7), (10) or (11) of Section 10.5(b), or pursuant to the definition of “Permitted Investments,” and if such Subsidiary
otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Agreement.

SECTION 10.6 Limitations on Amendments. The Borrowers will not waive, amend, modify, terminate or release any Term Facility Debt or Junior Debt to the extent that any such waiver, amendment, modification, termination or release would be adverse to the Lenders in any material respect.

SECTION 10.7 Holding Company. Holdings shall not conduct, transact or otherwise engage in any business or operations other than (i) the ownership and/or acquisition of the Stock of the Lead Borrower, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters as a member of the consolidated group of Holdings and the Lead Borrower, (iv) the performance of its obligations under and in connection with the Credit Documents, any documentation governing Permitted Other Indebtedness or Refinancing Permitted Other Indebtedness, the Acquisition Agreement, the other agreements contemplated by the Acquisition Agreement and the other agreements contemplated hereby and thereby, (v) any public offering of its common stock or any other issuance or registration of its Stock for sale or resale not prohibited by Article 10, including the costs, fees and expenses related thereto, (vi) the making of any dividend or the holding of any cash received in connection with dividends made by the Lead Borrower in accordance with Section 10.5 pending application thereof, (vii) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes, (viii) providing indemnification to officers and directors and as otherwise permitted hereunder, (ix) activities incidental to the consummation of the Transactions, (x) financing activities, including the issuance of securities, incurrence of debt, payment of dividends, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries and (x) activities incidental to the businesses or activities described in clauses (i) to (ix) of this Section 10.7.

SECTION 10.8 Restrictive Agreements. Neither Holdings nor the Borrowers will, nor will they permit any Restricted Subsidiary to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of Holdings, any Borrower or any other Credit Party to create, incur or permit to exist any Lien upon any of its property or assets to secure the Obligations or (b) the ability of any Restricted Subsidiary that is not a Credit Party to pay dividends or other distributions with respect to its Stock or to make or repay loans or advances to any Restricted Subsidiary; provided that the foregoing clauses (a) and (b) shall not apply to any such restrictions that (i) (x) exist on the date hereof and (y) any renewal or extension of a restriction permitted by clause (i)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, (ii) (x) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such restrictions were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary and (y) any renewal or extension of a restriction permitted by clause (ii)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, (iii) represent Indebtedness of a Restricted Subsidiary that is not a Credit Party that is permitted by Section 10.1, (iv) are customary restrictions that arise in connection with any Disposition permitted by Section 10.4 applicable pending such Disposition.
solely to the assets subject to such Disposition, (v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 10.5 or "Permitted Investments", (vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 10.1 and any synthetic lease obligation but solely to the extent any negative pledge relates to the property financed by or securing such Indebtedness (and excluding in any event any Indebtedness constituting any Term Facility Debt or Junior Debt; provided that such restrictions are taken as a whole no more onerous than those imposed by this Agreement), (vii) are imposed by any Requirement of Law, (viii) are customary restrictions contained in leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate only to the assets subject thereto, (ix) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 10.1(d) to the extent that such restrictions apply only to the property or assets securing such Indebtedness, (x) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Holdings, any Borrower or any Restricted Subsidiary, (xi) are customary provisions restricting assignment of any license, lease or other agreement, (xii) are restrictions on cash, Cash Equivalents or deposits imposed by customers under contracts entered into in the ordinary course of business (or otherwise constituting Permitted Liens on such cash or Cash Equivalents or deposits) or (xiii) are customary net worth provisions contained in real property leases or licenses of Intellectual Property entered into by any Borrower or any Restricted Subsidiary, so long as such Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of such Borrower and its subsidiaries to meet their ongoing obligation.

SECTION 10.9 Minimum Adjusted Fixed Charge Coverage Ratio. The Lead Borrower and its Restricted Subsidiaries will maintain an Adjusted Fixed Charge Coverage Ratio of at least 1.0 to 1.0 for each period of trailing four fiscal quarters (based on the most recent quarterly financial statements) ending during or immediately before any Adjusted Fixed Charge Testing Period.

ARTICLE 11
EVENTS OF DEFAULT

Upon the occurrence of any of the following specified events (each an "Event of Default"): 

SECTION 11.1 Payments. Any Borrower shall (a) default in the payment when due of any principal of the Loans or (b) default, and such default shall continue for five or more days, in the payment when due of any interest on the Loans or any Fees or of any other amounts owing hereunder or under any other Credit Document; or

SECTION 11.2 Representations, Etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which made or deemed made; or

SECTION 11.3 Covenants. Any Credit Party shall:
(a) default in the due performance or observance by it of any term, covenant or agreement contained in Section 2.22(b), 2.22(c), 2.22(d), 9.1(e) or 9.5 (solely with respect to the Borrower) or Article 10; or

(b) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in Section 11.1 or 11.2 or clause (a) of this Section 11.3) contained in this Agreement or any Security Document and such default shall continue unremedied for a period of at least 30 days after receipt of written notice by the Lead Borrower from the Administrative Agent or the Required Lenders; or

SECTION 11.4 Default Under Other Agreements. (a) Any Borrower or any of the Restricted Subsidiaries shall (i) default in any payment with respect to any Indebtedness (other than the Obligations) in excess of $50,000,000 in the aggregate (provided that such $50,000,000 minimum shall not apply in the case of any Permitted Debt Exchange Notes), for such Borrower and such Restricted Subsidiaries, beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created or (ii) default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist (other than, with respect to Indebtedness consisting of any Hedge Agreements, termination events or equivalent events pursuant to the terms of such Hedge Agreements (it being understood that clause (i) shall apply to any failure to make any payment in excess of $50,000,000 that is required as a result of any such termination or similar event and that is not otherwise being contested in good faith), the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, any such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; or (b) without limiting the provisions of clause (a) above, any such Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment or as a mandatory prepayment (and, with respect to Indebtedness consisting of any Hedge Agreements, other than due to a termination event or equivalent event pursuant to the terms of such Hedge Agreements (it being understood that clause (a)(ii) above shall apply to any failure to make any payment in excess of $50,000,000 that is required as a result of any such termination or equivalent event and that is not otherwise being contested in good faith), prior to the stated maturity thereof; provided that this clause (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or

SECTION 11.5 Bankruptcy, Etc. Holdings, the Lead Borrower or any Material Subsidiary shall commence a voluntary case, proceeding or action concerning itself under (a) Title 11 of the United States Code entitled "Bankruptcy", or (b) in the case of any Foreign Subsidiary that is a Material Subsidiary, any domestic or foreign law relating to bankruptcy, judicial management, insolvency, reorganization, administration or relief of debtors in effect in its jurisdiction of incorporation, in each case as now or hereafter in effect, or any successor thereto (collectively, the "Bankruptcy Code"); or an involuntary case, proceeding or action is commenced against Holdings, the Lead Borrower or any Material Subsidiary and the petition is
not controverted within 30 days after commencement of the case, proceeding or action; or an involuntary case, proceeding or action is commenced against Holdings, the Lead Borrower or any Material Subsidiary and the petition is not dismissed within 60 days after commencement of the case, proceeding or action; or a custodian (as defined in the Bankruptcy Code), judicial manager, receiver, receiver manager, trustee, administrator or similar person is appointed for, or takes charge of, all or substantially all of the property of Holdings, the Lead Borrower or any Material Subsidiary; or Holdings, the Lead Borrower or any Material Subsidiary commences any other voluntary proceeding or action under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency, administration or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to Holdings, the Lead Borrower or any Material Subsidiary; or there is commenced against Holdings, the Lead Borrower or any Material Subsidiary any such proceeding or action that remains undismissed for a period of 60 days; or Holdings, the Lead Borrower or any Material Subsidiary is adjudicated insolvent or bankrupt; or any order of relief or other order approving any such case or proceeding or action is entered; or Holdings, the Lead Borrower or any Material Subsidiary suffers any appointment of any custodian receiver, receiver manager, trustee, administrator or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 60 days; or Holdings, the Lead Borrower or any Material Subsidiary makes a general assignment for the benefit of creditors; or any corporate action is taken by Holdings, the Lead Borrower or any Material Subsidiary for the purpose of effecting any of the foregoing; or

SECTION 11.6 ERISA. (a) An ERISA Event or Foreign Plan Event shall have occurred, (b) a trustee shall be appointed by a United States district court to administer any Pension Plan(s), (c) the PBGC shall institute proceedings to terminate any Pension Plan(s), (d) any Credit Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; or (e) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (a) through (e) above, such event or condition, together with all other such events or conditions, if any, could, in the sole judgment of the Required Lenders, reasonably be expected to result in a Material Adverse Effect; or

SECTION 11.7 Guarantee. Any Guarantee provided by any Credit Party or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof and thereof) or any such Guarantor thereunder or any other Credit Party shall deny or disaffirm in writing any such Guarantor's obligations under the Guarantee; or

SECTION 11.8 Pledge Agreement. Any Pledge Agreement pursuant to which the Stock or Stock Equivalents of any Borrower or any Subsidiary is pledged or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof or thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any pledgor thereunder or any Credit Party shall deny or disaffirm in writing any pledgor's obligations under any Pledge Agreement; or

SECTION 11.9 Security Agreement. The Security Agreement or any other Security Document pursuant to which the assets of any Borrower or any Subsidiary are pledged
as Collateral or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof or thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any grantor thereunder or any Credit Party shall deny or disaffirm in writing any grantor's obligations under the Security Agreement or any other Security Document; or

SECTION 11.10 Mortgages. Any Mortgage or any material provision of any Mortgage relating to any material portion of the Collateral shall cease to be in full force or effect (other than pursuant to the terms hereof or thereof or as a result of acts or omissions of the Collateral Agent or any Lender) or any mortgagor thereunder or any Credit Party shall deny or disaffirm in writing any mortgagor's obligations under any Mortgage; or

SECTION 11.11 Judgments. One or more judgments or decrees shall be entered against any Borrower or any of the Restricted Subsidiaries involving a liability of $50,000,000 or more in the aggregate for all such judgments and decrees for the Borrowers and the Restricted Subsidiaries (to the extent not paid or covered by insurance provided by a carrier not disputing coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged or stayed or bonded pending appeal within 60 days after the entry thereof; or

SECTION 11.12 Change of Control. A Change of Control shall occur;

then, and in every such event (other than an event described in Section 11.5), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders, shall, by notice to the Lead Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments (including the obligation of any Issuing Bank to issue any Letter of Credit) shall irrevocably terminate immediately; (ii) declare the Obligations then outstanding to be due and payable in whole, and thereupon the principal of the Loans and all other Obligations so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Credit Parties accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Credit Parties; or (iii) require the applicable Credit Parties to Cash Collateralize their respective Letter of Credit Outstandings. In case of any event described in Section 11.5, the Commitments (including the obligation of any Issuing Bank to issue any Letter of Credit) shall automatically and irrevocably terminate and the principal of the Loans and other Obligations then outstanding, together with accrued interest thereon and all fees and other obligations of the Credit Parties accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Credit Parties, and the Administrative Agent may require the applicable Credit Parties to Cash Collateralize their respective Letter of Credit Outstandings.

SECTION 11.13 Application of Proceeds. After the occurrence and during the continuance of (i) any Cash Dominion Trigger Period or (ii) any Event of Default and acceleration of the Obligations, all proceeds realized from any Credit Party or on account of any Collateral owned by a Credit Party or, without limiting the foregoing, on account of any Prepayment Event, any payments in respect of any Obligations and all proceeds of the Collateral, shall be applied in the following order:
(i) first, ratably to pay the Obligations in respect of any fees and expenses, indemnities and other amounts (including, without limitation, amounts in respect of any Loans advanced by the Administrative Agent on behalf of a Lender for which the Administrative Agent has not been reimbursed) then due to the Administrative Agent and Collateral Agent until paid in full;

(ii) second, to the Administrative Agent on behalf of the Swingline Lender and any Lender that has acquired and fully paid for its participating interest in the applicable Swingline Loans, ratably to pay Obligations in respect of Swingline Loans then due to the Swingline Lender and each such Lender, until paid in full;

(iii) third, to the Administrative Agent on behalf of the Issuing Banks and any Lender that has acquired and fully paid for its participating interest in the applicable Letters of Credit, ratably to pay Obligations in respect of such Letters of Credit then due to the Issuing Banks and each such Lender, until paid in full;

(iv) fourth, ratably to pay any expenses, indemnities, and fees then due to the Lenders and Issuing Banks, until paid in full;

(v) fifth, ratably (A) to pay the accrued but unpaid interest in respect of the Loans, (B) to pay the unpaid principal in respect of the Loans (C) to the extent a Bank Product Reserve has been established therefor by the Administrative Agent in accordance with the terms hereof, to pay the unpaid Reserved Secured Hedge Obligations, including the cash collateralization of such Reserved Secured Hedge Obligations, (D) to the extent a Bank Product Reserve has been established therefor by the Administrative Agent in accordance the terms hereof, to pay (x) the unpaid Reserved Secured Cash Management Obligations with respect to credit cards, commercial cards and purchase cards, and (y) other unpaid Reserved Secured Cash Management Obligations in an aggregate amount not to exceed $10,000,000, provided that the Lead Borrower shall have designated in writing to the Administrative Agent the amount of any such Reserved Secured Cash Management Obligations owing under any Secured Cash Management Agreement that shall be subject to this clause (y) and (E) to be held by the Administrative Agent, for the ratable benefit of the Issuing Banks and the Lenders to Cash Collateralize the then extant Stated Amount of Letters of Credit, in each case until paid in full;

(vi) sixth, ratably to pay other Obligations then due (other than Obligations in respect of Secured Cash Management Agreements and Secured Hedge Agreements), until paid in full;

(vii) seventh, ratably to pay other Obligations in respect of the Secured Hedge Agreements and Secured Cash Management Agreements, until paid in full; and

(viii) eighth, to the Lead Borrower or such other Person entitled thereto under Applicable Law.

Amounts distributed with respect to any Reserved Secured Cash Management Obligations and Reserved Secured Hedge Obligations shall be the lesser of (x) the maximum Reserved Secured Cash Management Obligations and Reserved Secured Hedge Obligations last reported to the
Administrative Agent and (y) the Reserved Secured Cash Management Obligations and Reserved Secured Hedge Obligations as calculated by the methodology reported by each applicable Cash Management Bank and Hedge Bank to Administrative Agent for determining the amount due. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Reserved Secured Cash Management Obligations and Reserved Secured Hedge Obligations, and at any time and from time to time may request a reasonably detailed calculation of such amount from the applicable Secured Party holding such Reserved Secured Cash Management Obligations and Reserved Secured Hedge Obligations. If a Secured Party fails to deliver such calculation within five (5) days following request by the Administrative Agent, the Administrative Agent may assume the amount to be distributed is no greater than the maximum amount of the Reserved Secured Cash Management Obligations or Reserved Secured Hedge Obligations last reported to Administrative Agent.

SECTION 11.14 Equity Cure. Notwithstanding anything to the contrary contained in this Article 11, in the event that the Borrowers fail to comply with the requirement of any financial covenant set forth in Section 10.9, until the expiration of the 10th Business Day following the date of the delivery of the Compliance Certificate under Section 9.1(d) with the financial statements referred to Section 9.1(a) or (b) in respect of the fiscal period for which such financial covenant is being measured, the Lead Borrower shall have the right to cure such failure (the "Cure Right") by causing cash net equity proceeds derived from an issuance of Stock or Stock Equivalents (other than Disqualified Equity Interests) by Holdings to be contributed as common equity to the Lead Borrower, and upon receipt by the Lead Borrower of such cash contribution (such cash amount being referred to as the "Cure Amount") pursuant to the exercise of such Cure Right, such financial covenant shall be recalculated giving effect to the following pro forma adjustments:

(a) Consolidated EBITDA shall be increased, solely for the purpose of determining the existence of an Event of Default resulting from a breach of the financial covenant set forth in Section 10.9 with respect to any period of four consecutive fiscal quarters that includes the fiscal quarter for which the Cure Right was exercised and not for any other purpose under this Agreement, by an amount equal to the Cure Amount; and

(b) if, after giving effect to the foregoing recalculations, the Borrowers shall then be in compliance with the requirements of the financial covenant set forth in Section 10.9, the Borrowers shall be deemed to have satisfied the requirements of the financial covenant set forth in Section 10.9 as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of such financial covenants that had occurred shall be deemed cured for the purposes of this Agreement; provided that (i) in each period of four consecutive fiscal quarters there shall be at least two fiscal quarters in which no Cure Right is made, (ii) there shall be a maximum of four Cure Rights made during the term of this Agreement, (iii) each Cure Amount shall be no greater than the amount required to cause the Borrowers to be in compliance with the financial covenant set forth in Section 10.9; (iv) all Cure Amounts shall be disregarded for the purposes of any financial ratio determination under the Credit Documents other than for determining compliance with Section 10.9; and (v) no Lender or Issuing Bank shall be required to make any extension of credit hereunder during the 10 Business Days period referred to above.
ARTICLE 12

THE AGENTS

SECTION 12.1 Appointment.

(a) Each Lender and Issuing Bank hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender and Issuing Bank under this Agreement and the other Credit Documents and irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Article 12 (other than Section 12.1(c) with respect to the Joint Lead Arrangers and Joint Bookrunners and Section 12.9 with respect to the Borrowers) are solely for the benefit of the Agents, the Issuing Banks and the Lenders, and the Borrowers shall not have rights as third party beneficiary of any such provision. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or Issuing Bank, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Administrative Agent.

(b) The Administrative Agent and each Lender and Issuing Bank hereby irrevocably designate and appoint the Collateral Agent as the agent with respect to the Collateral, and each of the Administrative Agent and each Lender and Issuing Bank irrevocably authorizes the Collateral Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Agreement and the other Credit Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Collateral Agent shall not have any duties or responsibilities except those expressly set forth herein, or any fiduciary relationship with any of the Administrative Agent, the Issuing Bank and the Lenders, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against the Collateral Agent.

(c) Each of the Syndication Agent, Joint Lead Arrangers, Joint Bookrunners and the Documentation Agent each in its capacity as such, shall not have any obligations, duties or responsibilities under this Agreement but shall be entitled to all benefits of this Article 12.

SECTION 12.2 Delegation of Duties. The Administrative Agent and the Collateral Agent may each execute any of its duties under this Agreement and the other Credit Documents by or through agents, sub-agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Neither the Administrative Agent nor the Collateral Agent shall be responsible for the negligence or misconduct of any
agents, subagents or attorneys-in-fact selected by it in the absence of gross negligence or willful misconduct (as determined in the final judgment of a court of competent jurisdiction).

SECTION 12.3 Exculpatory Provisions. No Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by any of them under or in connection with this Agreement or any other Credit Document (except for its or such Person’s own gross negligence or willful misconduct, as determined in the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein) or (b) responsible in any manner to any of the Issuing Banks or Lenders or any participant for any recitals, statements, representations or warranties made by any of the Borrowers, any Guarantor, any other Credit Party or any officer thereof contained in this Agreement or any other Credit Document or in any certificate, report, statement or other document referred to or provided for in, or received by such Agent under or in connection with, this Agreement or any other Credit Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Credit Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Security Documents, or for any failure of any Borrower, any Guarantor or any other Credit Party to perform its obligations hereunder or thereunder. No Agent shall be under any obligation to any Lender or Issuing Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party or any Affiliate thereof. The Collateral Agent shall not be under any obligation to the Administrative Agent or any Lender or Issuing Bank to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Credit Document, or to inspect the properties, books or records of any Credit Party.

SECTION 12.4 Reliance by Agents. The Administrative Agent and the Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telex or teletype message, statement, order or other document or instruction believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Borrower), independent accountants and other experts selected by the Administrative Agent or the Collateral Agent. The Administrative Agent may deem and treat the Lender and Issuing Bank specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent and the Collateral Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent and the Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders, Issuing Banks and all future holders of the Loans; provided that the Administrative Agent and Collateral Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel,
may expose it to liability or that is contrary to any Credit Document or applicable law. For purposes of determining compliance with the conditions specified in Articles 6 and 7 on the Closing Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 12.5 Notice of Default. Neither the Administrative Agent nor the Collateral Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent or Collateral Agent has received written notice from a Lender or a Borrower referring to this Agreement, describing such Default or Event of Default. In the event that the Administrative Agent receives such a notice, it shall give notice thereof to the Lenders and the Collateral Agent. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

SECTION 12.6 Non-Reliance on Administrative Agent, Collateral Agent and Other Lenders. Each Lender and Issuing Bank expressly acknowledges that neither the Administrative Agent nor the Collateral Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent or Collateral Agent hereinafter taken, including any review of the affairs of any Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent or Collateral Agent hereinafter taken, including any review of the affairs of any Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent or Collateral Agent to any Lender or Issuing Bank. Each Lender and Issuing Bank represents to the Administrative Agent and the Collateral Agent that it has, independently and without reliance upon the Administrative Agent, Collateral Agent or any other Lender or Issuing Bank, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of each Borrower, Guarantor and any other Credit Party. Each Lender and Issuing Bank also represents that it will, independently and without reliance upon the Administrative Agent, Collateral Agent or any other Lender or Issuing Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of any Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders or Issuing Banks by the Administrative Agent hereunder, neither the Administrative Agent nor the Collateral Agent shall have any duty or responsibility to provide any Lender or Issuing Bank with any credit or other information concerning the business, assets, operations, properties, financial condition, prospects...
or creditworthiness of any Borrower, any Guarantor or any other Credit Party that may come into the possession of the Administrative Agent or Collateral Agent any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates.

SECTION 12.7 Indemnification. The Lenders and Issuing Banks agree to severally indemnify each Agent in its capacity as such (to the extent not reimbursed by the Credit Parties and without limiting the obligation of the Credit Parties to do so), ratably according to their respective Pro Rata Shares in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective Pro Rata Shares in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against an Agent in any way relating to or arising out of the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Administrative Agent or the Collateral Agent under or in connection with any of the foregoing, provided that no Lender shall be liable to an Agent for the payment of 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 as determined by a final judgment of a court of competent jurisdiction; provided, further, that no action taken by the Administrative Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Credit Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 12.7. In the case of any investigation, litigation or proceeding giving rise to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time occur (including at any time following the payment of the Loans), this Section 12.7 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender and Issuing Bank shall reimburse each Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorneys' fees) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice rendered in respect of rights or responsibilities under, this Agreement, any other Credit Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrowers, provided that such reimbursement by the Lenders and Issuing Banks shall not affect the Borrower's continuing reimbursement obligations with respect thereto. 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 pro rata portion 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 resulting from such Agent's gross negligence or willful misconduct. The
agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder.

SECTION 12.8 Agents in Their Individual Capacities. Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Borrower, any Guarantor, and any other Credit Party as though such Agent were not an Agent hereunder and under the other Credit Documents. With respect to the Loans made by it, each Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any Lender and may exercise the same as though it were not an Agent, and the terms “Lender” and “Lenders” shall include each Agent in its individual capacity.

SECTION 12.9 Successor Agents. Each of the Administrative Agent and Collateral Agent may at any time give notice of its resignation to the Lenders and the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrowers (not to be unreasonably withheld or delayed) so long as no Default under Section 11.1 or 11.5 is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above. Upon the acceptance of a successor's appointment as the Administrative Agent or Collateral Agent, as the case may be, hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to continue the perfection of the Liens granted or purported to be granted by the Security Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrowers (following the effectiveness of such appointment) to such Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the retiring Agent's resignation hereunder and under the other Credit Documents, the provisions of this Article 12 (including 12.7) and Section 13.5 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as an Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as Swingline Lender and as an Issuing Bank. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Swingline Lender and Issuing Bank, (ii) the retiring Swing Line Lender and Issuing Bank shall be discharged from all of its duties and obligations as Swing Line Lender and Issuing Bank, as the case may be, hereunder or under the other Credit Documents, and (iii) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring
Issuing Bank to effectively assume the obligations of the retiring Issuing Bank with respect to such Letters of Credit.

SECTION 12.10 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances that rendered the exemption from, or reduction of, withholding tax ineffective), such Lender shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Borrowers and without limiting the obligation of the Borrowers to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

SECTION 12.11 Agents Under Security Documents and Guarantee. Each Secured Party hereby further authorizes the Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Collateral and the Security Documents. Subject to Section 13.1, without further written consent or authorization from any Secured Party, the Administrative Agent or Collateral Agent, as applicable, may execute any documents or instruments necessary to in connection with a sale or disposition of assets permitted by this Agreement, (i) release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets, or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.1) have otherwise consented or (ii) release any Guarantor from the Guarantee, or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.1) have otherwise consented.

SECTION 12.12 Right to Realize on Collateral and Enforce Guarantee. Anything contained in any of the Credit Documents to the contrary notwithstanding, the Borrowers, the Agents and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, 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, 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.
ARTICLE 13

MISCELLANEOUS

SECTION 13.1 Amendments, Waivers and Releases. Neither this Agreement nor any other Credit Document, nor any terms hereof or thereof, may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. The Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent may, from time to time, (a) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or of the Credit Parties hereunder or thereunder or (b) waive in writing, on such terms and conditions as the Required Lenders or the Administrative Agent and/or Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences; provided, however, that each such waiver and each such amendment, supplement or modification shall be effective only in the specific instance and for the specific purpose for which given; and provided, further, that no such waiver and no such amendment, supplement or modification shall (i) forgive or reduce any portion of any Loan or extend the final scheduled maturity date of any Loan or reduce the stated rate (it being understood that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrowers to pay interest at the "default rate" or amend Section 2.8(c)), or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates), or extend the final expiration date of any Lender's Commitment, or increase the aggregate amount of the Commitments of any Lender, in each case without the written consent of each Lender directly and adversely affected thereby, or (ii) alter the order of application set forth in Section 11.13 or the ratable treatment within any priority set forth in such Section, in each case without the written consent of each Lender directly and adversely affected thereby, or (iii) amend, modify or waive any provision of Article 12 without the written consent of the then-current Administrative Agent and Collateral Agent in a manner that directly and adversely affects such Person, or (iv) amend, modify or waive any provision that affects the rights or duties of the Administrative Agent, the Collateral Agent, the Swingline Lender or any Issuing Bank, without the consent of the Administrative Agent, the Collateral Agent, the Swingline Lender or such Issuing Bank, as the case may be, or (v) release all or substantially all of the value of the Guarantees (except as expressly permitted by the Guarantees or this Agreement) or release all or substantially all of the Collateral under the Security Documents (except as expressly permitted by the Security Documents or this Agreement) without the prior written consent of each Lender, or (vi) change the definition of the terms "Excess Availability" or "Borrowing Base" or any component definition thereof if, as a result thereof, the amounts available to be borrowed by the Borrowers would be increased, without the prior written consent of the Supermajority Lenders; provided that the foregoing shall not limit the discretion of the Agents to change, establish or eliminate any Reserves or to add Inventory and Accounts acquired in a Permitted Acquisition to the Borrowing Base as provided herein, or (vii) reduce the percentages specified in the definitions of the terms "Required Lenders" or "Supermajority Lenders" or amend, modify or waive any provision of this Section 13.1 that has the effect of altering the number of Lenders that
must approve any amendment, modification or waiver, in each case without the written consent of each Lender.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the affected Lenders and shall be binding upon each Borrower, such Lenders, the Administrative Agent and all future holders of the affected Loans. In the case of any waiver, the Borrowers, the Lenders and the Administrative Agent shall be restored to their former positions and rights hereunder and under the other Credit Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. In connection with the foregoing provisions, the Administrative Agent may, but shall have no obligations to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender.

Notwithstanding anything to the contrary contained herein, in connection with any "Required Lender" votes, Lenders that are Affiliated Institutional Lenders shall not be permitted, in the aggregate, to account for more than 30% of the amounts includable in determining whether the "Required Lenders" have consented to any amendment, modification, waiver, consent or other action that is subject to such vote. The voting power of each Lender that is an Affiliated Institutional Lender shall be reduced, pro rata, to the extent necessary in order to comply with the immediately preceding sentence.

The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, upon the termination of this Agreement and the payment of all Obligations under the Credit Documents (except for contingent indemnification obligations in respect of which a claim has not yet been made), (ii) upon the sale or other disposition of such Collateral (including as part of or in connection with any other sale or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 13.1), (v) to the extent the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the applicable Guarantee (in accordance with the following sentence and the other provisions of this Section 13.1) and (vi) as required to effect any sale or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Collateral Documents. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that any Restricted Subsidiary that is a Guarantor shall be released from the Guarantees upon consummation of any transaction resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary. The Lenders hereby
authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender, except as otherwise required by this Section 13.1.

SECTION 13.2 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Credit Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(a) if to any Borrower, the Administrative Agent or the Collateral Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(b) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Lead Borrower, the Administrative Agent and the Collateral Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereunto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereunto; (B) if delivered by mail, three (3) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail, when delivered; provided that notices and other communications to the Administrative Agent or the Lenders pursuant to Sections 2.3, 2.6, 2.9, 4.2 and 5.1 shall not be effective until received.

SECTION 13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender or Issuing Bank, any right, remedy, power or privilege hereunder or under the other Credit Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

SECTION 13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.
SECTION 13.5 Payment of Expenses; Indemnification. The Borrowers agree (a) to pay or reimburse the Agents for all their reasonable and documented out-of-pocket expenses incurred in connection with the development, preparation and execution and delivery of, and any amendment, supplement or modification to, this Agreement and the other Credit Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees, disbursements and other charges of Shearman & Sterling LLP, as counsel to the Agents, plus one local counsel in any jurisdiction to the extent reasonably necessary, and such other counsel retained with the Borrower's consent (such consent not to be unreasonably withheld), and outside consultants for the Administrative Agent and the Collateral Agent consisting of one inventory appraisal firm and one commercial finance examination firm, (b) to pay or reimburse each Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of Shearman & Sterling LLP, as counsel to the Agents, plus one local counsel in any jurisdiction to the extent reasonably necessary, and such other counsel retained with the Borrower's consent (such consent not to be unreasonably withheld), and outside consultants for the Administrative Agent and the Collateral Agent consisting of one inventory appraisal firm and one commercial finance examination firm, (c) to pay, indemnify, and hold harmless each Lender, Issuing Bank and Agent from, any and all recording and filing fees and (d) to pay, indemnify, and hold harmless each Lender, Issuing Bank and Agent from, any and all actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable and documented fees, disbursements and other charges of one primary counsel and one local counsel in each relevant jurisdiction to such indemnified Persons (unless there is an actual or perceived conflict of interest or the availability of different claims or defenses in which case each such Person may retain its own counsel), related to the Transactions (including, without limitation, the Merger) or, with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Credit Documents and any such other documents, including, without limitation, any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law, in each case, applicable to any Borrower or any of their Subsidiaries or to any actual or alleged presence, Release or threatened Release of Hazardous Materials involving or attributable to any Borrower or any of their Subsidiaries (all the foregoing in this clause (d), collectively, the "indemnified liabilities"), provided that the Borrowers shall have no obligation hereunder to any Agent or any Lender or Issuing Bank or any of their respective Affiliates, officers, directors, employees or agents with respect to indemnified liabilities to the extent it has been determined by a final non-appealable judgment of a court of competent jurisdiction to have resulted from (i) the gross negligence, bad faith or willful misconduct of the party to be indemnified or any of its Affiliates, or any of its or its Affiliates' officers, directors, employees, members or agents, (ii) breach of any Credit Document by the party to be indemnified or (iii) disputes between and among Persons otherwise entitled to indemnification; provided that the Administrative Agent (and its related affiliates, officers, directors, employees, agents, controlling persons, advisors and other representatives), to the extent acting in its capacity as such, shall remain indemnified in respect of such disputes to the extent otherwise entitled to be so indemnified hereunder. No Person
entitled to indemnification under clause (d) of this Section 13.5 shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, nor shall any such Person have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 13.5 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Credit Party, its directors, stockholders or creditors or any other Person, whether or not any Person entitled to indemnification under clause (d) of this Section 13.5 is otherwise a party thereto. All amounts payable under this Section 13.5 shall be paid within ten Business Days of receipt by the Borrowers of an invoice relating thereto setting forth such expense in reasonable detail. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder. This Section 13.5 shall not apply with respect to any claims for Taxes, which shall be governed exclusively by Section 5.4.

SECTION 13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) except as expressly permitted by Section 10.3, no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.6. 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, Participants (to the extent provided in clause (c) of this Section 13.6) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Collateral Agent and the Lenders and each other Person entitled to indemnification under Section 13.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below, any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not be unreasonably withheld or delayed; it being understood that, without limitation, the Lead Borrower shall have the right to withhold or delay its consent to any assignment if, in order for such assignment to comply with applicable law, the Lead Borrower would be required to obtain the consent of, or make any filing or registration with, any Governmental Authority) of:

(A) the Lead Borrower, provided that no consent of the Lead Borrower shall be required for (1) an assignment of Commitments or Loans to a Lender or (2) an assignment of Loans or Commitments to any other assignee if an Event of Default under Section 11.1 or Section 11.5 (with respect to Holdings or the Lead Borrower) has occurred and is continuing; and
(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 and increments of $1,000,000 in excess thereof, unless each of the Lead Borrower and the Administrative Agent otherwise consents (which consents shall not be unreasonably withheld or delayed); provided that no such consent of the Lead Borrower shall be required if an Event of Default under Section 11.1 or Section 11.5 has occurred and is continuing; provided further that contemporaneous assignments to a single assignee made by Affiliates of Lenders and related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) 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, provided that this clause 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;

(C) The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system reasonably acceptable to the Administrative Agent, together with a processing and recordation fee in the amount of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in a form approved by the Administrative Agent (the "Administrative Questionnaire") and applicable tax forms;

(E) no such assignment may be made to Holdings, the Lead Borrower or any Subsidiary; and

(F) any assignment to an Affiliated Lender shall also be subject to the requirements of Section 13.6(h).
(iii) Subject to acceptance and recording thereof pursuant to clause (b)(iv) of this Section 13.6, from and after the effective date specified in each Assignment and Acceptance the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.10, 2.11, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 13.6.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). Further, each Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Collateral Agent, the Swingline Lender and the Lender Parties shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, the Collateral Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and applicable tax forms (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section 13.6 and any written consent to such assignment required by clause (b) of this Section 13.6, the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register.

(c) (i) Any Lender may, without the consent of any Borrower or the Administrative Agent, sell participations to one or more banks or other entities (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it), provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrowers, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation
shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (i) or (v) of the second proviso to Section 13.1 that affects such Participant. Subject to clause (c)(ii) of this Section 13.6, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.10, 2.11 and 5.4 to the same extent as if it were a Lender and provided that such Participant agrees to be subject to the requirements of those Sections as though it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 13.6, and provided further that such Participant shall be entitled to the benefits of Section 5.4 only if such Participant complies with clauses (d), (e), (f) and (i) of Section 5.4 as if it were a Lender. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.8(b) as though it were a Lender, provided such Participant agrees to be subject to Section 13.8(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11 or 5.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent (which consent shall not be unreasonably withheld). Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary. Any such Participant Register shall be available for inspection by the Administrative Agent and by the Lead Borrower, at any reasonable time and from time to time upon reasonable prior notice.

(d) Any Lender may, without the consent of any Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 13.6 shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. The Borrowers hereby agree that, upon request of any Lender at any time and from time to time, the Borrowers shall provide to such Lender, at the Borrowers' own expense, a promissory note, substantially in the form of Exhibit J-1 in the principal amount of such Lender's Commitment.

(e) Subject to Section 13.16, the Borrowers authorize each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrowers and their Affiliates that has been delivered to such Lender by or on behalf of the Borrowers and their Affiliates pursuant to this Agreement or that has been delivered to such Lender by or on behalf of the Borrowers and their Affiliates in connection with such Lender's
credit evaluation of the Borrowers and their Affiliates prior to becoming a party to this Agreement.

(f) The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(g) [Reserved]

(h) Notwithstanding anything to the contrary contained herein, any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Loans or Commitments to an Affiliated Lender by entering into an Assignment and Acceptance with such Affiliated Lender and comply with the other requirements of Section 13.6(b); provided that:

(i) by its acquisition of Loans or Commitments, an Affiliated Lender shall be deemed to have acknowledged and agreed that:

(A) it shall not have any right to (i) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Borrowers are not then present, (ii) receive any information or material prepared by the Administrative Agent or any Lender or any communication by or among Administrative Agent and one or more Lenders, except to the extent such information or materials have been made available to the Borrowers or their representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Article II), (iii) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a Lender, against Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Credit Documents, (iv) may not direct the Administrative Agent or the Collateral Agent to take or refrain from taking any action under the Credit Documents and (v) will not be entitled to advice of counsel to the Lenders and may not challenge attorney-client privilege between the Agents, other Lender Parties and such counsel;

(B) except with respect to any amendment, modification, waiver, consent or other action described in clause (i) or (v) of the second proviso of Section 13.1 or that deprives such Affiliated Lender of its Pro Rata Share of any payment to which all Lenders are entitled, the Loans held by an Affiliated
Lender shall be disregarded in both the numerator and denominator in the calculation of any Lender vote; and

(C) if a case under Title 11 of the United States Code is commenced against any Credit Party, such Credit Party shall seek (and each Affiliated Lender shall consent) to provide that the vote of any Affiliated Lender (in its capacity as a Lender) with respect to any plan of reorganization of such Credit Party shall not be counted except that such Affiliated Lender's vote (in its capacity as a Lender) may be counted to the extent any such plan of reorganization proposes to treat the Obligations held by such Affiliated Lender in a manner that is less favorable to such Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower; each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Loans and participations therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (C); and

(ii) the aggregate amount of Commitments or Loans held at any one time by Affiliated Lenders may not exceed 20% of all Commitments or Loans in effect at such time.

For avoidance of doubt, the foregoing limitations shall not be applicable to Affiliated Institutional Lenders.

(i) Each Issuing Bank, with the written consent of the Lead Borrower, may at any time assign to one or more Eligible Assignees (other than any Affiliated Lender) all or a portion of its rights and obligations under the undrawn portion of its commitment to issue Letters of Credit hereunder; provided, however, that (i) each such assignment shall be to an Eligible Assignee and (ii) the parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance and recording in the Register, an Assignment and Acceptance, together with a processing and recordation fee of $3,500.

(j) Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Revolving Loans pursuant to Section 13.6(b), Bank of America may, (i) upon 30 days' notice to the Borrowers and the Lenders, resign as Issuing Bank and/or (ii) upon 30 days' notice to the Borrowers, resign as Swingline Lender. In the event of any such resignation as Issuing Bank or Swingline Lender, the Borrowers shall be entitled to appoint from among the Lenders a successor Issuing Bank or Swingline Lender hereunder; provided, however, that no failure by the Borrowers to appoint any such successor shall affect the resignation of Bank of America as Issuing Bank or Swingline Lender, as the case may be. If Bank of America resigns as Issuing Bank, it shall retain all the rights, powers, privileges and duties of the Issuing Bank hereunder with respect to all Letters of Credit.
outstanding as of the effective date of its resignation as Issuing Bank and all Letter of Credit Outstandings with respect thereto (including the right to require the Lenders to make ABR Advances or fund risk participations in Letter of Credit Disbursements pursuant to Section 2.15(g). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make ABR Advances or fund risk participations in outstanding Swingline Loans pursuant to Sections 2.16 and 2.17. Upon the appointment of a successor Issuing Bank and/or Swingline Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank or Swingline Lender, as the case may be, and (b) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession (and the Letters of Credit being issued in substitution shall not be considered outstanding for purposes of determining Excess Availability until substituted for the relevant Letters of Credit issued by Bank of America) or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

SECTION 13.7 Replacements of Lenders Under Certain Circumstances.

(a) The Borrowers shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.10 or 5.4 or (b) is affected in the manner described in Section 2.10(a)(iii) and as a result thereof any of the actions described in such Section is required to be taken, with a replacement bank or other financial institution, provided that (i) such replacement does not conflict with any Requirement of Law, (ii) no Event of Default under Section 11.1 or 11.5 shall have occurred and be continuing at the time of such replacement, (iii) the Borrowers shall repay (or the replacement bank or institution shall purchase, at par) all Loans, accrued interest and fees and other amounts, pursuant to Section 2.10, 2.11 or 5.4, as the case may be, arising as a consequence of such replacement, (iv) the replacement bank or institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 (provided that the Borrowers shall be obligated to pay the registration and processing fee referred to therein) and (vi) any such replacement shall not be deemed to be a waiver of any rights that the Borrowers, the Administrative Agent or any other Lender shall have against the replaced Lender.

(b) If any Lender (such Lender, a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver, discharge or termination that pursuant to the terms of Section 13.1 requires the consent of either (i) all of the Lenders affected or (ii) all of the Lenders, and, in each case, with respect to which the Required Lenders shall have granted their consent, then provided no Event of Default then exists, the Borrowers shall have the right (unless such Non-Consenting Lender grants such consent) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans, and its Commitments hereunder to one or more assignees reasonably acceptable to the Administrative Agent, provided that (a) all Obligations of the Borrowers owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, and (b) the
replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and (c) the Borrowers shall pay to such Non-Consenting Lender the amount, if any, owing to such Lender pursuant to clause (c) in Section 5.1(a) or Section 2.11. In connection with any such assignment, the Borrowers, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.6.

SECTION 13.8 Adjustments; Set-off.

(a) Except as contemplated in Section 13.6(h), if any Lender (a "benefited Lender") shall at any time receive any payment of all or part of its Loans, or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.5, or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loan, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to any Borrower, any such notice being expressly waived by the Borrowers to the extent permitted by applicable law, upon any amount becoming due and payable by any Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of any Borrower. Each Lender agrees promptly to notify the Borrowers and the Administrative Agent after any such set-off and application made by such Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 13.9 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrowers and the Administrative Agent.

SECTION 13.10 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions.
hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 13.11 Integration. This Agreement and the other Credit Documents represent the agreement of the Borrowers, the Collateral Agent, the Administrative Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Borrowers, the Administrative Agent, the Collateral Agent nor any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.


SECTION 13.13 Submission to Jurisdiction; Waivers. Each Borrower irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding shall be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address set forth on Schedule 13.2 at such other address of which the Administrative Agent shall have been notified pursuant to Section 13.2:

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.13 any special, exemplary, punitive or consequential damages.

SECTION 13.14 Acknowledgments. Each Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Credit Documents;
(b) (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document) are an arm's-length commercial transaction between the Borrowers, on the one hand, and the Administrative Agent, the Lenders and the other Agents on the other hand, and the Borrowers and the other Credit Parties are capable of evaluating and understanding and accept the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Administrative Agent and the other Agents, is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary for any Borrower, any other Credit Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Administrative Agent nor any other Agent has assumed or will assume an advisory, agency or fiduciary responsibility in favor of any Borrower or any other Credit Party with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Credit Document (irrespective of whether the Administrative Agent or other Agent has advised or is currently advising any Borrower, any other Credit Party or any of their respective Affiliates on other matters) and neither the Administrative Agent or other Agent has any obligation to any Borrower, any other Credit Parties or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; (iv) the Administrative Agent, each other Agent and each Affiliate of the foregoing may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their Affiliates, and neither the Administrative Agent nor any other Agent has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) neither the Administrative Agent nor any other Agent has provided and none will provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Credit Document) and such Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each Borrower hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent or any other Agent with respect to any breach or alleged breach of agency or fiduciary duty; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among any Borrower, on the one hand, and any Lender, on the other hand.

SECTION 13.15 WAIVERS OF JURY TRIAL. EACH BORROWER, EACH AGENT AND EACH LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.
SECTION 13.16 Confidentiality. The Administrative Agent, each other Agent and each Lender shall hold all non-public information furnished by or on behalf of the Borrowers or any of their Subsidiaries in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by such Lender, the Administrative Agent or such other Agent pursuant to the requirements of this Agreement ("Confidential Information"), confidential in accordance with its customary procedure for handling confidential information of this nature and (in the case of a Lender that is a bank) in accordance with safe and sound banking practices and in any event may make disclosure as required or requested by any governmental, regulatory or self-regulatory agency or representative thereof or pursuant to legal process or applicable law or regulation or (a) to such Lender's or the Administrative Agent's or other Agent's attorneys, professional advisors, independent auditors, trustees or Affiliates, (b) to an investor or prospective investor in a Securitization that agrees its access to information regarding the Credit Parties, the Loans and the Credit Documents is solely for purposes of evaluating an investment in a Securitization and who agrees to treat such information as confidential, (c) to a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in connection with the administration, servicing and reporting on the assets serving as collateral for a Securitization and who agrees to treat such information as confidential and (d) to a nationally recognized ratings agency that requires access to information regarding the Credit Parties, the Loans and Credit Documents in connection with ratings issued with respect to a Securitization; provided that unless specifically prohibited by applicable law or court order, each Lender, the Administrative Agent and each other Agent shall use commercially reasonable efforts to notify the Borrowers of any request made to such Lender, the Administrative Agent or such other Agent by any governmental, regulatory or self-regulatory agency or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender by such agency) for disclosure of any such non-public information prior to disclosure of such information, and provided further that in no event shall any Lender, the Administrative Agent or any other Agent be obligated or required to return any materials furnished by the Borrowers or any Subsidiary. Each Lender, the Administrative Agent and each other Agent agrees that it will not provide to prospective Transferees or to any pledgee referred to in Section 13.6 or to prospective direct or indirect contractual counterparties in swap agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by the provisions of this Section 13.16 or confidentiality provisions at least as restrictive as those set forth in this Section 13.16.

SECTION 13.17 Direct Website Communications.

(a) The Borrowers may, at their option, provide to the Administrative Agent any information, documents and other materials that they are obligated to furnish to the Administrative Agent pursuant to the Credit Documents, including, without limitation, all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (A) relates to a request for a new, or a conversion of an existing, borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (B) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (C) provides notice of any default or event of default under this Agreement or (D) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any borrowing or other extension of credit thereunder (all such non-excluded communications being

163
referred to herein collectively as "Communications"), by transmitting the Communications in an electronic/soft medium in a format reasonably acceptable to the Administrative Agent to the Administrative Agent at an email address provided by the Administrative Agent from time to time; provided that (i) upon written request by the Administrative Agent, the Borrowers shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrowers shall notify (which may be by facsimile or electronic mail) 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. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents. Nothing in this Section 13.17 shall prejudice the right of the Borrowers, the Administrative Agent, any other Agent or any Lender to give any notice or other communication pursuant to any Credit Document in any other manner specified in such Credit Document.

The Administrative Agent agrees that the receipt of the Communications by the Administrative Agent at its e-mail address set forth above shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Credit Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Credit Documents. Each Lender agrees (A) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender’s e-mail address to which the foregoing notice may be sent by electronic transmission and (B) that the foregoing notice may be sent to such e-mail address.

(b) Each Borrower further agrees that any Agent may make the Communications available to the Lenders by posting the Communications on Intralinks or a substantially similar electronic transmission system (the “Platform”), so long as the access to such Platform (i) is limited to the Agents, the Lenders and Transferees or prospective Transferees and (ii) remains subject to the confidentiality requirements set forth in Section 13.16.

(c) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. 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 PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties" and each an "Agent Party") have any liability to any Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the internet, except to the extent the liability of any Agent Party resulted from such Agent Party's (or
any of its Related Parties’ (other than any trustee or advisor) gross negligence, bad faith or willful misconduct or material breach of the Credit Documents.

(d) Each Borrower and each Lender acknowledge that certain of the Lenders may be “public-side” Lenders (Lenders that do not wish to receive material non-public information with respect to the Borrowers, their Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to the Credit Documents or otherwise are being distributed through the Platform, any document or notice that the Borrowers have indicated contains only publicly available information with respect to the Borrowers may be posted on that portion of the Platform designated for such public-side Lenders. If the Borrowers have not indicated whether a document or notice delivered contains only publicly available information, the Administrative Agent shall post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to the Borrowers, their Subsidiaries and their securities. Notwithstanding the foregoing, the Borrowers shall use commercially reasonable efforts to indicate whether any document or notice contains only publicly available information.

SECTION 13.18 USA PATRIOT Act. Each Lender hereby notifies each Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the Patriot Act.

SECTION 13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrowers in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrowers in the Agreement Currency, the Borrowers agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrowers (or to any other Person who may be entitled thereto under applicable law).

SECTION 13.20 Payments Set Aside. To the extent that any payment by or on behalf of any Borrower is made to any Agent or any Lender, or any Agent 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 such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding 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 severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any 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 applicable Overnight Rate from time to time in effect.

SECTION 13.21 Joint and Several Liability. All Loans, upon funding, shall be deemed to be jointly funded to and received by the Borrowers. Each Borrower is jointly and severally liable under this Agreement for all Obligations, regardless of the manner or amount in which proceeds of Loans are used, allocated, shared or disbursed by or among the Borrowers themselves, or the manner in which an Agent and/or any Lender accounts for such Loans or other extensions of credit on its books and records. Each Borrower shall be liable for all amounts due to an Agent and/or any Lender from the Borrowers under this Agreement, regardless of which Borrower actually receives Loans or other extensions of credit made to it, and such Borrower's Obligations arising as a result of the joint and several liability of such Borrower shall be separate and distinct obligations, but all such Obligations shall be primary obligations of such Borrower. The Borrowers acknowledge and expressly agree with the Agents and each Lender that the joint and several liability of each Borrower is required solely as a condition to, and is given solely as inducement for and in consideration of, credit or accommodations extended or to be extended under the Credit Documents to any or all of the other Borrowers and is not required or given as a condition of extensions of credit to such Borrower. Each Borrower's Obligations under this Agreement shall, to the fullest extent permitted by law, be unconditional irrespective of (i) the validity or enforceability, avoidance, or subordination of the Obligations of any other Borrower or of any promissory note or other document evidencing all or any part of the Obligations of any other Borrower, (ii) the absence of any attempt to collect the Obligations from any other Borrower, or any other security therefor, or the absence of any other action to enforce the same, (iii) the waiver, consent, extension, forbearance, or granting of any indulgence by an Agent and/or any Lender with respect to any provision of any instrument evidencing the Obligations of any other Borrower, or any part thereof, or any other agreement executed as of the Closing Date or thereafter executed by any other Borrower and delivered to an Agent and/or any Lender, (iv) the failure by an Agent and/or any Lender to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations of any other Borrower, (v) an Agent's and/or any Lender's election, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b)(2) of the Bankruptcy Code, (vi) any borrowing or grant of a security interest by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code, (vii) the disallowance of all or any portion of an Agent's
and/or any Lender's claim(s) for the repayment of the Obligations of any other Borrower under Section 502 of the Bankruptcy Code, or (viii) any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor or of any other Borrower. With respect to any Borrower's Obligations arising as a result of the joint and several liability of the Borrowers hereunder with respect to any Loans or other extensions of credit made to any of the other Borrowers hereunder, such Borrower waives, until the Obligations shall have been paid in full and this Agreement shall have been terminated, any right to enforce any right of subrogation or any remedy which an Agent and/or any Lender had as of the Closing Date or may have thereafter against any other Borrower, any endorser or any guarantor of all or any part of the Obligations, and any benefit of, and any right to participate in, any security or collateral given to an Agent and/or any Lender to secure payment of the Obligations or any other liability of any Borrower to an Agent and/or any Lender. Upon any Event of Default, the Agents may proceed directly and at once, without notice, against any Borrower to collect and recover the full amount, or any portion of the Obligations, without first proceeding against any other Borrower or any other Person, or against any security or collateral for the Obligations. Each Borrower consents and agrees that the Agents shall be under no obligation to marshal any assets in favor of any Borrower or against or in payment of any or all of the Obligations. Notwithstanding anything to the contrary in the foregoing, none of the foregoing provisions of this Section 13.21 shall apply to any Person released from its Obligations as a Borrower in accordance herewith.

SECTION 13.22 Contribution and Indemnification Among Borrowers. Each Borrower is obligated to repay the Obligations as a joint and several obligor under this Agreement. To the extent that any Borrower shall, under this Agreement as a joint and several obligor, repay any of the Obligations constituting Loans made to another Borrower hereunder or other Obligations incurred directly and primarily by any other Borrower (an "Accommodation Payment"), then the Borrower making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Borrowers in an amount, for each of such other Borrowers, equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Borrower's Allocable Amount (as defined below) and the denominator of which is the sum of the Allocable Amounts of all of the Borrowers. As of any date of determination, the "Allocable Amount" of each Borrower shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Borrower hereunder without (a) rendering such Borrower "insolvent" within the meaning of Section 101(31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("UFTA") or Section 2 of the Uniform Fraudulent Conveyance Act ("UFCA"), (b) leaving such Borrower with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Borrower unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA. All rights and claims of contribution, indemnification, and reimbursement under this Section shall be subordinate in right of payment to the prior payment in full of the Obligations. The provisions of this Section shall, to the extent expressly inconsistent with any provision in any Credit Document, supersede such inconsistent provision.

SECTION 13.23 Agency of the Lead Borrower for Each Other Borrower. Each of the other Borrowers irrevocably appoints the Lead Borrower as its agent for all purposes relevant to this Agreement, including the giving and receipt of notices and execution and
delivery of all documents, instruments, and certificates contemplated herein (including, without limitation, execution and delivery to the Agents of Borrowing Base Certificates, Notices of Borrowing and other requests for any Credit Extension and Notices of Conversion or Continuation) and all modifications hereto. Any acknowledgment, consent, direction, certification, or other action which might otherwise be valid or effective only if given or taken by all or any of the Borrowers or acting singly, shall be valid and effective if given or taken only by the Lead Borrower, whether or not any of the other Borrowers join therein, and the Agents and the Lenders shall have no duty or obligation to make further inquiry with respect to the authority of the Lead Borrower under this Section 13.23; provided that nothing in this Section 13.23 shall limit the effectiveness of, or the right of the Agents and the Lenders to rely upon, any notice (including without limitation a Borrowing Request or other request for any Credit Event or Notices of Conversion or Continuation), document, instrument, certificate, acknowledgment, consent, direction, certification or other action delivered by any Borrower pursuant to this Agreement.

SECTION 13.24 Reinstatement. This Agreement shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any other Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Lead Borrower or any other Borrower, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Borrower or any substantial part of its property, or otherwise, all as though such payments had not been made.

SECTION 13.25 Express Waivers by Borrowers in Respect of Cross Guarantees and Cross Collateralization. Each Borrower agrees as follows:

(a) Each Borrower hereby waives: (i) notice of acceptance of this Agreement; (ii) notice of the making of any Loans, the issuance of any Letter of Credit or any other financial accommodations made or extended under the Credit Documents or the creation or existence of any Obligations; (iii) notice of the amount of the Obligations, subject, however, to such Borrower's right to make inquiry of the Administrative Agent to ascertain the amount of the Obligations at any reasonable time; (iv) notice of any adverse change in the financial condition of any other Borrower or of any other fact that might increase such Borrower's risk with respect to such other Borrower under the Credit Documents; (v) notice of presentment for payment, demand, protest, and notice thereof as to any promissory notes or other instruments among the Credit Documents; and (vi) all other notices (except if such notice is specifically required to be given to such Borrower hereunder or under any of the other Credit Documents to which such Borrower is a party) and demands to which such Borrower might otherwise be entitled;

(b) Each Borrower hereby waives the right by statute or otherwise to require an Agent or any Lender Party to institute suit against any other Borrower or to exhaust any rights and remedies which an Agent or any Lender Party has or may have against any other Borrower. Each Borrower further waives any defense arising by reason of any disability or other defense of any other Borrower (other than the defense of payment in full) or by reason of the cessation from any cause whatsoever of the liability of any such Borrower in respect thereof;
(c) Each Borrower hereby waives and agrees not to assert against any Agent, or any Lender Party: (i) any defense (legal or equitable) other than a
defense of payment, set-off, counterclaim, or claim which such Borrower may have had as of the Closing Date or may have at any time thereafter against any
other Borrower or any other party liable under the Credit Documents; (ii) any defense, set-off, counterclaim, or claim of any kind or nature available to any
other Borrower (other than a defense of payment) against any Agent, any Lender, or any Letter of Credit Issuer, arising directly or indirectly from the present
or future lack of perfection, sufficiency, validity, or enforceability of the Obligations or any security therefor; (iii) any right or defense arising by reason of
any claim or defense based upon an election of remedies by any Agent or any Lender Party under any applicable law; (iv) the benefit of any statute of
limitations affecting any other Borrower’s liability hereunder;

(d) Each Borrower consents and agrees that, without notice to or by such Borrower and without affecting or impairing the obligations of such
Borrower hereunder, the Agents may (subject to any requirement for consent of any of the Lenders to the extent required by this Agreement), by action or
inaction: (i) compromise, settle, extend the duration or the time for the payment of, or discharge the performance of, or may refuse to or otherwise not enforce
any Credit Document; (ii) release all or any one or more parties to any one or more of the Credit Documents or grant other indulgences to any other Borrower
in respect thereof; (iii) amend or modify in any manner and at any time (or from time to time) any of the of the Credit Documents; or (iv) release or substitute
any Person liable for payment of the Obligations, or enforce, exchange, release, or waive any security for the Obligations; and

(e) Each Borrower represents and warrants to the Agents and the Lenders that such Borrower is currently informed of the financial condition of
all other Borrowers and all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each
Borrower further represents and warrants that such Borrower has read and understands the terms and conditions of the Credit Documents. Each Borrower
agrees that neither the Agents nor any Lender Party has any responsibility to inform any Borrower of the financial condition of any other Borrower or of any
other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

[Signature Pages Follow]
IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

DEL MONTE FOODS COMPANY,
as Lead Borrower

By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Credit Agreement (Revolving Facility)]
BLUE ACQUISITION GROUP, INC.,
as Holdings
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Credit Agreement (Revolving Facility)]
BANK OF AMERICA, N.A.,
as Administrative Agent, Collateral Agent, Lender, Swingline Lender and Issuing Bank
By:  /s/ Lisa Freeman
     Name: Lisa Freeman
     Title: SVP

MERRILL LYNCH,
PIERCE, FENNER
AND SMITH INCORPORATED,
as Joint Lead Arranger and Joint Bookrunner
By:  /s/ Lisa Freeman
     Name: Lisa Freeman
     Title: SVP

[Signature Page to Credit Agreement (Revolving Facility)]
JPMORGAN CHASE BANK, N.A.,
as Co-Syndication Agent
By: /s/ Barry K. Bergman
   Name: Barry K. Bergman
   Title: Managing Director

J.P. MORGAN SECURITIES LLC,
as Joint Lead Arranger and Joint Bookrunner
By: /s/ Gerry Murray
   Name: Gerry Murray
   Title: Managing Director

[Signature Page to Credit Agreement (Revolving Facility)]
JPMORGAN CHASE BANK, N.A.,
as Lender

By:  /s/ Barry K. Bergman

Name: Barry K. Bergman
Title: Managing Director

[Signature Page to Credit Agreement (Revolving Facility)]
BARCLAYS BANK PLC,
as Lender
By: /s/ Diane Rolfe
Name: Diane Rolfe
Title: Director

[Signature Page to Credit Agreement (Revolving Facility)]
MORGAN STANLEY
SENIOR FUNDING, INC.,
as Co-Syndication Agent and Joint Bookrunner
By: /s/ Ron Kubick
   Name: Ron Kubick
   Title: Managing Director

MORGAN STANLEY BANK, N.A.,
as Lender
By: /s/ Ron Kubick
   Name: Ron Kubick
   Title: Managing Director

[Signature Page to Credit Agreement (Revolving Facility)]
GENERAL ELECTRIC CAPITAL CORPORATION, as Co-Documentation Agent
By: /s/ Dwayne Coker
Name: Dwayne Coker
Title: Duly Authorized Signatory

GE CAPITAL FINANCIAL INC., as Lender
By: /s/ Stephen F. Schroppe
Name: Stephen F. Schroppe
Title: Duly Authorized Signatory

[Signature Page to Credit Agreement (Revolving Facility)]
U.S. BANK NATIONAL ASSOCIATION,
as Co-Documentation Agent
By: /s/ Jeffrey S. Gruender
    Name: Jeffrey S. Gruender
    Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
U.S. BANK NATIONAL ASSOCIATION,
as Lender

By:  /s/ Jeffrey S. Gruender

Name: Jeffrey S. Gruender
Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
HARRIS N.A.,
as Co-Documentation Agent
By: /s/ Craig Thistlethwaite
    Name: Craig Thistlethwaite
    Title: Director

BMO HARRIS FINANCING, INC.,
as Lender
By: /s/ Craig Thistlethwaite
    Name: Craig Thistlethwaite
    Title: Director

[Signature Page to Credit Agreement (Revolving Facility)]
SIEMENS FINANCIAL SERVICES, INC.,
as Lender

By: /s/ Matthias Grossmann
Name: Matthias Grossmann
Title: Sr. VP & CFO

By: /s/ David Kantes
Name: David Kantes
Title: Senior Vice President and Chief Risk Officer

[Signature Page to Credit Agreement (Revolving Facility)]
TD BANK, N.A.,
as Lender
By: /s/ Virginia Pulverenti
Name: Virginia Pulverenti
Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
UNION BANK, N.A.,
as Lender

By: /s/ Terry L. Rocha
Name: Terry L. Rocha
Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
CIT BANK,
    as Lender
By:    /s/ Benjamin Haslam
        Name: Benjamin Haslam
        Title: Authorized Signatory

[Signature Page to Credit Agreement (Revolving Facility)]
PNC BANK, NA,
as Lender
By: /s/ Brian Conway
   Name: Brian Conway
   Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
DEUTSCHE BANK TRUST COMPANY AMERICAS, as Lender

By: /s/ Scottye Lindsey
Name: Scottye Lindsey
Title: Director

By: /s/ Erin Morrissey
Name: Erin Morrissey
Title: Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
CAPITAL ONE LEVERAGE FINANCE CORPORATION, as Lender

By: /s/ Paul Delova

Name: Paul Delova
Title: SVP

[Signature Page to Credit Agreement (Revolving Facility)]
MIZUHO CORPORATE BANK, LTD.,
as Lender
By: /s/ William Getz
    Name: William Getz
    Title: Deputy General Manager

[Signature Page to Credit Agreement (Revolving Facility)]
EAST WEST BANK,
as Lender
By: /s/ Nancy A. Moore

Name: Nancy A. Moore
Title: Senior Vice President

[Signature Page to Credit Agreement (Revolving Facility)]
This CREDIT PARTY JOINDER AGREEMENT (this "Joinder"), dated as of March 9, 2011, to the Credit Agreement dated as of March 8, 2011 (as amended, restated, supplemented or otherwise modified, the "Credit Agreement") among BLUE ACQUISITION GROUP, INC., a Delaware corporation ("Holdings"), DEL MONTE FOODS COMPANY, a Delaware corporation (the "Lead Borrower"), the other Borrowers from time to time party thereto (each a "Borrower" and, together with the Lead Borrower, the "Borrowers"), the Lender Parties party thereto, BANK OF AMERICA, N.A., as Administrative Agent and Collateral Agent, and the other parties thereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Under Section 9.11 of the Credit Agreement each Subsidiary that becomes a Borrower under the Credit Agreement pursuant to Section 9.11 of the Credit Agreement shall execute and delivery an instrument in the form of this Joinder. The undersigned Subsidiary (the "New Subsidiary Borrower") is executing this Joinder in accordance with the requirements of the Credit Agreement to become a Borrower under the Credit Agreement in order to induce the Lenders and Issuing Banks to make Credit Extensions.

Accordingly, the Administrative Agent and the New Subsidiary Borrower agree as follows:

SECTION 1. In accordance with Section 9.11 of the Credit Agreement, as of the Effective Date (as defined below) the New Subsidiary Borrower by its signature below becomes a Borrower under the Credit Agreement with the same force and effect as if originally named therein as a Borrower, and the New Subsidiary Borrower hereby (a) agrees to all the terms and provisions of the Credit Agreement applicable to it as a Borrower thereunder and (b) represents and warrants that the representations and warranties made by it as a Borrower thereunder are true and correct in all material respects (except that any representation and warranty that is qualified as to "materiality" or "Material Adverse Effect" shall be true and correct in all respects) on and as of the date hereof, except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date. From and after the Effective Date, each reference to a "Borrower" and an "Other Borrower" in the Credit Agreement and the other Credit Documents shall be deemed to include the New Subsidiary Borrower. The Credit Agreement is hereby incorporated herein by reference.

SECTION 2. The New Subsidiary Borrower represents and warrants to the Administrative Agent and the other Secured Parties that this Joinder has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

SECTION 3. This Joinder shall become effective as of the date first above written (the "Effective Date") when, and only when, the following conditions have been satisfied:

(a) The Administrative Agent shall have received each of the following documents:
(i) this Joinder, duly executed and delivered by each of the parties hereto, and counterparts of the consent attached hereto, duly executed and delivered by each of the Credit Parties;

(ii) joinders to any outstanding promissory notes issued under Section 13.6(d) of the Credit Agreement, duly executed and delivered by the New Subsidiary Borrower;

(iii) to the extent reasonably requested by the Collateral Agent, new Security Documents substantially consistent with the analogous existing Security Documents and otherwise in form and substance reasonably satisfactory to the Collateral Agent, duly executed and delivered by the parties thereto;

(iv) the executed opinion of counsel for the New Subsidiary Borrower, covering substantially the same matters as those included in the opinion delivered on behalf of the Lead Borrower on the Closing Date;

(v) a certificate of the New Subsidiary Borrower, dated the Effective Date, substantially in the form of Exhibit H to the Credit Agreement, with appropriate insertions and attachments, of such New Subsidiary Borrower, executed by the President or any Vice President or Authorized Officer and the Secretary or any Assistant Secretary of such New Subsidiary Borrower;

(vi) such documentation and information as is reasonably requested in writing at least 3 days prior to the Effective Date by the Administrative Agent about the New Subsidiary Borrower to the extent the Administrative Agent and the New Subsidiary Borrower in good faith mutually agree is required by regulatory authorities under applicable "know your customer" and anti money laundering rules and regulations, including, without limitation, the Patriot Act;

(b) On the Effective Date, the representations and warranties set forth herein shall be true and correct in all material respects (or if qualified by "materiality," "material adverse effect" or similar language, in all respects (after giving effect to such qualification)); and

(c) the New Subsidiary Borrower shall have taken all other action reasonably requested by the Collateral Agent to grant a perfected security interest in its assets to substantially the same extent as created by the Credit Parties on the Closing Date.

SECTION 4. This Joinder may be executed by one or more of the parties to this Joinder on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Joinder signed by all the parties shall be lodged with the Administrative Agent and the Borrowers.
SECTION 5. Except as expressly supplemented hereby, the Credit Agreement shall remain in full force and effect.


SECTION 7. Any provision of this Joinder that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Credit Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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 8. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to each New Subsidiary Borrower shall be given to it in care of the Lead Borrower at the Lead Borrower's address set forth in Schedule 13.2 of the Credit Agreement.
IN WITNESS WHEREOF, the New Subsidiary Borrower and the Administrative Agent have duly executed this Joinder to the Credit Agreement as of the day and year first above written.

DEL MONTE CORPORATION
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Joinder to ABL Credit Agreement]
BANK OF AMERICA, N.A., as Administrative Agent
By: /s/ Lisa Freeman

Name: Lisa Freeman
Title: SVP

[Signature Page to Joinder to ABL Credit Agreement]
CONSENT OF CREDIT PARTIES

Dated as of March 9, 2011

Each of the undersigned Credit Parties, as a Guarantor under the Guarantee, dated as of March 8, 2011 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Guarantee"), made by the undersigned in favor of Bank of America, N.A., as Collateral Agent, hereby consents to the foregoing Credit Party Joinder Agreement (the "Joinder") and the addition of the New Subsidiary Borrowers referred to therein as Borrowers under the Credit Agreement, and hereby confirms and agrees that notwithstanding the effectiveness of such Joinder, the Guarantee is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects, except that, on and after the effectiveness of such Joinder, each reference in any Credit Document to the "Credit Agreement", "thereunder", "thereof" or words of like import shall mean and be a reference to the Credit Agreement, as supplemented by such Joinder. Capitalized terms used herein but not defined shall have the meanings set forth in the Joinder (including by reference to the Credit Agreement referred to therein).

[Signature pages follow]
DEL MONTE CORPORATION
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Consent of Credit Parties to Credit Party Joinder to ABL Credit Agreement]
BLUE ACQUISITION GROUP, INC.

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Consent of Credit Parties to Credit Party Joinder to ABL Credit Agreement]
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Consent of Credit Parties to Credit Party Joinder to ABL Credit Agreement]
GUARANTEE

THIS GUARANTEE dated as of March 8, 2011, by each of the signatories listed on the signature pages hereto and each of the other entities that becomes a party hereto pursuant to Section 19 (the "Guarantors" and individually, a "Guarantor"), in favor of the Collateral Agent for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, reference is made to that certain Credit Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among Del Monte Foods Company, a Delaware corporation (the "Company"), Blue Acquisition Group, Inc. ("Holdings"), other Borrowers from time to time party thereto the Lender Parties from time to time party thereto the Letter of Credit Issuer, Bank of America, N.A, as Administrative Agent and as Collateral Agent, pursuant to which, among other things, the Lenders have severally agreed to make Loans to the Borrowers and the Letter of Credit Issuer has agreed to issue Letters of Credit for the account of the Borrowers and the Restricted Subsidiaries (collectively, the "Extensions of Credit") upon the terms and subject to the conditions set forth therein and one or more Cash Management Banks or Hedge Banks may from time to time enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, the Company is a direct wholly-owned Subsidiary of Holdings and each Guarantor is a direct or indirect wholly-owned Subsidiary of the Company;

WHEREAS, the Extensions of Credit will be used in part to enable valuable transfers to the Guarantors in connection with the operation of their respective businesses;

WHEREAS, each Guarantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Extensions of Credit; and

WHEREAS, it is a condition precedent to the obligation of the Lenders and the Letter of Credit Issuer to make their respective Extensions of Credit to the Company and the Other Borrowers under the Credit Agreement that the Guarantors shall have executed and delivered this Guarantee to the Collateral Agent for the benefit of the Secured Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent, the Lenders and Letter of Credit Issuer to enter into the Credit Agreement and to induce the Lenders and the Letter of Credit Issuer to make their respective Extensions of Credit to the Company and the Other Borrowers under the Credit Agreement, to induce one or more Cash Management Banks or Hedge Banks to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries, the Guarantors hereby agree with the Collateral Agent, for the ratable benefit of the Secured Parties, as follows:
1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Guarantee shall refer to this Guarantee as a whole and not to any particular provision of this Guarantee, and Section references are to Sections of this Guarantee unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(c) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Guarantee.

(a) Subject to the provisions of Section 2(b), each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees, as primary obligor and not merely as surety, to the Collateral Agent, for the benefit of the Secured Parties, the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations of anyone other than such Guarantor (including amounts that would become due for operation of the automatic stay under 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)).

(b) Anything herein or in any other Credit Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Credit Documents shall in no event exceed the amount that can be guaranteed by such Guarantor under the Bankruptcy Code or any applicable laws relating to fraudulent conveyances, fraudulent transfers or the insolvency of debtors.

(c) Each Guarantor further agrees to pay any and all expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by the Administrative Agent or the Collateral Agent or any other Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Guarantor under this Guarantee.

(d) Each Guarantor agrees that the Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing this Guarantee or affecting the rights and remedies of the Collateral Agent or any other Secured Party hereunder.

(e) No payment or payments made by any Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by the Collateral Agent, the Administrative Agent or any other Secured Party from any Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any
Guarantor hereunder, which shall, notwithstanding any such payment or payments, other than payments made by such Guarantor in respect of the Obligations or payments received or collected from such Guarantor in respect of the Obligations, remain liable for the Obligations up to the maximum liability of such Guarantor hereunder until the Obligations under the Credit Documents are paid in full, the Commitments are terminated and no Letters of Credit shall be outstanding or the Letters of Credit Outstanding have been Cash Collateralized.

(f) Each Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to the Collateral Agent or any other Secured Party on account of its liability hereunder, it will notify the Collateral Agent in writing that such payment is made under this Guarantee for such purpose.

3. **Right of Contribution.** Each Guarantor hereby agrees that to the extent that a Guarantor shall have paid more than its proportionate share of any payment made hereunder (including by way of set-off rights being exercised against it), such Guarantor shall be entitled to seek and receive contribution from and against any other Guarantor hereunder who has not paid its proportionate share of such payment. Each Guarantor's right of contribution shall be subject to the terms and conditions of Section 5 hereof. The provisions of this Section 3 shall in no respect limit the obligations and liabilities of any Guarantor to the Collateral Agent and the other Secured Parties, and each Guarantor shall remain liable to the Collateral Agent and the other Secured Parties up to the maximum liability of such Guarantor hereunder.

4. **Right of Set-off.** In addition to any rights and remedies of the Secured Parties provided by law, each Guarantor hereby irrevocably authorizes each Secured Party at any time and from time to time following the occurrence and during the continuance of an Event of Default, without notice to such Guarantor or any other Guarantor, any such notice being expressly waived by each Guarantor, upon any amount becoming due and payable by such Guarantor hereunder (whether at stated maturity, by acceleration or otherwise), to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Secured Party to or for the credit or the account of such Guarantor. Each Secured Party shall notify such Guarantor promptly of any such set-off and the appropriation and application made by such Secured Party, provided that the failure to give such notice shall not affect the validity of such set-off and application.

5. **No Subrogation.** Notwithstanding any payment or payments made by any of the Guarantors hereunder or any set-off or appropriation and application of funds of any of the Guarantors by the Collateral Agent or any other Secured Party, no Guarantor shall be entitled to be subrogated to any of the rights (or if subrogated by operation of law, such Guarantor hereby waives such rights to the extent permitted by applicable law) of the Collateral Agent or any other Secured Party against any Borrower or any Guarantor or any collateral security or guarantee or right of offset held by the Collateral Agent or any other Secured Party for the payment of any of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from any Borrower or any Guarantor or other guarantor in respect of payments made by such Guarantor hereunder, in each case, until all amounts owing to the Collateral Agent and the other Secured Parties on account of the Obligations under the Credit Documents are paid.
in full, the Commitments are terminated and no Letters of Credit shall be outstanding or the Letters of Credit Outstanding have been Cash Collateralized. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all the Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Collateral Agent and the other Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Collateral Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Collateral Agent, if required), to be applied against the Obligations, whether due or to become due, in such order as the Collateral Agent may determine.

6. Amendments, etc. with Respect to the Obligations; Waiver of Rights. Each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, (a) any demand for payment of any of the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit Agreement, the other Credit Documents, the Letters of Credit and any other documents executed and delivered in connection therewith and the Secured Cash Management Agreements and Secured Hedge Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Secured Cash Management Agreement or Secured Hedge Agreement, the Cash Management Bank or Hedge Bank party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of any of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Obligations or for this Guarantee or any property subject thereto. When making any demand hereunder against any Guarantor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on any Borrower or any Guarantor or any other person, and any failure by the Collateral Agent or any other Secured Party to make any such demand or to collect any payments from any Borrower or any Guarantor or any other person or any release of any Borrower or any Guarantor or any other person shall not relieve any Guarantor in respect of which a demand or collection is not made or any Guarantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Collateral Agent or any other Secured Party against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.


(a) Each Guarantor waives any and all notice of the creation, contraction, incurrence, renewal, extension, amendment, waiver or accrual of any of the Obligations, and notice of or proof of reliance by the Collateral Agent or any other Secured Party upon this
Guarantee or acceptance of this Guarantee. All Obligations shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended, waived or accrued, in reliance upon this Guarantee, and all dealings between any Borrower and any of the Guarantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Guarantee. To the fullest extent permitted by applicable law, each Guarantor waives diligence, promptness, presentment, protest and notice of protest, demand for payment or performance, notice of default or nonpayment, notice of acceptance and any other notice in respect of the Obligations or any part of them, and any defense arising by reason of any disability or other defense of any Borrower or any of the Guarantors with respect to the Obligations. Each Guarantor understands and agrees that this Guarantee shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity, regularity or enforceability of the Credit Agreement, any other Credit Document, any Letter of Credit, any Secured Cash Management Agreement or Secured Hedge Agreement, any of the Obligations or any collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Collateral Agent or any other Secured Party, (b) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to or be asserted by any Borrower against the Collateral Agent or any other Secured Party or (c) any other circumstance whatsoever (with or without notice to or knowledge of any Borrower or such Guarantor) that constitutes, or might be construed to constitute, an equitable or legal discharge of the Borrowers for the Obligations, or of such Guarantor under this Guarantee, in bankruptcy or in any other instance. When pursuing its rights and remedies hereunder against any Guarantor, the Collateral Agent and any other Secured Party may, but shall be under no obligation to, pursue such rights and remedies as it may have against any Borrower or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Collateral Agent or any other Secured Party to pursue such other rights or remedies or to collect any payments from a Borrower or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrowers or any such other Person or any such collateral security, guarantee or right of offset, shall not relieve such Guarantor of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Collateral Agent and the other Secured Parties against such Guarantor.

(b) This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Guarantor and the successors and assigns thereof and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, indorsers, transferees and assigns until all Obligations (other than any contingent indemnity obligations not then due) shall have been satisfied by payment in full, the Commitments thereunder shall be terminated and no Letters of Credit thereunder shall be outstanding (except to the extent that the Letters of Credit have been Cash Collateralized), notwithstanding that from time to time during the term of the Credit Agreement and any Secured Cash Management Agreement or Secured Hedge Agreement the Credit Parties may be free from any Obligations.
A Guarantor shall automatically be released from its obligations hereunder and the Guarantee of such Guarantor shall be automatically
released under the circumstances described in Section 13.1 of the Credit Agreement.

8. Reinstatement. This Guarantee shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof,
of any of the Obligations is rescinded or must otherwise be restored or returned by the Collateral Agent or any other Secured Party upon the insolvency,
bankruptcy, dissolution, liquidation or reorganization of any Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or
conservator of, or trustee or similar officer for, any Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such
payments had not been made.

9. Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to the Collateral Agent without set-off or counterclaim in
U.S. Dollars (based on the Dollar Equivalent amount of such Obligations on the date of payment) at the Collateral Agent's office. Each Guarantor agrees that
the provisions of Sections 5.4 and 13.19 of the Credit Agreement shall apply to such Guarantor's obligations under this Guarantee.

10. Representations and Warranties; Covenants.

(a) Each Guarantor hereby represents and warrants that the representations and warranties set forth in Section 8 of the Credit Agreement as they
relate to such Guarantor and in the other Credit Documents to which such Guarantor is a party, each of which is hereby incorporated herein by reference, are
true and correct in all material respects as of the Closing Date (except where such representations and warranties expressly relate to an earlier date, in which
case such representations and warranties were true and correct in all material respects as of such earlier date), and the Collateral Agent and each other Secured
Party shall be entitled to rely on each of them as if they were fully set forth herein.

(b) Each Guarantor hereby covenants and agrees with the Collateral Agent and each other Secured Party that, from and after the date of this
Guarantee until the Obligations are paid in full, the Commitments are terminated and no Letter of Credit remains outstanding or the Letters of Credit
Outstanding have been Cash Collateralized, such Guarantor shall take, or shall refrain from taking, as the case may be, all actions that are necessary to be
taken or not taken so that no violation of any provision, covenant or agreement contained in Section 9 or Section 10 of the Credit Agreement and so that no
Default or Event of Default, is caused by any act or failure to act of such Guarantor or any of its Subsidiaries.

11. Authority of the Collateral Agent.

(a) The Collateral Agent enters into this Guarantee in its capacity as agent for the Secured Parties from time to time. The rights and obligations of
the Collateral Agent under this Guarantee at any time are the rights and obligations of the Secured Parties at that time. Each of the Secured Parties has (subject
to the terms of the Credit Documents) a several entitlement to each such right, and a several liability in respect of each such obligation, in the proportions
described in the Credit Documents. The rights, remedies and discretions of the Secured Parties, or any of them, under this Guarantee may be exercised by the
Collateral Agent. No party to this
Guarantee is obliged to inquire whether an exercise by the Collateral Agent of any such right, remedy or discretion is within the Collateral Agent's authority as agent for the Secured Parties.

(b) Each party to this Guarantee acknowledges and agrees that any changes (in accordance with the provisions of the Credit Documents) in the identity of the persons from time to time comprising the Secured Parties gives rise to an equivalent change in the Secured Parties, without any further act. Upon such an occurrence, the persons then comprising the Secured Parties are vested with the rights, remedies and discretions and assume the obligations of the Secured Parties under this Guarantee. Each party to this Guarantee irrevocably authorizes the Collateral Agent to give effect to the change in Lenders contemplated in this Section 11(b) by countersigning an Assignment and Acceptance.

12. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to any Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.

13. Counterparts. This Guarantee may be executed by one or more of the parties to this Guarantee on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guarantee signed by all the parties shall be lodged with the Collateral Agent and the Company.

14. Severability. Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

15. Integration. This Guarantee together with the other Credit Documents and each other document in respect of any Secured Hedge Agreement and any Secured Cash Management Agreement represent the agreement of each Guarantor and the Collateral Agent with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents or each other document in respect of any Secured Hedge Agreement or any Secured Cash Management Agreement.

16. Amendments in Writing; No Waiver; Cumulative Remedies.

(a) None of the terms or provisions of this Guarantee may be waived, amended, supplemented or otherwise modified except in accordance with Section 13.1 of the Credit Agreement.
(b) Neither the Collateral Agent nor any other Secured Party shall by any act (except by a written instrument pursuant to Section 16(a)), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or any Secured Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

17. Section Headings. The Section headings used in this Guarantee are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

18. Successors and Assigns. This Guarantee shall be binding upon the successors and assigns of each Guarantor and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors and assigns except that no Guarantor may assign, transfer or delegate any of its rights or obligations under this Guarantee without the prior written consent of the Collateral Agent.

19. Additional Guarantors. Each Subsidiary of the Company that is required to become a party to this Guarantee pursuant to Section 9.11 of the Credit Agreement shall become a Guarantor, with the same force and effect as if originally named as a Guarantor herein, for all purposes of this Guarantee, upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Guarantor as a party to this Guarantee shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Guarantee.

20. WAIVER OF JURY TRIAL. EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTEE, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

21. Submission to Jurisdiction; Waivers; Service of Process. Each Guarantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Guarantee and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general
jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate
courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the
venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead
or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or
any substantially similar form of mail), postage prepaid, to such Guarantor in care of the Company at the Company’s address set forth in the Credit
Agreement, and such Person hereby irrevocably authorizes and directs the Company to accept such service on its behalf;

(d) agrees that nothing herein shall affect the right of the Collateral Agent or any other Secured Party to effect service of process in any other
manner permitted by law or shall limit the right of the Collateral Agent or any other Secured Party to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in
this Section 21 any special, exemplary, punitive or consequential damages.

22. GOVERNING LAW. THIS GUARANTEE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL
BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[Signature pages follow]
IN WITNESS WHEREOF, each of the undersigned has caused this Guarantee to be duly executed and delivered by its duly authorized officer or other representative as of the day and year first above written.

BLUE ACQUISITION GROUP, INC., as Guarantor
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer, and Controller

DEL MONTE CORPORATION, as Guarantor
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer, and Controller

[SIGNATURE PAGE TO GUARANTEE]
BANK OF AMERICA, N.A., as Collateral Agent
By: /s/ Lisa Freeman

Name: Lisa Freeman
Title: SVP

[SIGNATURE PAGE TO GUARANTEE]
SUPPLEMENT NO. [    ] dated as of [    ] to the GUARANTEE dated as of March 8, 2011, among each of the Guarantors listed on the signature pages thereto (each such subsidiary individually, a "Guarantor" and, collectively, the "Guarantors"), and Bank of America, N.A., as Collateral Agent for the Lenders from time to time parties to the Credit Agreement referred to below (the "Guarantee").

A. Reference is made to that certain Credit Agreement, dated as of the date of the Guarantee (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement"), among Del Monte Foods Company, a Delaware corporation (the "Company"), Blue Acquisition Group, Inc. ("Holdings"), the Lender Parties from time to time parties thereto and Bank of America, N.A., as Administrative Agent and as Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Guarantee.

C. The Guarantors have entered into the Guarantee in order to induce the Administrative Agent, the Collateral Agent, the Lenders and the Letter of Credit Issuer to enter into the Credit Agreement and to induce the Lenders and the Letter of Credit Issuer to make their respective Extensions of Credit to the Company and the Other Borrowers under the Credit Agreement and to induce one or more Cash Management Banks or Hedge Banks to enter into Secured Cash Management Agreements or Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. Section 9.11 of the Credit Agreement and Section 19 of the Guarantee provide that additional Subsidiaries may become Guarantors under the Guarantee by execution and delivery of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a "New Guarantor") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Guarantor under the Guarantee in order to induce the Lenders and the Letter of Credit Issuer to make additional Extensions of Credit, to induce one or more Hedge Banks or Cash Management Banks to enter into Secured Hedge Agreements and Secured Cash Management Agreements, and as consideration for Extensions of Credit previously made.

Accordingly, the Collateral Agent and each New Guarantor agrees as follows:

SECTION 1. In accordance with Section 19 of the Guarantee, each New Guarantor by its signature below becomes a Guarantor under the Guarantee with the same force and effect as if originally named therein as a Guarantor, and each New Guarantor hereby (a) agrees to all the terms and provisions of the Guarantee applicable to it as a Guarantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct on and as of the date hereof (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct in all material respects as of such earlier date). Each reference to
a Guarantor in the Guarantee shall be deemed to include each New Guarantor. The Guarantee is hereby incorporated herein by reference.

SECTION 2. Each New Guarantor represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Company and the Collateral Agent. This Supplement shall become effective as to each New Guarantor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Guarantor and the Collateral Agent.

SECTION 4. Except as expressly supplemented hereby, the Guarantee shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 6. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Guarantee, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to each New Guarantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.

-2-
IN WITNESS WHEREOF, each New Guarantor and the Collateral Agent have duly executed this Supplement to the Guarantee as of the day and year first above written.

[NAME OF NEW GUARANTOR] as Guarantor
By: 

Name: 
Title: 

BANK OF AMERICA, N.A., as Collateral Agent
By: 

Name: 
Title: 
SECURITY AGREEMENT

THIS SECURITY AGREEMENT dated as of March 8, 2011, among Del Monte Foods Company, a Delaware corporation (the “Company”), Blue Acquisition Group, Inc. ("Holdings"), each of the Subsidiaries of the Company listed on the signature pages hereto or that becomes a party hereto pursuant to Section 8.14 (each such entity being a "Subsidiary Grantor" and, collectively, the "Subsidiary Grantors"; the Subsidiary Grantors, Holdings and the Company are referred to collectively as the "Grantees"), and Bank of America, N.A., as Collateral Agent (in such capacity, the "Collateral Agent") for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, the Company is party to the Credit Agreement, dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among the Company, Holdings, the other Borrowers from time to time party thereto, the Lender Parties from time to time party thereto and Bank of America, N.A., as Administrative Agent and as Collateral Agent;

WHEREAS, (a) pursuant to the Credit Agreement, the Lenders have severally agreed to make Loans to the Borrowers and the Issuing Banks have agreed to issue Letters of Credit for the account of the Borrowers upon the terms and subject to the conditions set forth therein and (b) one or more Cash Management Banks or Hedge Banks may from time to time enter into Secured Cash Management Agreements or Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, pursuant to the Guarantee dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the "Guarantee"), Holdings and each Subsidiary Grantor party thereto has agreed to unconditionally and irrevocably guarantee, as primary obligor and not merely as surety, to the Collateral Agent for the benefit of the Secured Parties the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations;

WHEREAS, Holdings and each Subsidiary Grantor is a Guarantor;

WHEREAS, the proceeds of the Loans, the issuance of the Letter of Credit and any Secured Cash Management Agreements or Secured Hedge Agreements will be used in part to enable the Company to make valuable transfers to the Subsidiary Grantors in connection with the operation of their respective businesses;

WHEREAS, each Grantor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans and the issuance of the Letter of Credit; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loans to the Borrowers and to the obligation of the Issuing Banks to issue Letter of Credit under the Credit Agreement that the Grantors shall have executed and delivered this Security Agreement to the Collateral Agent for the benefit of the Secured Parties;
NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lender Parties to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Borrowers and the Issuing Banks to issue Letters of Credit for the account the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries, the Grantors hereby agree with the Collateral Agent, for the benefit of the Secured Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) Terms used herein without definition that are defined in the UCC have the meanings given to them in the UCC, including the following terms (which are capitalized herein): Account, Chattel Paper, Commercial Tort Claims, Commodity Contract, Deposit Accounts, Documents, Fixtures, Goods, Instruments, Inventory, Letter-of-Credit Right, Securities, Securities Accounts, Security Entitlement, Supporting Obligation and Tangible Chattel Paper.

(c) The following terms shall have the following meanings:

"Collateral" shall have the meaning provided in Section 2.

"Collateral Account" shall mean any collateral account established by the Collateral Agent as provided in Section 5.1 or Section 5.3.

"Collateral Agent" shall have the meaning provided in the preamble to this Security Agreement.

"Control" shall mean "control," as such term is defined in Section 9-104 or 9-106, as applicable, of the UCC.

"Copyright License" shall mean any written agreement, now or hereafter in effect, granting any right to any third party under any Copyright now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting any right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of any Grantor under any such agreement, including those material inbound exclusive licenses in third party owned U.S. registered Copyrights listed on Schedule 1.

"Copyrights" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (i) 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 (ii) 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 U.S. registered copyrights owned by any Grantor and listed on Schedule 2.

"Default" or "Event of Default" shall mean a "default" or "event of default" under the Credit Agreement.
“Equipment” shall mean all “equipment,” as such term is defined in Article 9 of the UCC, now or hereafter owned by any Grantor or to which any Grantor has rights and, in any event, shall include all machinery, equipment, furnishings, movable trade fixtures and vehicles now or hereafter owned by any Grantor or to which any Grantor has rights and any and all Proceeds, additions, substitutions and replacements of any of the foregoing, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto; but excluding equipment to the extent it is subject to a Lien permitted pursuant to clauses (6) (solely with respect to clause (d) of Section 10.1 of the Credit Agreement) and (9) of the definition of “Permitted Liens” in the Credit Agreement and the terms of the Indebtedness secured by such Lien prohibit assignment of, or granting of a security interest in, such Grantor's rights and interests therein (other than to the extent that any such prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law), provided, that immediately upon the repayment of all Indebtedness secured by such Lien, such Grantor shall be deemed to have granted a Security Interest in all the rights and interests with respect to such equipment.

“Excluded Property” shall mean all (i) any Vehicles and other assets subject to certificates of title, (ii) Letter-of-Credit Rights, (iii) any property that is subject to a Lien permitted pursuant to clauses (6) (solely with respect to clause (d) of Section 10.1 of the Credit Agreement) and (9) of the definition of “Permitted Liens” in the Credit Agreement if the contract or other agreement in which such Lien is granted (or the documentation providing for such Indebtedness) validly prohibits the creation of any other Lien on such property; provided that such property shall be Excluded Property only to the extent and for so long as such prohibition is in effect and (iv) proceeds and products from any and all of the of the foregoing unless such proceeds would otherwise constitute Collateral.

“General Intangibles” shall mean all "general intangibles" as such term is defined in Article 9 of the UCC and, in any event, including with respect to any Grantor, all contracts, agreements, instruments and indentures in any form, and portions thereof, to which such Grantor is a party or under which such Grantor has any right, title or interest or to which such Grantor or any property of such Grantor is subject, as the same may from time to time be amended, supplemented or otherwise modified, including (a) all rights of such Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (b) all rights of such Grantor to receive proceeds of any insurance, indemnity, warranty or guarantee with respect thereto, (c) all claims of such Grantor for damages arising out of any breach of or default thereunder and (d) all rights of such Grantor to terminate, amend, supplement, modify or exercise rights or options thereunder, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder, in each case to the extent the grant by such Grantor of a Security Interest pursuant to this Security Agreement in its right, title and interest in any such contract, agreement, instrument or indenture (i) is not prohibited by such contract, agreement, instrument or indenture without the consent of any other party thereto (other than a Credit Party), (ii) would not give any other party (other than a Credit Party) to any such contract, agreement, instrument or indenture the right to terminate its obligations thereunder or (iii) is permitted with consent if all necessary consents to such grant of a Security Interest have been obtained from the other parties thereto (other than to the extent that any such prohibition referred to in clauses (i), (ii) and (iii) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate such Grantor to obtain such consents), provided that the foregoing limitation shall not affect, limit, restrict or impair the grant by such Grantor of a Security Interest pursuant to this Security Agreement in any Account or any money or other amounts due or to become due under any such contract, agreement, instrument or indenture.

“Grantor” shall have the meaning assigned to such term in the recitals hereto.
"Intellectual Property" shall mean all U.S. and foreign intellectual property, including all (i) (a) Patents, inventions, processes, developments, technology and know-how; (b) Copyrights including Copyrights in graphics, advertising materials, labels, package designs and photographs; (c) Trademarks; (d) trade secrets, confidential, proprietary or non-public information, (ii) all Patent Licenses, Trademark Licenses and Copyright Licenses and (iii) all rights, priorities and privileges related thereto and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all Proceeds therefrom. In each case to the extent the grant by such Grantor of a Security Interest pursuant to this Security Agreement in any such rights, priorities and privileges relating to such Intellectual Property (A) does not constitute or result in the abandonment, termination, acceleration, invalidation of or rendering unenforceable any right, title or interest therein or result in a breach of the terms of, or constitute a breach or default under such Intellectual Property, including any "intent to use" Trademark application filed in the United States Patent and Trademark Office unless and until an amendment to allege use or a statement of use has been filed under 15 U.S.C. §1501(d) and accepted by the United States Patent and Trademark Office, to the extent that granting a Security Interest therein before such time would invalidate or terminate, or adversely affect the enforceability or validity of, such "intent-to-use" Trademark application, (B) is not prohibited by any contract, agreement or other instrument governing such rights, priorities and privileges without the consent of any other party thereto (other than a Credit Party), (C) would not give any other party (other than a Credit Party) to any such contract, agreement, license or other instrument the right to terminate its obligations thereunder or (D) is permitted with consent if all necessary consents to such grant of a Security Interest have been obtained from the relevant parties (other than to the extent that any such prohibition referred to in clauses (A), (B), (C) and (D) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate such Grantor to obtain such consents).

"Intercreditor Agreement" shall have the meaning assigned to such term in Section 8.1.

"Investment Property" shall mean all Securities (whether certificated or uncertificated), Security Entitlements and Commodity Contracts of any Grantor (other than (i) as pledged pursuant to the Pledge Agreement and (ii) solely with respect to the Obligations, any Stock or Stock Equivalents issued by any Foreign Subsidiary in excess of 65% of the outstanding voting class of such Stock or Stock Equivalents), whether now or hereafter acquired by any Grantor, except, in each case, to the extent the grant by a Grantor of a Security Interest therein pursuant to this Security Agreement in its right, title and interest in any such Investment Property (i) is prohibited by any contract, agreement, instrument or indenture governing such Investment Property without the consent of any other party thereto (other than a Credit Party) unless such consent has been expressly obtained, or (ii) would give any other party (other than a Credit Party) to any such contract, agreement, instrument or indenture the right to terminate its obligations thereunder (other than to the extent that any such prohibition referred to in clauses (i) and (ii) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law) (it being understood that the foregoing shall not be deemed to obligate any Grantor to obtain any such consents referred to in clauses (i) or (ii) above).

"Obligations" shall mean the Obligations (as defined in the Credit Agreement).

"Patent License" shall mean 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 Grantor or that any Grantor otherwise has the right to license, is in existence, or granting to any grantor any right to make, use or sell any invention on which a Patent, now or hereafter owned, any Grantor or that any Grantor otherwise has the right to license, is in existence, and all rights of any Grantor under any such agreement, including those
material inbound exclusive licenses in third party owned U.S. Patents and applications therefor listed on Schedule 3.

"Patents" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (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, 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, including those U.S. patents and applications therefor owned by any Grantor and listed on Schedule 4.

"Proceeds" shall mean all "proceeds" as such term is defined in Article 9 of the UCC and, in any event, shall include with respect to any Grantor, any consideration received from the sale, exchange, license, lease or other disposition of any asset or property that constitutes Collateral, any value received as a consequence of the possession of any Collateral and any payment received from any insurer or other Person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property that constitutes Collateral, and shall include (a) all cash and negotiable instruments received by or held on behalf of the Collateral Agent, (b) any claim of any Grantor against any third party for (and the right to sue and recover for) and the rights to damages or profits due or accrued arising out of or in connection with) (i) past, present or future infringement of any Patent now or hereafter owned by any Grantor or licensed under a Patent License, (ii) past, present or future infringement or dilution of any Trademark now or hereafter owned by any Grantor or licensed under a Trademark License or injury to the goodwill associated with or symbolized thereby, (iii) past, present or future infringement of any Copyright now or hereafter owned by any Grantor or licensed under a Copyright License and (c) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"Registered Intellectual Property" shall mean all Copyrights, Patents and Trademarks issued by, registered with, renewed by or the subject of a pending application before the United States Patent and Trademark Office or the United States Copyright Office (or any successor office).

"Security Agreement" shall mean this Security Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

"Security Interest" shall have the meaning provided in Section 2.

"Short-form Intellectual Property Security Agreement" shall have the meaning assigned to such term in Section 3.2(b).

"Trademark License" shall mean 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 Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement, including those material inbound exclusive licenses in third party owned U.S. registered Trademarks and applications therefor listed on Schedule 5.

"Trademarks" shall mean, with respect to any Person, all of the following now owned or hereafter acquired by such Person: (i) 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, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof (if any), 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 and (ii) all goodwill associated therewith or symbolized thereby, including those U.S. registered trademarks and applications therefor owned by any Grantor and listed on Schedule 6 hereto.

"UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Collateral Agent’s and the Secured Parties’ security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

(d) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import when used in this Security Agreement shall refer to this Security Agreement as a whole and not to any particular provision of this Security Agreement, and Section, subsection, clause and Schedule references are to this Security Agreement unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(e) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(f) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

"Vehicles" shall mean all cars, trucks, trailers, and other vehicles covered by a certificate of title law of any state and all tires and other appurtenances to any of the foregoing.

2. Grant of Security Interest.

(a) Each Grantor hereby bargains, sells, conveys, assigns, sets over, mortgages, pledges, hypothecates and transfers to the Collateral Agent, for the benefit of the Secured Parties, and grants to the Collateral Agent, for the benefit of the Secured Parties, a lien on and security interest in (the "Security Interest"), all of its right, title and interest in, to and under all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations:

(i) all Accounts;
(ii) all Chattel Paper;
(iii) all Commercial Tort Claims described on Schedule 7 (as such Schedule may be amended from time to time);
(iv) all Documents;
(v) all Equipment, Fixtures and Goods;
(vi) all General Intangibles;
(vii) all Instruments;
(viii) all Intellectual Property;
(ix) all Inventory;
(x) all Investment Property;
(xi) all Supporting Obligations;
(xii) all cash, Deposit Accounts, Securities Accounts and Collateral Accounts;
(xiii) all books and records pertaining to the Collateral; and
(xiv) the extent not otherwise included, all Proceeds and products of any and all of the foregoing;

provided, that (x) the Collateral for any Obligations shall not include any (A) Excluded Stock and Stock Equivalents with respect to such Obligations, (B) Excluded Property or (C) any assets with respect to which, (1) in the reasonable judgment of the Collateral Agent and the Company (as agreed in writing), the cost or other consequences of granting a security interest in favor of the Secured Parties under the Security Documents shall be excessive in view of the benefits to be obtained by the Lenders therefrom, or (2) granting a security interest in such assets in favor of the Secured Parties under the Security Documents would result in adverse tax consequences as reasonably determined by the Borrower, and (y) none of the items included in clauses (i) through (xiii) above shall constitute Collateral to the extent (and only to the extent) that the grant of the Security Interest therein would violate any Requirement of Law applicable to such Collateral. No Grantor shall be required to take actions to perfect security interests in Commercial Tort Claims except to the extent perfection of a security interest therein may be accomplished by filing of financing statements in appropriate form in the applicable jurisdiction under the UCC and no Grantor shall be required to take any action to perfect by Control a security interest in Deposit Accounts except to the extent set forth in Section 4.5.

(b) Each Grantor hereby irrevocably authorizes the Collateral Agent and its Affiliates, counsel and other representatives, at any time and from time to time, to file or record financing statements, amendments to financing statements and, with notice to the Company, and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Collateral Agent reasonably determines appropriate to perfect the Security Interests of the Collateral Agent under this Security Agreement, and such financing statements and amendments may describe the Collateral covered thereby as "all assets excluding Excluded Property, as defined on Schedule A hereto", "all personal property now owned or hereafter acquired excluding Excluded Property, as defined on Schedule A hereto" or words of similar effect, provided that with respect to fixtures the Collateral Agent shall only file or record financing statements in the jurisdiction of organization of a Grantor, except in connection with a Mortgage. Each Grantor hereby also authorizes the Collateral Agent and its Affiliates, counsel and other representatives, at any time and from time to time, to file continuation statements with respect to previously filed financing statements.
Each Grantor hereby agrees to provide to the Collateral Agent, promptly upon request, any information reasonably necessary to effectuate the filings or recordings authorized by this Section 2(b).

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), with the signature of each applicable Grantor, such documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted hereunder by each Grantor and naming any Grantor or the Grantors as debtors and the Collateral Agent, as the case may be, as secured party.

The Security Interests are 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 Grantor with respect to or arising out of the Collateral.

3. **Representations and Warranties.**

Each Grantor hereby represents and warrants to the Collateral Agent and each Secured Party on the date hereof that:

3.1 **Title; No Other Liens.** Except for (a) the Security Interest granted to the Collateral Agent for the benefit of the Secured Parties pursuant to this Security Agreement, (b) the Liens permitted by the Credit Agreement and (c) any Liens securing Indebtedness which is no longer outstanding or any Liens with respect to commitments to lend which have been terminated, such Grantor owns each item of the Collateral free and clear of any and all Liens or claims of others. No security agreement, financing statement or other public notice with respect to all or any part of the Collateral that evidences a Lien securing any material Indebtedness is on file or of record in any public office, except such as (i) have been filed in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to this Security Agreement, (ii) are permitted by the Credit Agreement or (iii) such Liens secure Indebtedness which is no longer outstanding or are in respect of commitments to lend which have been terminated.

3.2 **Perfected Liens.**

(a) This Security Agreement is effective to create in favor of the Collateral Agent, for its benefit and for the benefit of the Secured Parties, legal, valid and enforceable Security Interests in the Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the enforceability of such Security Interest is governed by the UCC), subject to the effects of bankruptcy, insolvency or similar laws affecting creditors' rights generally and general equitable principles.

(b) Subject to the limitations set forth in clause (c) of this Section 3.2, the Security Interests granted pursuant to this Security Agreement (i) will constitute valid and perfected Security Interests in the Collateral (to the extent perfection may be obtained by the filings or other actions described in clause (A), (B) or (C) of this paragraph) in favor of the Collateral Agent, for the benefit of the Secured Parties, as collateral security for the Obligations, upon (A) the filing in the applicable filing offices of all financing statements, in each case, naming each Grantor as "debtor" and the Collateral Agent as "secured party" and describing the Collateral, (B) delivery to the Collateral Agent (or its bailee) of all Instruments, Chattel Paper, Certificated Securities and negotiable Documents in each case, properly endorsed for transfer in blank and (C) completion of the filing of a fully executed agreement substantially in the form of Annex B hereof (the "Short-form Intellectual Property Security Agreement") and containing a description of all Collateral constituting Registered Intellectual Property in the United States.
Patent and Trademark Office, with respect to U.S. registered and applied for Patents and Trademarks, within 90 days from the execution date of such Short-form Intellectual Property Security Agreement or in the United States Copyright Office, with respect to U.S. registered Copyrights, within 30 days from the execution date of such Short-form Intellectual Property Security Agreement, as applicable and (ii) are prior to all other Liens on the Collateral other than Liens permitted pursuant to Section 10.2 of the Credit Agreement.

(c) Notwithstanding anything to the contrary herein, no Grantor shall be required to perfect the Security Interests granted by this Security Agreement by any means other than by (i) filings pursuant to the Uniform Commercial Code of the relevant State(s), (ii) filings approved by United States federal government offices with respect to Registered Intellectual Property, (iii) delivery to the Collateral Agent (or its bailee) to be held in its possession of all Collateral consisting of Tangible Chattel Paper, Instruments or Certificated Securities with a fair market value in excess of $10,000,000 individually and (iv) actions to perfect by Control a security interest in Deposit Accounts to the extent set forth in Section 4.5.

(d) It is understood and agreed that the Security Interests in cash and Investment Property created hereunder shall not prevent the Grantors from using such assets in the ordinary course of their respective businesses.

4. Covenants.

Each Grantor hereby covenants and agrees with the Collateral Agent and the Secured Parties that, from and after the date of this Security Agreement until the Obligations are paid in full, the Commitments are terminated and all Letters of Credit have expired or terminated and all Letter of Credit Outstandings have been reduced to zero (or all such Letters of Credit and Letter of Credit Outstandings have been Cash Collateralized or back-stopped in a manner reasonably satisfactory to the applicable Issuing Banks):

4.1 Maintenance of Perfected Security Interest; Further Documentation.

(a) Such Grantor shall maintain the Security Interest created by this Security Agreement as a perfected Security Interest having at least the priority described in Section 3.1 and shall defend such Security Interest against the claims and demands of all Persons whomsoever, in each case subject to Section 3.2(c).

(b) Such Grantor will furnish to the Collateral Agent and the Lenders from time to time statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as the Collateral Agent may reasonably request.

(c) Such Grantor will furnish to the Collateral Agent at the time of the delivery of the financial statements provided for in Sections 9.1(a) and (b) of the Credit Agreement (or, if the Credit Agreement is no longer in effect, on a quarterly basis), a schedule setting forth any additional (i) Registered Intellectual Property owned by any Grantor or (ii) material Registered Intellectual Property exclusively licensed from a third party to any Grantor, in each case, which has not been previously disclosed to the Collateral Agent, following the Closing Date (or following the date of the last supplement provided to the Collateral Agent pursuant to this Section 4.1(c)), all in reasonable detail.

(d) Subject to clause (e) below and Section 3.2(c), each Grantor agrees that at any time and from time to time, at the expense of such Grantor, it will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing
and recording of financing statements and other documents, including all applicable documents required under Section 3.2(b)(C)), which may be required under any applicable law, or which, subject to the terms of the Intercreditor Agreement, the Collateral Agent may reasonably request, in order (i) to grant, preserve, protect and perfect the validity and priority of the Security Interests created or intended to be created hereby or (ii) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral, including the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the Security Interests created hereby and all applicable documents required under Section 3.2(b)(C), all at the expense of such Grantor.

(e) Notwithstanding anything in this Section 4.1 to the contrary, (i) with respect to any assets acquired by such Grantor after the date hereof that are required by the Credit Agreement to be subject to the Lien created hereby or (ii) with respect to any Person that, subsequent to the date hereof, becomes a Subsidiary that is required by the Credit Agreement to become a party hereto, the relevant Grantor after the acquisition or creation thereof shall promptly take all actions required by the Credit Agreement or this Section 4.1.

4.2 Damage or Destruction of Collateral. The Grantors agree promptly to notify the Collateral Agent if any material portion of the Collateral is damaged or destroyed in any manner which could reasonably be expected to have a Material Adverse Effect.

4.3 Notices. Each Grantor will advise the Collateral Agent and the Lenders promptly, in reasonable detail, of any Lien of which it has knowledge (other than the Security Interests created hereby or Liens permitted under the Credit Agreement) on any of the Collateral which would adversely affect, in any material respect, the ability of the Collateral Agent to exercise any of its remedies hereunder.

4.4 Changes in Locations, Name, etc. Each Grantor will furnish to the Collateral Agent promptly (and in any event within 30 days (or such longer period as the Collateral Agent may reasonably agree) of such change) a written notice of any change (i) in its legal name, (ii) in its jurisdiction of organization or location for purposes of the UCC, (iii) in its identity or type of organization or corporate structure or (iv) in its Federal Taxpayer Identification Number or organizational identification number. Each Grantor agrees promptly to provide the Collateral Agent with certified organizational documents reflecting any of the changes described in the first sentence of this paragraph and take all other action reasonably necessary to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral and take all other action reasonably necessary to maintain the perfection and priority of the security interest of the Collateral Agent for the benefit of the Secured Parties in the Collateral.

4.5 Blocked Accounts; Cash Dominion. In accordance with and to the extent required under Section 2.22 of the Credit Agreement, within the time period required by such Section, each Grantor shall enter into Blocked Account Agreements in form and substance reasonably satisfactory to the Collateral Agent. The Collateral Agent hereby agrees that it will not deliver a notice exercising exclusive control over a Blocked Account except (x) after the occurrence and during the continuance of an Event of Default (subject, in any event, to the Intercreditor Agreement) or (y) during any Cash Dominion Trigger Period. During the continuance of any Cash Dominion Trigger Period, no Grantor shall remove any item from a Blocked Account without the Collateral Agent's prior consent. During the continuance of any Cash Dominion Trigger Period, all funds deposited into any Blocked Account will be swept on a daily basis into the Concentration Account in accordance with the terms of the Credit Agreement.

-10-

5.1 Certain Matters Relating to Accounts.

(a) At any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, and after giving reasonable notice to the Company and any other relevant Grantor, the Administrative Agent shall have the right, but not the obligation, to instruct the Collateral Agent to (and upon such instruction, the Collateral Agent shall) make test verifications of the Accounts in any manner and through any medium that the Administrative Agent reasonably considers advisable, and each Grantor shall furnish all such assistance and information as the Collateral Agent may require in connection with such test verifications. The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party.

(b) The Collateral Agent hereby authorizes each Grantor to collect such Grantor's Accounts and the Collateral Agent may curtail or terminate said authority at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement. If required in writing by the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, any payments of Accounts, when collected by any Grantor, (i) shall be forthwith (and, in any event, within two Business Days) deposited by such Grantor in the exact form received, duly endorsed by such Grantor to the Collateral Agent if required, in a Collateral Account maintained under the sole dominion and control of and on terms and conditions reasonably satisfactory to the Collateral Agent, subject to withdrawal by the Collateral Agent for the account of the Secured Parties only as provided in Section 5.5, and (ii) until so turned over, shall be held by such Grantor in trust for the Collateral Agent and the Secured Parties, segregated from other funds of such Grantor. Each such deposit of Proceeds of Accounts shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit.

(c) At the Collateral Agent's request at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall deliver to the Collateral Agent all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Accounts, including all original orders, invoices and shipping receipts.

(d) Upon the occurrence and during the continuance of an Event of Default, a Grantor shall not grant any extension of the time of payment of any of the Accounts, 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 if the Collateral Agent shall have instructed the Grantors not to grant or make any such extension, credit, discount, compromise or settlement under any circumstances during the continuance of such Event of Default.

(e) At the direction of the Collateral Agent, solely upon the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall grant to the Collateral Agent to the extent assignable, a non-exclusive, fully paid-up, royalty-free, worldwide license to use, assign, license or sublicense any of the Intellectual Property included in the Collateral and now owned or hereafter acquired by such Grantor (subject to the rights of any person or entity under any pre-existing Copyright License, Patent License, Trademark License or other agreements). Such license shall include access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof; provided, however, that nothing in this Section 5.01 shall require any Grantor to grant any license that is prohibited by any rule of law, statute or regulation or is prohibited by, or constitutes a breach of default under or
results in the termination of or gives rise to any right of acceleration, modification or cancellation under any contract, license, agreement, instrument or other document evidencing, giving rise to a right to use or theretofore granted with respect to such property, provided, further, that such licenses to be granted hereunder with respect to Trademarks shall be subject to the quality control standards applicable to each such Trademark as in effect as of the date such licenses hereunder are granted.

5.2 Communications with Credit Parties; Grantors Remain Liable

(a) The Collateral Agent in its own name or in the name of others may at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, after giving reasonable notice to the relevant Grantor of its intent to do so, communicate with obligors under the Accounts to verify with them to the Collateral Agent’s satisfaction the existence, amount and terms of any Accounts. The Collateral Agent shall have the absolute right to share any information it gains from such inspection or verification with any Secured Party.

(b) Upon the written request of the Collateral Agent at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, each Grantor shall notify obligors on the Accounts that the Accounts have been assigned to the Collateral Agent for the benefit of the Secured Parties and that payments in respect thereof shall be made directly to the Collateral Agent.

(c) Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Accounts to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. Neither the Collateral Agent nor any Secured Party shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Security Agreement or the receipt by the Collateral Agent or any Secured Party of any payment relating thereto, nor shall the Collateral Agent or any Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

5.3 Proceeds to be Turned Over To Collateral Agent

In addition to the rights of the Collateral Agent and the Secured Parties specified in Section 5.1 with respect to payments of Accounts, if an Event of Default shall occur and be continuing, subject to the terms of the Intercreditor Agreement, and the Collateral Agent so requires by notice in writing to the relevant Grantor (it being understood that the exercise of remedies by the Secured Parties in connection with an Event of Default under Section 11.5 of the Credit Agreement shall be deemed to constitute a request by the Collateral Agent for the purposes of this sentence and in such circumstances, no such written notice shall be required), all Proceeds received by any Grantor consisting of cash, checks and other near cash items shall be held by such Grantor in trust for the Collateral Agent and the Secured Parties, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Collateral Agent in the exact form received by such Grantor (duly endorsed by such Grantor to the Collateral Agent, if required). All Proceeds received by the Collateral Agent hereunder shall be held by the Collateral Agent in a Collateral Account maintained under its dominion and control and on terms and conditions reasonably satisfactory to the Collateral Agent. All Proceeds while held by the Collateral Agent in a Collateral Account (or by such Grantor in trust for the Collateral Agent and the Secured Parties) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in Section 5.4.
5.4 **Application of Proceeds.** The Collateral Agent shall apply the proceeds of any collection or sale of the Collateral as well as any Collateral consisting of cash, at any time after receipt in the order specified in Section 11.13 of the Credit Agreement. Upon any sale of the Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the consideration therefor by the Collateral Agent or 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.

5.5 **Code and Other Remedies.** Subject to the terms of the Intercreditor Agreement, if an Event of Default shall occur and be continuing, the Collateral Agent may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party upon default under the UCC or any other applicable law and also may with notice to the relevant Grantor, sell the Collateral or any part thereof in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Collateral Agent or any Secured Party or elsewhere for cash or on credit or for future delivery at such price or prices and upon such other terms as are commercially reasonable irrespective of the impact of any such sales on the market price of the Collateral. The Collateral Agent shall be authorized at any such sale (if it deems it advisable to do so) to restrict the prospective bidders or purchasers of Collateral 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 purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by law) all rights of redemption, stay and/or appraisal that it 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 and any Secured Party shall have the right upon any such public sale, and, to the extent permitted by law, upon any such private sale, to purchase the whole or any part of the Collateral so sold, and the Collateral Agent or such Secured Party may pay the purchase price by crediting the amount thereof against the Obligations. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the extent permitted by law, each Grantor hereby waives any claim against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Each Grantor further agrees, at the Collateral Agent's request to assemble the Collateral and make it available to the Collateral Agent, at places which the Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. The Collateral Agent shall apply the net proceeds of any action taken by it pursuant to this Section 5.5 in accordance with the provisions of Section 5.4.

5.6 **Deficiency.** Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by the Collateral Agent or any Secured Party to collect such deficiency.

5.7 **Amendments, etc. with Respect to the Obligations; Waiver of Rights.** Each Grantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against
any Grantor and without notice to or further assent by any Grantor, (a) any demand for payment of any of the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith and the Secured Cash Management Agreements and the Secured Hedge Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Secured Hedge Agreement or Secured Cash Management Agreement, the Hedge Bank or Cash Management Bank party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Obligations or for this Security Agreement or any property subject thereto.

When making any demand hereunder against any Grantor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on any Grantor or any other Person, and any failure by the Collateral Agent or any other Secured Party to make any such demand or to collect any payments from the Company or any Grantor or any other Person or any release of the Company or any Grantor or any other Person shall not relieve any Grantor in respect of which a demand or collection is not made or any Grantor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Collateral Agent or any other Secured Party against any Grantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

6. The Collateral Agent.

6.1 Collateral Agent's Appointment as Attorney-in-Fact, etc.

(a) Each Grantor hereby appoints, which appointment is irrevocable and coupled with an interest, effective upon the occurrence and during the continuance of an Event of Default, the Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, for the purpose of carrying out the terms of this Security Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Security Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Collateral Agent the power and right, on behalf of such Grantor, either in the Collateral Agent's name or in the name of such Grantor or otherwise, without assent by such Grantor, to do any or all of the following, in each case after the occurrence and during the continuance of an Event of Default and after written notice by the Collateral Agent of its intent to do so:

(i) take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Account or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Collateral Agent for the purpose of collecting any and all such moneys due under any Account or with respect to any other Collateral whenever payable;
(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as
the Collateral Agent may reasonably request to evidence the Collateral Agent's and the Secured Parties' Security Interest in such Intellectual Property
and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral;

(iv) execute, in connection with any sale provided for in Section 5.5, any endorsements, assignments or other instruments of conveyance or
transfer with respect to the Collateral;

(v) obtain and adjust insurance required to be maintained by such Grantor pursuant to Section 9.3 of the Credit Agreement;

(vi) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder
directly to the Collateral Agent or as the Collateral Agent shall direct;

(vii) ask or demand for, collect and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at
any time in respect of or arising out of any Collateral;

(viii) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments,
verifications, notices and other documents in connection with any of the Collateral;

(ix) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral
or any portion thereof and to enforce any other right in respect of any Collateral;

(x) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral (with such Grantor's consent to the extent
such action or its resolution could materially affect such Grantor or any of its Affiliates in any manner other than with respect to its continuing rights in
such Collateral);

(xi) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the
Collateral Agent may deem appropriate (with such Grantor's consent to the extent such action or its resolution could materially affect such Grantor or
any of its Affiliates in any manner other than with respect to its continuing rights in such Collateral);

(xii) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark
pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Collateral Agent shall in its sole discretion
determine; and

(xiii) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely
as though the Collateral Agent were the absolute owner thereof for all purposes, and do, at the Collateral Agent's option and
such Grantor's expense, at any time, or from time to time, all acts and things that the Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Collateral Agent's and the Secured Parties' Security Interests therein and to effect the intent of this Security Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section 6.1(a) to the contrary notwithstanding and subject to the terms of the Intercreditor Agreement, the Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 6.1(a) unless an Event of Default shall have occurred and be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Collateral Agent incurred in connection with actions undertaken as provided in this Section 6.1, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due ABR Loans under the Credit Agreement, from the date of payment by the Collateral Agent to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Collateral Agent on demand.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Security Agreement are coupled with an interest and are irrevocable until this Security Agreement is terminated and the Security Interests created hereby are released.

6.2 Duty of Collateral Agent. The Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Collateral Agent deals with similar property for its own account. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property. Neither the Collateral Agent, any Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Collateral Agent and the Secured Parties hereunder are solely to protect the Collateral Agent's and the Secured Parties' interests in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers. The Collateral Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

6.3 Authority of Collateral Agent. Each Grantor acknowledges that the rights and responsibilities of the Collateral Agent under this Security Agreement with respect to any action taken by the Collateral Agent or the exercise or non-exercise by the Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Security Agreement shall, as between the Collateral Agent and the Secured Parties, be governed by the Intercreditor Agreement and the Credit Agreement, and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Collateral Agent and the Grantors, the Collateral Agent shall be conclusively presumed to be acting as agent for the applicable Secured Parties.
with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

6.4 Security Interest Absolute. All rights of the Collateral Agent hereunder, the Security Interest and all obligations of the Grantors hereunder shall be absolute and unconditional.

6.5 Continuing Security Interest; Assignments Under the Credit Agreement; Release.

(a) This Security Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Grantor and the successors and assigns thereof and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, indorsees, transferees and assigns until all Obligations under the Credit Documents (other than any contingent indemnity obligations not then due) shall have been satisfied by payment in full, the Commitments shall be terminated and all Letters of Credit have expired or terminated and after all Letter of Credit Outstandings have been reduced to zero (or all such Letters of Credit and Letter of Credit Outstandings have been Cash Collateralized or back-stopped in a manner reasonably satisfactory to the applicable Issuing Banks), notwithstanding that from time to time during the term of the Credit Agreement, the Credit Parties may be free from any Obligations.

(b) Subject to the terms of the Intercreditor Agreement, a Grantor shall automatically be released from its obligations hereunder if it ceases to be a Credit Party in accordance with Section 13.1 of the Credit Agreement.

(c) Subject to any applicable terms of the Intercreditor Agreement, the Security Interest granted hereby in any Collateral shall automatically be released (i) to the extent provided in Section 13.1 of the Credit Agreement and (ii) upon the effectiveness of any written consent to the release of the Security Interest granted hereby in such Collateral pursuant to Section 13.1 of the Credit Agreement. Any such release in connection with any sale, transfer or other disposition of such Collateral permitted under the Credit Agreement shall result in such Collateral being sold, transferred or disposed of, as applicable, free and clear of the Lien and Security Interest created hereby.

(d) In connection with any termination or release pursuant to paragraph (a), (b) or (c), the Collateral Agent shall execute and deliver to any Grantor, at such Grantor’s expense, all documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 6.5 shall be without recourse to or warranty by the Collateral Agent.

6.6 Reinstatement. Each Grantor further agrees that, if any payment made by any Credit Party or other Person and applied to the Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the proceeds of Collateral are required to be returned by any Secured Party to such Credit Party, its estate, trustee, receiver or any other Person, including any Grantor, under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made or, if prior thereto the Lien granted hereby or other Collateral securing such liability hereunder shall have been released or terminated by virtue of such cancellation or surrender), such Lien or other Collateral shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect any Lien or other Collateral securing the obligations of any Grantor in respect of the amount of such payment.

7. Collateral Agent As Agent.
(a) Bank of America, N.A. has been appointed to act as the Collateral Agent under the Credit Agreement, by the Lender Parties under the Credit Agreement and, by their acceptance of the benefits hereof, the other Secured Parties. The Collateral Agent shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including the release or substitution of Collateral), solely in accordance with this Security Agreement and the Credit Agreement, provided that the Collateral Agent shall exercise, or refrain from exercising, any remedies provided for in Section 5 in accordance with the instructions of Required Lenders. In furtherance of the foregoing provisions of this Section 7(a), each Secured Party, by its acceptance of the benefits hereof, agrees that it shall have no right individually to realize upon any of the Collateral hereunder, except to the extent specifically set forth in Section 4 of the Guarantee, it being understood and agreed by such Secured Party that all rights and remedies hereunder may be exercised solely by the Collateral Agent for the ratable benefit of the applicable Lender Parties and Secured Parties in accordance with the terms of this Section 7(a).

(b) The Collateral Agent shall at all times be the same Person that is the Collateral Agent under the Credit Agreement. Written notice of resignation by the Collateral Agent pursuant to Section 12.9 of the Credit Agreement shall also constitute notice of resignation as Collateral Agent under this Security Agreement; removal of the Collateral Agent shall also constitute removal under this Security Agreement; and appointment of a Collateral Agent pursuant to Section 12.9 of the Credit Agreement shall also constitute appointment of a successor Collateral Agent under this Security Agreement. Upon the acceptance of any appointment as Collateral Agent under Section 12.9 of the Credit Agreement by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent under this Security Agreement, and the retiring or removed Collateral Agent under this Security Agreement shall promptly (i) transfer to such successor Collateral Agent all sums, securities and other items of Collateral held hereunder, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Security Agreement, and (ii) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the Security Interests created hereunder, whereupon such retiring or removed Collateral Agent shall be discharged from its duties and obligations under this Security Agreement. After any retiring or removed Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Security Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it under this Security Agreement while it was Collateral Agent hereunder.

(c) The Collateral Agent shall not be deemed to have any duty whatsoever with respect to any Secured Party that is a counterparty to a Secured Cash Management Agreement or Secured Hedge Agreement the obligations under which constitute Obligations, unless it shall have received written notice in form and substance satisfactory to the Collateral Agent from a Grantor or any such Secured Party as to the existence and terms of the applicable Secured Cash Management Agreement or Secured Hedge Agreement.

8. Miscellaneous.

8.1 Intercreditor Agreement. Notwithstanding anything herein to the contrary, the liens and security interests granted to the Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent hereunder, are subject to the provisions of the Intercreditor Agreement and the 1989 Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern and control. Without limiting the generality of the foregoing, and notwithstanding anything
herein to the contrary, all rights and remedies of the Collateral Agent (and the other Secured Parties) shall be subject to the terms of the Intercreditor Agreement, dated as of March 8, 2011 (as amended, restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among the Administrative Agent and Collateral Agent, as Revolving Credit Administrative Agent and Revolving Credit Collateral Agent and JPMorgan Chase Bank, N.A., as Initial Fixed Asset Administrative Agent and Initial Fixed Asset Collateral Agent, and, with respect to any Term Priority Collateral (as such term is defined in the Intercreditor Agreement), until the Discharge of Fixed Asset Obligations (as such term is defined in the Intercreditor Agreement), any obligation of any Grantor hereunder or under any other Security Document with respect to the delivery or control of any Term Priority Collateral, the novation of any lien on any certificate of title, bill of lading or other document, the giving of any notice to any bailee or other Person, the provision of voting rights or the obtaining of any consent of any Person shall be deemed to be satisfied if such Grantor complies with the requirements of the similar provision of the applicable Fixed Asset Collateral Documents (as such term is defined in the Intercreditor Agreement). Until the Discharge of Fixed Asset Obligations, the delivery of any Term Priority Collateral to, or the control of any Term Priority Collateral by, the Fixed Asset Collateral Agent pursuant to the Fixed Asset Collateral Documents shall be deemed to satisfy any delivery or control requirement hereunder or under any other Security Document with respect to Term Priority Collateral.

8.2 Amendments in Writing. None of the terms or provisions of this Security Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the affected Grantor and the Collateral Agent in accordance with Section 13.1 of the Credit Agreement.

8.3 Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to any Subsidiary Grantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.

8.4 No Waiver by Course of Conduct; Cumulative Remedies. Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 8.2), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such other Secured Party would otherwise have on any future occasion. The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

8.5 Enforcement Expenses; Indemnification.

(a) Each Grantor agrees to pay any and all reasonable out of pocket expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by any Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Grantor under this Security Agreement.

(b) Each Grantor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any
and all stamp, excise, sales or other taxes that may be payable or determined to be payable with respect to any of the Collateral or in connection with any of
the transactions contemplated by this Security Agreement.

(c) Each Grantor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses,
damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery,
enforcement, performance and administration of this Security Agreement to the extent the Company would be required to do so pursuant to Section 13.5 of
the Credit Agreement.

(d) The agreements in this Section 8.5 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and
the other Credit Documents.

8.6 Successors and Assigns. The provisions of this Security Agreement shall be binding upon and inure to the benefit of the parties hereto and
their respective successors and assigns permitted hereby, except that no Grantor may assign, transfer or delegate any of its rights or obligations under this
Security Agreement without the prior written consent of the Collateral Agent except pursuant to a transaction permitted by the Credit Agreement.

8.7 Counterparts. This Security Agreement may be executed by one or more of the parties to this Security Agreement on any number of separate
counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the
same instrument. A set of the copies of this Security Agreement signed by all the parties shall be lodged with the Collateral Agent and the Company.

8.8 Severability. Any provision of this Security Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be
ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or
unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

8.9 Section Headings. The Section headings used in this Security Agreement are for convenience of reference only and are not to affect the
construction hereof or be taken into consideration in the interpretation hereof.

8.10 Integration. This Security Agreement together with the other Credit Documents represents the agreement of each of the Grantors with
respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party
relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

8.11 GOVERNING LAW. THIS SECURITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES
HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE
OF NEW YORK.

8.12 Submission To Jurisdiction Waivers. Each party hereto hereby irrevocably and unconditionally:
(a) submits for itself and its property in any legal action or proceeding relating to this Security Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address referred to in Section 8.3 or at such other address of which such Person shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Secured Party) to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 8.12 any special, exemplary, punitive or consequential damages.

8.13 Acknowledgments. Each party hereto hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Security Agreement and the other Credit Documents to which it is a party;

(b) neither the Collateral Agent nor any other Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Security Agreement or any of the other Credit Documents, and the relationship between the Grantors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders and any other Secured Party or among the Grantors and the Lenders and any other Secured Party.

8.14 Additional Grantors. Each Subsidiary of the Company that is required to become a party to this Security Agreement pursuant to Section 9.11 of the Credit Agreement shall become a Subsidiary Grantor, with the same force and effect as if originally named as a Grantor herein, for all purposes of this Security Agreement upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Grantor as a party to this Security Agreement shall not require the consent of any other Grantor hereunder. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Security Agreement.

8.15 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL
ACTION OR PROCEEDING RELATING TO THIS SECURITY AGREEMENT, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

[SIGNATURE PAGES FOLLOW]

-22-
IN WITNESS WHEREOF, each of the undersigned has caused this Security Agreement to be duly executed and delivered as of the date first above written.

DEL MONTE FOODS COMPANY, as the Company
By: 
/s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

DEL MONTE CORPORATION, as Grantor
By: 
/s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

BLUE ACQUISITION GROUP, INC., as Grantor
By: 
/s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[SIGNATURE PAGE TO SECURITY AGREEMENT]
BANK OF AMERICA, N.A.,
as Collateral Agent
By: /s/ Lisa Freeman
Name: Lisa Freeman
Title: SVP

[SIGNATURE PAGE TO SECURITY AGREEMENT]
Schedule 1

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED COPYRIGHTS
Schedule 2

U.S. REGISTERED COPYRIGHTS
Schedule 3

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. PATENTS AND PATENT APPLICATIONS
Schedule 5

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
Schedule 6

U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
Schedule 7

COMMERCIAL TORT CLAIMS
SUPPLEMENT NO. [ ] dated as of [ ], to the Security Agreement dated as of March 8, 2011 (the "Security Agreement") among Del Monte Foods Company, a Delaware corporation (the "Company"), Blue Acquisition Group, Inc. ("Holdings"), each of the Subsidiaries of the Company listed on the signature pages thereto or that becomes a party thereto pursuant to Section 8.14 of the Security Agreement (each such subsidiary individually a "Subsidiary Grantor" and, collectively, the "Subsidiary Grantors"; the Subsidiary Grantors, Holdings and the Company are referred to collectively herein as the "Grantors"), Bank of America, N.A., as Collateral Agent.

A. Reference is made to the Credit Agreement dated as of the date of the Security Agreement (as modified and supplemented and in effect from time to time, the "Credit Agreement") among the Company and the Other Borrowers from time to time party thereto, Holdings, the Lender Parties from time to time parties thereto and Bank of America, N.A., as Administrative Agent and as Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Security Agreement.

C. The Grantors have entered into the Security Agreement in order to induce the Administrative Agent, the Collateral Agent and the Lender Parties to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Borrowers and the Issuing Banks to issue Letters of Credit for the account of the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. Section 9.11 of the Credit Agreement and Section 8.14 of the Security Agreement provide that each Subsidiary of the Company that is required to become a party to the Security Agreement pursuant to Section 9.11 of the Credit Agreement shall become a Grantor, with the same force and effect as if originally named as a Grantor therein, for all purposes of the Security Agreement upon execution and delivery by such Subsidiary of an instrument in the form of this Supplement. Each undersigned Subsidiary (each a "New Grantor") is executing this Supplement in accordance with the requirements of the Security Agreement to become a Subsidiary Grantor under the Security Agreement in order to induce the Lenders to make Loans.

Accordingly, the Collateral Agent and the New Grantors agree as follows:

SECTION 1. In accordance with Section 8.14 of the Security Agreement, each New Grantor by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor and each New Grantor hereby (a) agrees to all the terms and provisions of the Security Agreement applicable to it as a Grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Grantor thereunder are true and correct on and as of the date hereof. In furtherance of the foregoing, each New Grantor, as security for the payment and performance in full of the Obligations, does hereby bargain, sell, convey, assign, set over, mortgage, pledge, hypothecate and transfer to the Collateral Agent for the benefit of the Secured Parties, and hereby grants to the Collateral Agent for the benefit of the Secured Parties, a Security Interest in all of the Collateral of such New Grantor, in each case whether now or
hereafter existing or in which it now has or hereafter acquires an interest. Each reference to a "Grantor" in the Security Agreement shall be deemed to include each New Grantor. The Security Agreement is hereby incorporated herein by reference.

SECTION 2. Each New Grantor represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency or similar laws affecting creditors' rights generally and general equitable principles.

SECTION 3. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Collateral Agent and the Company. This Supplement shall become effective as to each New Grantor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such New Grantor and the Collateral Agent.

SECTION 4. Such New Grantor hereby represents and warrants that (a) set forth on Schedule I hereto is (i) the legal name of such New Grantor, (ii) the jurisdiction of incorporation or organization of such New Grantor, (iii) the identity or type of organization or corporate structure of such New Grantor (iv) the Federal Taxpayer Identification Number and organizational number of such New Grantor and (v) the true and correct location of the chief executive office and principal place of business and any office in which it maintains books of records relating to Collateral owned by it and (b) as of the date hereof (i) Schedule II hereto lists all of each New Grantor's Copyright Licenses, (ii) Schedule III hereto lists in all material respects all of each New Grantor's registered Copyrights (and all applications therefor), (iii) Schedule IV hereto lists all of each New Grantor's Patent Licenses, (iv) Schedule V hereto lists in all material respects all of each New Grantor's Patents (and all applications therefor), (v) Schedule VI hereto lists all of each New Grantor's Trademark Licenses and (vi) Schedule VII hereto lists in all material respects all of each New Grantor's registered Trademarks (and all applications therefor).

SECTION 5. Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.


SECTION 7. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Security Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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 8. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All communications and notices hereunder to each New Grantor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the Credit Agreement.
IN WITNESS WHEREOF, each New Grantor and the Collateral Agent have duly executed this Supplement to the Security Agreement as of the
day and year first above written.

[NAME OF NEW GRANTOR]
By:

Name:
Title:

BANK OF AMERICA, N.A., as Collateral Agent
By:

Name:
Title:
# SCHEDULE I
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

**COLLATERAL**

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<th>Legal Name</th>
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<th>Type of Organization or Corporate Structure</th>
<th>Federal Taxpayer Identification Number and Organizational Identification Number</th>
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SCHEDULE II
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED COPYRIGHTS
SCHEDULE III
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

U.S. REGISTERED COPYRIGHTS

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Registrations:
SCHEDULE IV
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. PATENTS AND PATENT APPLICATIONS
SCHEDULE V
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

U.S. PATENTS AND PATENT APPLICATIONS

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SCHEDULE VI
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

MATERIAL INBOUND EXCLUSIVE LICENSES IN U.S. REGISTERED TRADEMARKS AND TRADEMARKS APPLICATIONS
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SCHEDULE VII
TO SUPPLEMENT NO. ___ TO THE
SECURITY AGREEMENT

U.S. REGISTERED TRADEMARKS AND TRADEMARK APPLICATIONS
ANNEX B TO THE
SECURITY AGREEMENT

SHORT-FORM INTELLECTUAL PROPERTY SECURITY AGREEMENT

FORM OF GRANT OF
SECURITY INTEREST IN [TRADEMARK/PATENT/COPYRIGHT] RIGHTS

This GRANT OF SECURITY INTEREST IN [TRADEMARK/PATENT/COPYRIGHT] RIGHTS ("Agreement"), dated as of March 8, 2011 is made by Del Monte Corporation, a Delaware corporation (the "Grantor"), in favor of Bank of America, N.A., as collateral agent (the "Agent") for the Secured Parties (as defined in the Credit Agreement, referred to below).

WITNESSETH:

WHEREAS, pursuant to the Credit Agreement dated as of March 8, 2011 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Del Monte Foods Company, a Delaware corporation, (the "Lead Borrower"), the other Borrowers from time to time party thereto (as defined therein, together with the Lead Borrower, the "Borrowers"), Blue Acquisition Group, Inc., a Delaware corporation ("Holdings"), the Lender Parties from time to time party thereto, the Agent, Bank of America, N.A. as administrative agent and the other agents parties thereto, the Lender Parties have severally agreed to make loans and the Issuing Banks have agreed to issue Letters of Credit to the Borrowers upon the terms and subject to the conditions set forth therein;

WHEREAS, in connection with the Credit Agreement, Grantor, the Borrowers, Holdings and any Subsidiaries of the Lead Borrower that become a party thereto, have executed and delivered a Security Agreement, dated as of March 8, 2011 in favor of the Agent (together with all amendments and modifications, if any, from time to time thereafter made thereto, the "Security Agreement");

WHEREAS, pursuant to the Security Agreement, Grantor has pledged and granted to the Agent, for the benefit of the Agent and the other Secured Parties, a continuing security interest in all Intellectual Property, including the [Trademarks/Patents/Copyrights]; and

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in order to induce the Lenders to make loans and the Issuing Banks to issue Letters of Credit to the Borrowers pursuant to the Credit Agreement, and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Lead Borrower and/or its Subsidiaries, Grantor agrees, for the benefit of the Agent and the other Secured Parties, as follows:
9. **Definitions.** Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided or provided by reference in the Credit Agreement and the Security Agreement.

10. **Grant of Security Interest.** Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under the [Trademarks/Patents/Copyrights] (including, without limitation, those items listed on Schedule A hereto), including the right to receive all Proceeds therefrom (collectively, the "Collateral"), to the Agent for the benefit of the Secured Parties to secure payment, performance and observance of the Obligations; provided that, applications in the United States Patent and Trademark Office to register trademarks or service marks on the basis of Grantor’s “intent to use” such trademarks or service marks will not be deemed to be Collateral unless and until an amendment to allege use or a statement of use has been filed under 15 U.S.C. §1501(d) and accepted by the United States Patent and Trademark Office, whereupon such application shall be automatically subject to the security interest granted herein and deemed to be included in the Collateral.\(^1\)

11. **Purpose.** This Agreement has been executed and delivered by Grantor for the purpose of recording the grant of security interest herein with the United States [Patent and Trademark][Copyright] Office. The security interest granted hereby has been granted to the Secured Parties in connection with the Security Agreement and is expressly subject to the terms and conditions thereof. The Security Agreement (and all rights and remedies of the Secured Parties thereunder) shall remain in full force and effect in accordance with its terms.

12. **Acknowledgment.** Grantor does hereby further acknowledge and affirm that the rights and remedies of the Secured Parties with respect to the security interest in the Collateral granted hereby are more fully set forth in the Credit Agreement and the Security Agreement, the terms and provisions of which (including the remedies provided for therein) are incorporated by reference herein as if fully set forth herein. In the event of any conflict between the terms of this Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

13. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together constitute one and the same original.

14. **Governing Law:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

\(^1\) Language applicable to Grant of Security Interest in Trademark Rights
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

DEL MONTE CORPORATION,

as Grantor

By: 

Name: 

Title: 

Signature page to Grant of Security Interest in [Trademark/Patent/Copyright] Rights
Signature page to Grant of Security Interest in [Trademark/Patent/Copyright] Rights
### Schedule A

**U.S. [Patent/Trademark/Copyright] Registrations and Applications**

- **[For Patents:]**
  - **Owner** | **Application Number** | **Registration Number** | **Title**

- **[For Trademarks:]**
  - **Owner** | **Application Number** | **Registration Number** | **Trademark**

- **[For Copyrights:]**
  - **Owner** | **Registration Number** | **Title**

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**Material Inbound Exclusive Licenses in U.S. [Patents/Trademarks/Copyrights]**

- **Owner/Licensor** | **Grantor/Licensee** | **Registration No./Application No.** | **Title** | **Name of License** | **Date of License**

PLEDGE AGREEMENT

PLEDGE AGREEMENT dated as of March 8, 2011 among Del Monte Foods Company, a Delaware corporation (the “Company”), each of the Subsidiaries of the Company listed on the signature pages hereto or that becomes a party hereto pursuant to Section 29 hereof (each such Subsidiary being a “Subsidiary Pledgor” and, collectively, the “Subsidiary Pledgors”), Blue Acquisition Group, Inc., a Delaware corporation (“Holdings”; Holdings, the Subsidiary Pledgors and the Company are referred to collectively as the “Pledgors”) and Bank of America, N.A., as Collateral Agent (in such capacity, the “Collateral Agent”) for the benefit of the Secured Parties.

WITNESSETH:

WHEREAS, the Company is party to the Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the “Credit Agreement”) among the Company, Holdings, the other Borrowers from time to time party thereto, the Lender Parties from time to time party thereto and Bank of America, N.A., as Administrative Agent and as Collateral Agent;

WHEREAS, (a) pursuant to the Credit Agreement, among other things, the Lenders have severally agreed to make Loans to the Borrowers and the Issuing Banks have agreed to issue Letters of Credit for the account of the Borrowers upon the terms and subject to the conditions set forth therein and (b) one or more Cash Management Banks or Hedge Banks may from time to time enter into Secured Cash Management Agreements or Secured Hedge Agreements with the Company and/or its Subsidiaries;

WHEREAS, pursuant to the Guarantee, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “Guarantee”), each Subsidiary Pledgor and Holdings has agreed to unconditionally and irrevocably guarantee, as primary obligor and not merely as surety, to the Administrative Agent for the benefit of the Secured Parties, the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations (as defined below);

WHEREAS, the proceeds of the Loans and the issuance of the Letters of Credit will be used in part to enable the Company to make valuable transfers to the Subsidiary Pledgors and Holdings in connection with the operation of their respective businesses;

WHEREAS, each Pledgor acknowledges that it will derive substantial direct and indirect benefit from the making of the Loans and the issuance of the Letters of Credit;

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective Loans to the Borrowers and to the obligations of the Issuing Banks to issue Letters of Credit under the Credit Agreement that the Company, Holdings and the Subsidiary Pledgors shall have executed and delivered this Pledge Agreement to the Collateral Agent for the benefit of the Secured Parties; and

WHEREAS, (a) the Pledgors are the legal and beneficial owners of the Equity Interests, described in Schedule 1 hereto and issued by the entities named therein (such Equity Interests are, together with any Equity Interests of the issuer of such Equity Interests or any other Subsidiary directly held by...
any Pledgor in the future (the "After-acquired Shares"), in each case, except to the extent excluded from the Collateral for the applicable Obligations pursuant to the last paragraph of Section 2 below, referred to collectively herein as the "Pledged Shares") and (b) each of the Pledgors is the legal and beneficial owner of the Indebtedness described in Schedule 1 hereto (together with any other Indebtedness owed to any Pledgor hereafter and required to be pledged pursuant to Section 9.12(a) of the Credit Agreement, the "Pledged Debt");

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent, the Collateral Agent and the Lender Parties to enter into the Credit Agreement and to induce the Lenders to make their respective Loans to the Borrowers and the Issuing Banks to Issue Letters of Credit for the account of the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries, the Pledgors hereby agree with the Collateral Agent, for the benefit of the Secured Parties, as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) "Collateral" shall have the meaning provided in Section 2.

(c) "Equity Interests" shall mean, collectively, Stock and Stock Equivalents.

(d) "Intercreditor Agreement" shall have the meaning provided in Section 26.

(e) "Obligations" shall mean the Obligations (as defined in the Credit Agreement).

(f) "Proceeds" and any other term used herein or in the Credit Agreement without definition that is defined in the UCC has the meaning given to it in the UCC.

(g) "UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Collateral Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

(h) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Pledge Agreement shall refer to this Pledge Agreement as a whole and not to any particular provision of this Pledge Agreement, and Section references are to Sections of this Pledge Agreement unless otherwise specified. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(i) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Grant of Security. Each Pledgor hereby transfers, assigns and pledges to the Collateral Agent, for the benefit of the Secured Parties, and grants to the Collateral Agent, for the benefit of the Secured Parties, a lien on and a security interest in (the "Security Interest") all of such Pledgor's right,
title and interest in, to and under the following, whether now owned or existing or at any time hereafter acquired or existing (collectively, the "Collateral"):  

(a) the Pledged Shares held by such Pledgor and the certificates representing such Pledged Shares and any interest of such Pledgor in the entries on the books of the issuer of the Pledged Shares or any financial intermediary pertaining to the Pledged Shares and all dividends, cash, warrants, rights, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares.  

(b) the Pledged Debt and the instruments evidencing the Pledged Debt owed to such Pledgor, and all interest, cash, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Pledged Debt; and  

(c) to the extent not covered by clauses (a) and (b) above, respectively, all Proceeds of any or all of the foregoing Collateral.  

Notwithstanding the foregoing, the Collateral for the Obligations shall not include any Excluded Stock and Stock Equivalents.  

3. Security for Obligations. This Pledge Agreement secures the payment of all the Obligations of each Credit Party. Without limiting the generality of the foregoing, this Pledge Agreement secures the payment of all amounts that constitute part of the Obligations and would be owed by any of the Credit Parties to the Secured Parties under the Credit Documents but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving any Credit Party.  

4. Delivery of the Collateral. All certificates or instruments, if any, representing or evidencing the Collateral shall be promptly delivered to and held by or on behalf of the Collateral Agent pursuant hereto to the extent required by the Credit Agreement and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance reasonably satisfactory to the Collateral Agent. The Collateral Agent shall have the right, at any time after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, and with notice to the relevant Pledgor, to transfer to or to register in the name of the Collateral Agent or any of its nominees any or all of the Pledged Shares. Each delivery of Collateral (including any After-acquired Shares) shall be accompanied by a notice to the Collateral Agent describing the securities theretofore and then being pledged hereunder.  

5. Representations and Warranties. Each Pledgor represents and warrants as follows:  

(a) Schedule 1 hereto (i) correctly represents as of the Closing Date (A) the issuer, the certificate number, the Pledgor and the record and beneficial owner, the number and class and the percentage of the issued and outstanding Equity Interests of such class of all Pledged Shares and (B) the issuer, the initial principal amount, the Pledgor and holder, date of issuance and maturity date of all Pledged Debt and (ii) together with the comparable schedule to each supplement hereto, includes all Equity Interests, debt securities and promissory notes required to be pledged hereunder. Except as set forth on Schedule 1, and except for Excluded Stock and Stock Equivalents, the Pledged Shares represent all (or 65% in the case of pledges of the Voting Stock of Foreign Subsidiaries) of the issued and outstanding Equity Interests of each class of Equity Interests in the issuer on the Closing Date.
(b) Such Pledgor is the legal and beneficial owner of the Collateral pledged or assigned by such Pledgor hereunder free and clear of any Lien, except for Permitted Liens and the Lien created by this Pledge Agreement.

(c) As of the Closing Date, the Pledged Shares pledged by such Pledgor hereunder have been duly authorized and validly issued and, in the case of Pledged Shares issued by a corporation, are fully paid and non-assessable.

(d) The execution and delivery by such Pledgor of this Pledge Agreement and the pledge of the Collateral pledged by such Pledgor hereunder pursuant hereto create a legal, valid and enforceable security interest in such Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation of such Security Interest is governed by the UCC) and, upon delivery of such Collateral to the Collateral Agent in the State of New York, shall constitute a fully perfected Lien on and security interest in the Collateral, securing the payment of the Obligations, in favor of the Collateral Agent for the benefit of the Secured Parties (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation and perfection of such Security Interest is governed by the UCC), except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.

(e) Such Pledgor has full power, authority and legal right to pledge all the Collateral pledged by such Pledgor pursuant to this Pledge Agreement and this Pledge Agreement, constitutes a legal, valid and binding obligation of each Pledgor (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the enforceability of such Security Interest is governed by the UCC), enforceable in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to general principles of equity.


(a) In the event that any Equity Interests in any Subsidiary that is organized as a limited liability company or limited partnership and pledged hereunder shall be represented by a certificate, the applicable Pledgor shall cause the issuer of such interests to elect to treat such interests as a “security” within the meaning of Article 8 of the Uniform Commercial Code of its jurisdiction of organization or formation, as applicable, by including in its organizational documents language substantially similar to the following and, accordingly, such interests shall be governed by Article 8 of the Uniform Commercial Code:

“The Partnership/Company hereby irrevocably elects that all membership interests in the Partnership/Company shall be securities governed by Article 8 of the Uniform Commercial Code of [jurisdiction of organization or formation, as applicable]. Each certificate evidencing partnership/membership interests in the Partnership/Company shall bear the following legend: "This certificate evidences an interest in [name of Partnership/LLC] and shall be a security for purposes of Article 8 of the Uniform Commercial Code." No change to this provision shall be effective until all outstanding certificates have been surrendered for cancellation and any new certificates thereafter issued shall not bear the foregoing legend.”

(b) Each Pledgor will comply with Section 9.12(b) of the Credit Agreement.

-4-
(c) In the event that any Equity Interests in any Foreign Subsidiary pledged hereunder are not represented by a certificate, the Pledgors agree not to permit such Foreign Subsidiary to issue Equity Interests represented by a certificate to any other Person.

7. Further Assurances. Each Pledgor agrees that at any time and from time to time, at the expense of such Pledgor, it will execute or otherwise authorize the filing of any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any applicable law, or which the Collateral Agent or the Administrative Agent may reasonably request, in order (x) to perfect and protect any pledge, assignment or security interest granted or purported to be granted hereby (including the priority thereof) or (y) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral.

8. Voting Rights; Dividends and Distributions; Etc.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) Each Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Collateral or any part thereof for any purpose not prohibited by the terms of this Pledge Agreement or the other Credit Documents.

(ii) The Collateral Agent shall execute and deliver (or cause to be executed and delivered) to each Pledgor all such proxies and other instruments as such Pledgor may reasonably request for the purpose of enabling such Pledgor to exercise the voting and other rights that it is entitled to exercise pursuant to paragraph (i) above.

(b) Subject to paragraph (c) below, each Pledgor shall be entitled to receive and retain and use, free and clear of the Lien created by this Pledge Agreement, any and all dividends, distributions, principal and interest made or paid in respect of the Collateral to the extent permitted by the Credit Agreement, as applicable; provided, however, that any and all noncash dividends, interest, principal or other distributions that would constitute Pledged Shares or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Shares or received in exchange for Pledged Shares or Pledged Debt 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 shall be forthwith delivered to the Collateral Agent to hold as, Collateral and shall, if received by such Pledgor, be received in trust for the benefit of the Collateral Agent, be segregated from the other property or funds of such Pledgor and be forthwith delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsement).

(c) Upon written notice to a Pledgor by the Collateral Agent following the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement,

(i) all rights of such Pledgor to exercise or refrain from exercising the voting and other consensual rights that it would otherwise be entitled to exercise pursuant to Section 8(a)(i) shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall thereupon have the sole right to exercise or refrain from exercising such voting and other consensual rights during the continuance of such Event of Default, provided that, unless otherwise directed by the Required Lenders, the Collateral Agent shall have the right from time to time following the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, to permit the Pledgors to exercise such rights. After all Events of
Default have been cured or waived, each Pledgor will have the right, subject to the terms of the Intercreditor Agreement, to exercise the voting and consensual rights that such Pledgor would otherwise be entitled to exercise pursuant to the terms of Section 8(a)(i) (and the obligations of the Collateral Agent under Section 8(a)(ii) shall be reinstated);

(ii) all rights of such Pledgor to receive the dividends, distributions and principal and interest payments that such Pledgor would otherwise be authorized to receive and retain pursuant to Section 8(b) shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which, subject to the terms of the Intercreditor Agreement, shall thereupon have the sole right to receive and hold as Collateral such dividends, distributions and principal and interest payments during the continuance of such Event of Default. After all Events of Default have been cured or waived, the Collateral Agent shall repay to each Pledgor (without interest) all dividends, distributions and principal and interest payments that such Pledgor would otherwise be permitted to receive, retain and use pursuant to the terms of Section 8(b);

(iii) all dividends, distributions and principal and interest payments that are received by such Pledgor contrary to the provisions of Section 8(b) shall be received in trust for the benefit of the Collateral Agent shall be segregated from other property or funds of such Pledgor and shall forthwith be delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsements); and

(iv) in order to permit the Collateral Agent to receive all dividends, distributions and principal and interest payments to which it may be entitled under Section 8(b) above, to exercise the voting and other consensual rights that it may be entitled to exercise pursuant to Section 8(c)(i) above, and to receive all dividends, distributions and principal and interest payments that it may be entitled to under Sections 8(c)(ii) and (c)(iii) above, such Pledgor shall from time to time execute and deliver to the Collateral Agent, appropriate proxies, dividend payment orders and other instruments as the Collateral Agent may reasonably request in writing, subject to the terms of the Intercreditor Agreement.

9. Transfers and Other Liens; Additional Collateral; Etc. Subject to the terms of the Intercreditor Agreement, each Pledgor shall:

(a) not (i) except as permitted by the Credit Agreement, sell or otherwise dispose of, or grant any option or warrant with respect to, any of the Collateral or (ii) create or suffer to exist any consensual Lien upon or with respect to any of the Collateral, except for the Lien created by this Pledge Agreement provided that in the event such Pledgor sells or otherwise disposes of assets permitted by the Credit Agreement, and such assets are or include any of the Collateral, upon the request of the applicable Pledgor the Collateral Agent shall release such Collateral to such Pledgor free and clear of the Lien created by this Agreement concurrently with the consummation of such sale; and

(b) defend its and the Collateral Agent's title or interest in and to all the Collateral (and in the Proceeds thereof) against any and all Liens (other than Permitted Liens and the Lien created by this Agreement), however arising, and any and all Persons whomsoever.

10. Collateral Agent Appointed Attorney-in-Fact. Each Pledgor hereby appoints, which appointment is irrevocable and coupled with an interest, the Collateral Agent as such Pledgor's attorney-in-fact, with full authority in the place and stead of such Pledgor and in the name of such Pledgor or otherwise, to take any action and to execute any instrument, in each case after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, and with
notice to such Pledgor, that the Collateral Agent may deem reasonably necessary or advisable to accomplish the purposes of this Pledge Agreement, including to receive, indorse and collect all instruments made payable to such Pledgor representing any dividend, distribution or principal or interest payment in respect of the Collateral or any part thereof and to give full discharge for the same.

11. The Collateral Agent’s Duties. The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Shares, whether or not the Collateral Agent or any other Secured Party has or is deemed to have knowledge of such matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property.

12. Remedies. Subject to the terms of the Intercreditor Agreement, if any Event of Default shall have occurred and be continuing:

(a) The Collateral Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected Collateral) and also may with notice to the relevant Pledgor, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange broker’s board or at any of the Collateral Agent’s offices or elsewhere, for cash, on credit or for future delivery, at such price or prices and upon such other terms as are commercially reasonable irrespective of the impact of any such sales on the market price of the Collateral. The Collateral Agent shall be authorized at any such sale (if it deems it advisable to do so) to restrict the prospective bidders or purchasers of Collateral 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 purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Pledgor, and each Pledgor hereby waives (to the extent permitted by law) all rights of redemption, stay and/or appraisal that it 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 or any Secured Party shall have the right upon any such public sale, and, to the extent permitted by law, upon any such private sale, to purchase all or any part of the Collateral so sold, and the Collateral Agent or such Secured Party may pay the purchase price by crediting the amount thereof against the Obligations. Each Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten days’ notice to such Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the extent permitted by law, each Pledgor hereby waives any claim against the Collateral Agent arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree.
(b) The Collateral Agent shall apply the Proceeds of any collection or sale of the Collateral in the manner specified in Section 11.13 of the Credit Agreement. Upon any sale of the 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.

(c) The Collateral Agent may exercise any and all rights and remedies of each Pledgor in respect of the Collateral.

(d) All payments received by any Pledgor in respect of the Collateral after the occurrence and during the continuance of an Event of Default, subject to the terms of the Intercreditor Agreement, shall be received in trust for the benefit of the Collateral Agent shall be segregated from other property or funds of such Pledgor and shall be forthwith delivered to the Collateral Agent as Collateral in the same form as so received (with any necessary endorsement).

13. Amendments, etc. with Respect to the Obligations; Waiver of Rights. Each Pledgor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Pledgor and without notice to or further assent by any Pledgor, (a) any demand for payment of any of the Obligations made by the Collateral Agent or any other Secured Party may be rescinded by such party and any of the Obligations continued, (b) the Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Collateral Agent or any other Secured Party, (c) the Credit Agreement, the other Credit Documents and any other documents executed and delivered in connection therewith, the Secured Cash Management Agreements and the Secured Hedge Agreements and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the applicable Administrative Agent (or the Required Lenders, as the case may be, or, in the case of any Secured Cash Management Agreement or Secured Hedge Agreement, the Cash Management Bank or Hedge Bank party thereto) may deem advisable from time to time, and (d) any collateral security, guarantee or right of offset at any time held by the Collateral Agent or any other Secured Party for the payment of the Obligations may be sold, exchanged, waived, surrendered or released. Neither the Collateral Agent nor any other Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Obligations or for this Pledge Agreement or any property subject thereto. When making any demand hereunder against any Pledgor, the Collateral Agent or any other Secured Party may, but shall be under no obligation to, make a similar demand on the Company or any Pledgor or any other person, and any failure by the Collateral Agent or any other Secured Party to make any such demand or to collect any payments from the Company or any Pledgor or any other person or any release of the Company or any Pledgor or any other person shall not relieve any Pledgor in respect of which a demand or collection is not made or any Pledgor not so released of its several obligations or liabilities hereunder, and shall not impair or affect the rights and remedies, express or implied, or as a matter of law, of the Collateral Agent or any other Secured Party against any Pledgor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

14. Continuing Security Interest; Assignments Under the Credit Agreement; Release.

(a) This Pledge Agreement shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon each Pledgor and the successors and assigns thereof, and
shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors, endorsees, transferees and assigns until all the
Obligations (other than any contingent indemnity obligations not then due) under the Credit Documents shall have been satisfied by payment in full, the
Commitments shall be terminated and all Letters of Credit have expired or terminated and after all Letter of Credit Outstandings have been reduced to zero (or
all such Letters of Credit and Letter of Credit Outstandings have been Cash Collateralized or back-stopped in a manner reasonably satisfactory to the
applicable Issuing Banks), notwithstanding that from time to time during the term of the Credit Agreement the Credit Parties may be free from any
Obligations.

(b) Subject to the terms of the Intercreditor Agreement, any Pledgor shall automatically be released from its obligations hereunder and the
Collateral of such Pledgor shall be automatically released upon such Pledgor ceasing to be a Credit Party in accordance with Section 13.1 of the Credit
Agreement.

(c) Subject to the terms of the Intercreditor Agreement, the Collateral shall be automatically released from the Liens of this Agreement (i) to the
extent provided for in Section 13.1 of the Credit Agreement and (ii) upon the effectiveness of any written consent to the release of the security interest granted
in such Collateral pursuant to Section 13.1 of the Credit Agreement. Any such release in connection with any sale, transfer or other disposition of such
Collateral shall result in such Collateral being sold, transferred or disposed of, as applicable, free and clear of the Liens of this Agreement.

(d) In connection with any termination or release pursuant to the foregoing paragraph (a), (b) or (c), the Collateral Agent shall execute and deliver
to any Pledgor or authorize the filing of, at such Pledgor's expense, all documents that such Pledgor shall reasonably request to evidence such termination or
release. Any execution and delivery of documents pursuant to this Section 14 shall be without recourse to or warranty by the Collateral Agent.

15. Reinstatement. Each Pledgor further agrees that, if any payment made by any Credit Party or other Person and applied to the Obligations is at
any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, or the
Proceeds of Collateral are required to be returned by any Secured Party to such Credit Party, its estate, trustee, receiver or any other Person, including any
Pledgor, under any bankruptcy law, state, federal or foreign law, common law or equitable cause, then, to the extent of such payment or repayment, any Lien
or other Collateral securing such liability shall be and remain in full force and effect, as fully as if such payment had never been made or, if prior thereto the
Lien granted hereby or other Collateral securing such liability hereunder shall have been released or terminated by virtue of such cancellation or surrender),
such Lien or other Collateral shall be reinstated in full force and effect, and such prior cancellation or surrender shall not diminish, release, discharge, impair
or otherwise affect any Lien or other Collateral securing the obligations of any Pledgor in respect of the amount of such payment.

16. Notices. All notices, requests and demands pursuant hereto shall be made in accordance with Section 13.2 of the Credit Agreement. All
communications and notices hereunder to any Pledgor shall be given to it in care of the Company at the Company's address set forth in Section 13.2 of the
Credit Agreement.

17. Counterparts. This Pledge Agreement may be executed by one or more of the parties to this Pledge Agreement on any number of separate
counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the
same instrument.
18. **Severability.** Any provision of this Pledge Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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.

19. **Integration.** This Pledge Agreement together with the other Credit Documents represents the agreement of each of the Pledgors with respect to the subject matter hereof and there are no promises, undertakings, representations or warranties by the Collateral Agent or any other Secured Party relative to the subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

20. **Amendments in Writing; No Waiver; Cumulative Remedies.**

(a) None of the terms or provisions of this Pledge Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the affected Pledgor and the Collateral Agent in accordance with Section 13.1 of the Credit Agreement.

(b) Neither the Collateral Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 20(a) hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Agent or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that the Collateral Agent or such other Secured Party would otherwise have on any future occasion.

(c) The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

21. **Section Headings.** The Section headings used in this Pledge Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

22. **Successors and Assigns.** This Pledge Agreement shall be binding upon the successors and assigns of each Pledgor and shall inure to the benefit of the Collateral Agent and the other Secured Parties and their respective successors and assigns, except that no Pledgor may assign, transfer or delegate any of its rights or obligations under this Pledge Agreement without the prior written consent of the Collateral Agent.

23. **WAIVER OF JURY TRIAL.** EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS PLEDGE AGREEMENT, ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

24. **Submission to Jurisdiction; Waivers.** Each party hereto irrevocably and unconditionally:
(a) submits for itself and its property in any legal action or proceeding relating to this Pledge Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Person at its address referred to in Section 16 or at such other address of which the Collateral Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of any other party hereto (or any Secured Party) to effect service of process in any other manner permitted by law or shall limit the right of any party hereto (or any Secured Party) to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 24 any special, exemplary, punitive or consequential damages.


26. Intercreditor Agreement. Notwithstanding anything herein to the contrary, the liens and security interests granted to the Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Collateral Agent hereunder, are subject to the provisions of the Intercreditor Agreement and the 1989 Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern and control. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary, all rights and remedies of the Collateral Agent (and the other Secured Parties) shall be subject to the terms of the Intercreditor Agreement, dated as of March 8, 2011 (as amended, restated, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among the Administrative Agent and Collateral Agent, as Revolving Credit Administrative Agent and Revolving Credit Collateral Agent, and JPMorgan Chase Bank, N.A., as Initial Fixed Asset Administrative Agent and Initial Fixed Asset Credit Collateral Agent, and, with respect to any Term Priority Collateral (as such term is defined in the Intercreditor Agreement), any obligation of any Pledgor hereunder or under any other Security Document with respect to the delivery or control of any Term Priority Collateral, the novation of any lien on any certificate of title, bill of lading or other document, the giving of any notice to any bailee or other Person, the provision of voting rights or the obtaining of any consent of any Person shall be deemed to be satisfied if such Pledgor complies with the requirements of the similar provision of the applicable Fixed Asset Collateral Documents (as such term is defined in the Intercreditor Agreement). Until the Discharge of Fixed Asset Obligations, the delivery of any Term Priority Collateral to, or the control of any Term Priority Collateral by, the Fixed Asset Collateral Agent pursuant to the Fixed Asset Collateral -11-
Documents shall be deemed to satisfy any delivery or control requirement hereunder or under any other Security Document with respect to Term Priority Collateral.

27. Enforcement Expenses; Indemnification.

(a) Each Pledgor agrees to pay any and all reasonable out of pocket expenses (including all reasonable fees and disbursements of counsel) that may be paid or incurred by any Secured Party in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations and/or enforcing any rights with respect to, or collecting against, such Pledgor under this Pledge Agreement.

(b) Each Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes that may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Pledge Agreement.

(c) Each Pledgor agrees to pay, and to save the Collateral Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Pledge Agreement to the extent the Company would be required to do so pursuant to Section 13.5 of the Credit Agreement.

(d) The agreements in this Section 27 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Credit Documents.

28. Acknowledgments. Each party hereto hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Pledge Agreement and the other Credit Documents to which it is a party;

(b) neither the Collateral Agent nor any other Secured Party has any fiduciary relationship with or duty to any Pledgor arising out of or in connection with this Pledge Agreement or any of the other Credit Documents, and the relationship between the Pledgors, on the one hand, and the Collateral Agent and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Credit Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders and any other Secured Party or among the Pledgors and the Lenders and any other Secured Party.

29. Additional Pledgors. Each Subsidiary of the Company that is required to become a party to this Pledge Agreement pursuant to Section 9.11 of the Credit Agreement shall become a Subsidiary Pledgor, with the same force and effect as if originally named as a Pledgor herein, for all purposes of this Pledge Agreement upon execution and delivery by such Subsidiary of a written supplement substantially in the form of Annex A hereto. The execution and delivery of any instrument adding an additional Pledgor as a party to this Pledge Agreement shall not require the consent of any other Pledgor hereunder. The rights and obligations of each Pledgor hereunder shall remain in full force and effect notwithstanding the addition of any new Pledgor as a party to this Pledge Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, each of the undersigned has caused this Pledge Agreement to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

DEL MONTE FOODS COMPANY, as Pledgor
By:  /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

DEL MONTE CORPORATION, as Pledgor
By:  /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

BLUE ACQUISITION GROUP, INC., as Pledgor
By:  /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Pledge Agreement]
BANK OF AMERICA, N.A., as Collateral Agent
By: /s/ Lisa Freeman

Name: Lisa Freeman
Title: SVP
Pledged Shares

Pledged Debt

S-1
SUPPLEMENT NO. [ ] dated as of [ ] to the PLEDGE AGREEMENT dated as of March 8, 2011 among Del Monte Foods Company, a Delaware corporation (the "Company"), each of the Subsidiaries of the Company listed on the signature pages thereto or that becomes a party thereto pursuant to Section 29 of the Pledge Agreement (each such Subsidiary being a "Subsidiary Pledgor" and, collectively, the "Subsidiary Pledgors"), Blue Acquisition Group, Inc., a Delaware corporation ("Holdings"; Holdings, the Subsidiary Pledgors and the Company are referred to collectively as the "Pledgors") and Bank of America, N.A., as Collateral Agent (the "Pledge Agreement").

A. Reference is made to the Credit Agreement dated as of the date of the Pledge Agreement (as the same may be amended, restated, supplemented or otherwise modified, refinanced or replaced from time to time, the "Credit Agreement") among the Company and the Other Borrowers from time to time party thereto, Holdings, the Lender Parties from time to time parties thereto and Bank of America, N.A., as Administrative Agent and as Collateral Agent and the Guarantee dated as of the date of the Pledge Agreement (as the same may be amended, restated, supplemented and or otherwise modified from time to time, the "Guarantee"), among the Guarantors party thereto and the Collateral Agent.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Pledge Agreement.

C. The Pledgors have entered into the Pledge Agreement in order to induce the Administrative Agent, the Collateral Agent and the Lender Parties to enter into the Credit Agreement, to induce the Lenders to make their respective Loans to the Borrowers and the Issuing Banks to issue Letters of Credit for the account of the Borrowers under the Credit Agreement and to induce one or more Lenders or Affiliates of Lenders to enter into Secured Cash Management Agreements and Secured Hedge Agreements with the Company and/or its Subsidiaries.

D. The undersigned Guarantors (each an "Additional Pledgor") are (a) the legal and beneficial owners of the Equity Interests described in Schedule 1 hereto and issued by the entities named therein (such Equity Interests, together with any Equity Interests of the issuer of such Pledged Shares or any other Subsidiary held directly by any Additional Pledgor in the future (the "After-acquired Additional Pledged Shares"), in each case, except to the extent excluded from the Collateral for the applicable Obligations pursuant to the penultimate paragraph of Section 1 below, referred to collectively herein as the "Additional Pledged Shares") and (b) the legal and beneficial owners of the Indebtedness described in Schedule 1 hereto (together with any other Indebtedness owed to any Additional Pledgor hereafter and required to be pledged pursuant to Section 9.12(a) of the Credit Agreement, the "Additional Pledged Debt").

E. Section 9.11 of the Credit Agreement and Section 29 of the Pledge Agreement provide that additional Subsidiaries may become Subsidiary Pledgors under the Pledge Agreement by execution and delivery of an instrument in the form of this Supplement. Each undersigned Additional Pledgor is executing this Supplement in accordance with the requirements of Section 9.11 of the Credit Agreement and Section 29 of the Pledge Agreement to pledge to the Collateral Agent for the benefit of the Secured Parties the Additional Pledged Shares and the Additional Pledged Debt and to become a Subsidiary Pledgor under the Pledge Agreement in order to induce the Lenders to make their
Accordingly, the Collateral Agent and each undersigned Additional Pledgor agree as follows:

SECTION 1. Each Additional Pledgor by its signature hereby transfers, assigns and pledges to the Collateral Agent, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, for the benefit of the Secured Parties, a security interest in all of such Additional Pledgor’s right, title and interest in the following, whether now owned or existing or hereafter acquired or existing (collectively, the “Additional Collateral”):

(a) the Additional Pledged Shares held by such Additional Pledgor and the certificates representing such Additional Pledged Shares and any interest of such Additional Pledgor in the entries on the books of the issuer of the Additional Pledged Shares or any financial intermediary pertaining to the Additional Pledged Shares and all dividends, cash, warrants, rights, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Additional Pledged Shares;

(b) the Additional Pledged Debt and the instruments evidencing the Additional Pledged Debt owed to such Additional Pledgor, and all interest, cash, instruments and other property or Proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Additional Pledged Debt; and

Notwithstanding the foregoing, the Additional Collateral for the Obligations shall not include any Excluded Stock and Stock Equivalents.

For purposes of the Pledge Agreement, the Collateral shall be deemed to include the Additional Collateral.

SECTION 2. Each Additional Pledgor by its signature below becomes a Pledgor under the Pledge Agreement with the same force and effect as if originally named therein as a Pledgor, and each Additional Pledgor hereby agrees to all the terms and provisions of the Pledge Agreement applicable to it as a Pledgor thereunder. Each reference to a “Subsidiary Pledgor” or a “Pledgor” in the Pledge Agreement shall be deemed to include each Additional Pledgor. The Pledge Agreement is hereby incorporated herein by reference.

SECTION 3. Each Additional Pledgor represents and warrants as follows:

(a) Schedule 1 hereto correctly represents as of the date hereof (A) the issuer, the certificate number, the Additional Pledgor and registered owner, the number and class and the percentage of the issued and outstanding Equity Interests of such class of all Additional Pledged Shares and (B) the issuer, the initial principal amount, the Additional Pledgor and holder, date of and maturity date of all Additional Pledged Debt. Except as set forth on Schedule 1 and except for Excluded Stock and Stock Equivalents, the Additional Pledged Shares
represent all (or 65% in the case of pledges of the Voting Stock of Foreign Subsidiaries) of the issued and outstanding Equity Interests of each class of Equity Interests of the issuer on the date hereof.

(b) Such Additional Pledgor is the legal and beneficial owner of the Additional Collateral pledged or assigned by such Additional Pledgor hereunder free and clear of any Lien, except for the Lien created by this Supplement to the Pledge Agreement.

(c) As of the date of this Supplement, the Additional Pledged Shares pledged by such Additional Pledgor hereunder have been duly authorized and validly issued and, in the case of Additional Pledged Shares issued by a corporation, are fully paid and non-assessable.

(d) The execution and delivery by such Additional Pledgor of this Supplement and the pledge of the Additional Collateral pledged by such Additional Pledgor hereunder pursuant hereto create a valid and perfected security interest in the Additional Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation of such Security Interest is governed by the UCC), and upon delivery of such Additional Collateral to the Collateral Agent in the State of New York, shall constitute a fully perfected lien and security interest in the Additional Collateral (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the creation and perfection of such Security Interest is governed by the UCC), securing the payment of the Obligations, in favor of the Collateral Agent for the benefit of the Secured Parties.

(e) Such Additional Pledgor has full power, authority and legal right to pledge all the Additional Collateral pledged by such Additional Pledgor hereunder pursuant to this Supplement, and this Supplement constitutes a legal, valid and binding obligation of each Additional Pledgor (with respect to Collateral consisting of Stock of Foreign Subsidiaries, to the extent the enforceability of such Security Interest is governed by the UCC), enforceable in accordance with its terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors’ rights generally and subject to general principles of equity.

SECTION 4. This Supplement may be executed by one or more of the parties to this Supplement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Supplement signed by all the parties shall be lodged with the Collateral Agent and the Company. This Supplement shall become effective as to each Additional Pledgor when the Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of such Additional Pledgor and the Collateral Agent.

SECTION 5. Except as expressly supplemented hereby, the Pledge Agreement shall remain in full force and effect.

SECTION 7. Any provision of this Supplement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Pledge Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable 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 8. All notices, requests and demands pursuant hereto shall be made in accordance with Section 16 of the Pledge Agreement. All communications and notices hereunder to each Additional Pledgor shall be given to it in care of the Company at the Company’s address set forth in Section 13.2 of the Credit Agreement.
IN WITNESS WHEREOF, each Additional Pledgor and the Collateral Agent have duly executed this Supplement to the Pledge Agreement as of the day and year first above written.

[NAME OF ADDITIONAL PLEDGOR]
By:

Name:
Title:

BANK OF AMERICA, N.A., as Collateral Agent
By:

Name:
Title:
### Pledged Shares

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<th>Certificate No.</th>
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### Pledged Debt

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$1,300,000,000
BLUE MERGER SUB INC.
7.625% SENIOR NOTES DUE 2019
PURCHASE AGREEMENT

February 1, 2011

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
As Representative of the several
Initial Purchasers named in Schedule I attached hereto,
c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated
One Bryant Park
New York, New York 10036

Ladies and Gentlemen:

Blue Merger Sub Inc., a Delaware corporation ("Merger Sub"), proposes, upon the terms and conditions set forth in this agreement (this "Agreement"), to issue and sell to you, as the initial purchasers (the "Initial Purchasers"), $1,300,000,000 in aggregate principal amount of its 7.625% Senior Notes due 2019 (the "Notes"). Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and Morgan Stanley & Co. Incorporated ("Morgan Stanley"), have agreed to act as the representatives of the several Initial Purchasers (the "Representatives") in connection with the offering and sale of the Notes.

The Notes are being issued in connection with the acquisition (the "Acquisition") by investment funds affiliated with Kohlberg Kravis Roberts & Co. L.P., Vestar Capital Partners V, L.P. and Centerview Capital, L.P. and (collectively, the "Sponsors"), and certain other investors, of all of the outstanding equity interests of Del Monte Foods Company, a Delaware corporation (the "Company").

Blue Acquisition Group, Inc., a Delaware corporation formed by the Sponsors ("Holdings"), has entered into an Agreement and Plan of Merger, dated as of November 24, 2010 (as amended from time to time, the "Merger Agreement"), with Merger Sub and the Company, pursuant to which Merger Sub will merge with and into the Company, with the Company being the surviving corporation following the merger (the "Merger"). Immediately prior to the consummation of the Acquisition (the date of the consummation of the Acquisition, the "Merger Date"), the Sponsors, as well as certain other investors, shall have contributed cash of approximately $1,600.0 million (the "Equity Investment"), and upon consummation of the Merger and the other transactions contemplated hereby, the Sponsors and other investors will own, indirectly, 100% of the capital stock of the Company.
If the Closing Date (as defined below) occurs prior to the Merger Date, the Issuer, the Trustee (as defined below) and The Bank of New York Mellon Trust Company, N.A., as escrow agent, will enter into the Escrow Agreement (the "Escrow Agreement"), to be dated as of the Closing Date, pursuant to which, on the Closing Date, Merger Sub will deposit in an escrow account (the "Escrow Account") the Purchase Price (as defined below) and Merger Sub will contribute or cause to be contributed an additional amount in cash and Eligible Escrow Investments (as defined in the Escrow Agreement) necessary (together with the Purchase Price) to fund the redemption of the Notes and to pay all regularly scheduled interest that would accrue on the Notes through, but not including, the date of redemption set forth in the Escrow Agreement (collectively, with any other property from time to time held by the Escrow Agent, the "Escrow Property"), and will remain in escrow until the Escrow Property is released upon satisfaction of the conditions precedent to such release as set forth in the Escrow Agreement.

The Escrow Property will be held in the Escrow Account in accordance with the terms and provisions set forth in the Escrow Agreement, and released on the earlier to occur of (i) the Merger Date, if the conditions to the release of the Escrow Property to Merger Sub set forth in the Escrow Agreement have been satisfied on such date (the "Completion Date") and (ii) the date on which a Special Mandatory Redemption (as defined in the Preliminary Offering Memorandum (as defined below) is required to occur) and, in each case, shall be released from the Escrow Account as provided in the Pricing Disclosure Package and the Final Offering Memorandum (each as defined below).

References to the "Issuer" refer (i) prior to consummation of the Merger, solely to Merger Sub and (ii) following consummation of the Merger and upon execution of the Joinder Agreement (as defined below), to the Company. References to the "Guarantors" refer to each entity set forth on Schedule II attached hereto following consummation of the Merger and upon execution of the Joinder Agreement (each a "Guarantor" and, collectively, the "Guarantors").

The Notes will (i) have terms and provisions that are summarized in the Pricing Disclosure Package and the Final Offering Memorandum (each as defined below), and (ii) are to be issued pursuant to an indenture (the "Initial Indenture") to be entered into between Merger Sub and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). Upon consummation of the Merger, the Company and the Guarantors will enter into a supplemental indenture (the "Supplemental Indenture") with the Trustee pursuant to which the Company will assume the rights and obligations of Merger Sub under the Initial Indenture and the Guarantors will guarantee such obligations effective as of and from the Merger Date. As used herein, the term "Indenture" shall mean the Initial Indenture, as supplemented by the Supplemental Indenture. The Company will succeed to Merger Sub's obligations under the Notes and the Indenture. Following the Merger Date, the obligations of the Company, including the due and punctual payment of interest on the Notes, will be fully, irrevocably, and unconditionally guaranteed on a senior unsecured basis, jointly and severally (the "Guarantees") by (i) the Guarantors, and (ii) any domestic subsidiary of the Company formed or acquired after the Closing Date that is required to execute a supplemental indenture to provide a guarantee in accordance with the terms of the Indenture, and their respective successors and assigns. As used herein, the term "Notes" shall include the Guarantees, unless the context otherwise requires. This Agreement is to confirm the agreement concerning the purchase of the Notes from the Issuer by the Initial Purchasers.
On the Merger Date, simultaneously with the consummation of the Merger, the Issuer shall and shall cause each Guarantor to execute and deliver a joinder agreement (the "Joinder Agreement") substantially in the form attached hereto as Exhibit A, whereby the Issuer and each Guarantor will agree to observe and fully perform all of the rights, obligations and liabilities contemplated herein as if it were an original signatory hereto.

On the Merger Date, simultaneously with the consummation of the Merger (x) the Issuer and the Guarantors will enter into new senior secured credit facilities to be dated as of the Closing Date (the "Senior Credit Facilities" and, together with the documents, agreements or instruments delivered in connection therewith, the "Senior Credit Facilities Documentation") and (y) the Issuer shall use the net proceeds from the issue and sale of the Notes, the funding of the Senior Credit Facilities and the Equity Investment to finance the Transactions (as defined below).

For the purposes of this Agreement, the term "Transactions" is used in the same way as such term is used in the Pricing Disclosure Package (as defined below) and means, collectively, (i) the issuance and sale of the Notes; (ii) the Merger; (iii) the execution and delivery of the credit agreements related to the Senior Credit Facilities; (iv) the Equity Investment; (v) the cash tender offers (the "Tender Offers") for any and all of the 6 3/4% Senior Subordinated Notes due 2015 and 7 1/2% Senior Subordinated Notes due 2019 issued by Del Monte Corporation, a Delaware corporation and wholly-owned direct subsidiary of the Company, (vi) the refinancing of certain other existing indebtedness of the Company and (vii) the payment of all fees and expenses related to the foregoing.

The term "Transaction Documents" refers to this Agreement, the Joinder Agreement, the Notes, the Indenture, the Guarantees, the Registration Rights Agreement, the Registration Rights Agreement Joinder and the Escrow Agreement.

Notwithstanding anything in this Agreement to the contrary, the representations, warranties, authorizations, acknowledgements, covenants and agreements of each of the Company and the Guarantors contained in this Agreement shall not become effective until the consummation of the Merger, at which time such representations, warranties, authorizations, acknowledgements, covenants and agreements shall become effective as of the date hereof pursuant to the terms of the Joinder Agreement.

1. Purchase and Resale of the Notes. The Notes will be offered and sold to the Initial Purchasers without registration under the Securities Act of 1933, as amended (the "Securities Act"), in reliance on an exemption pursuant to Section 4(2) under the Securities Act. The Issuer has prepared a preliminary offering memorandum, dated January 26, 2011 (the "Preliminary Offering Memorandum"), a pricing term sheet substantially in the form attached hereto as Schedule III (the "Pricing Term Sheet") setting forth the terms of the Notes omitted from the Preliminary Offering Memorandum and an offering memorandum, dated February 1, 2011 (the "Final Offering Memorandum"), setting forth information regarding the Issuer, the Guarantors, the Notes, the Exchange Notes (as defined herein), the Guarantees and the Exchange Guarantees (as defined herein). The Preliminary Offering Memorandum, as supplemented and amended as of the Applicable Time (as defined below), together with the Pricing Term Sheet and any of the documents listed on Schedule IV(A) hereto are collectively referred to as the
"Pricing Disclosure Package". The Issuer hereby confirms that it has authorized the use of the Pricing Disclosure Package and the Final Offering Memorandum in connection with the offering and resale of the Notes by the Initial Purchasers. "Applicable Time" means 9:30 a.m. (New York City time) on the date of this Agreement.

You have advised the Issuer that you will offer and resell (the "Exempt Resales") the Notes purchased by you hereunder on the terms set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum, as amended or supplemented, solely to (i) persons whom you reasonably believe to be "qualified institutional buyers" as defined in Rule 144A under the Securities Act ("QIBs"), and (ii) outside the United States to certain persons who are not U.S. Persons (as defined in Regulation S under the Securities Act ("Regulation S")) (such persons, "Non-U.S. Persons") in offshore transactions in reliance on Regulation S. As used herein, the terms "offshore transaction" and "United States" have the meanings assigned to them in Regulation S. Those persons specified in clauses (i) and (ii) are referred to herein as "Eligible Purchasers".

Holders (including subsequent transferees) of the Notes will have the registration rights set forth in the registration rights agreement (the "Registration Rights Agreement") among the Issuer and the Initial Purchasers to be dated the Closing Date (as defined herein). Pursuant to the Registration Rights Agreement, and subject to the consummation of the Merger, the parties thereto will agree to file with the Securities and Exchange Commission (the "Commission") under the circumstances set forth therein, a registration statement under the Securities Act relating to a series of senior notes identical in all material respect to the Notes (the "Exchange Notes") and the Exchange Guarantees (the "Exchange Guarantees") to be offered in exchange for the Notes and the Guarantees. Such portion of the offering is referred to as the "Exchange Offer". Upon consummation of the Merger, the Company shall and shall cause each Guarantor to join the Registration Rights Agreement by execution of a counterpart signature page thereto or the joinder attached thereto (the "Registration Rights Agreement Joinder") on the Merger Date.

2. Representations, Warranties and Agreements of Merger Sub, the Company and the Guarantors. (x) As of the Applicable Time, Merger Sub represents, warrants and covenants to each Initial Purchaser (it being understood that, prior to the execution and delivery of the Joinder Agreement, all representations and warranties of Merger Sub with respect to the Company and its subsidiaries are made to the best knowledge of Merger Sub, after due inquiry), and (y) as of the Merger Date, the Company and the Guarantors, jointly and severally, represent, warrant and covenant to each Initial Purchaser, as follows:

(a) When the Notes, including the Guarantees, are issued and delivered pursuant to this Agreement, such Notes and Guarantees will not be of the same class (within the meaning of Rule 144A under the Securities Act) as securities of Merger Sub, the Company or the Guarantors that are listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

(b) Assuming the accuracy of your representations and warranties in Section 3(b), the offer, sale and delivery of the Notes to the Initial Purchasers pursuant hereto
(including pursuant to the Exempt Resales) are exempt from the registration requirements of the Securities Act.

(c) No form of general solicitation or general advertising within the meaning of Regulation D (including, but not limited to, advertisements, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising) was used by Merger Sub, the Company, the Guarantors, any of their respective affiliates or any of their respective representatives (other than you, as to whom Merger Sub, the Company and the Guarantors make no representation) in connection with the offer and sale of the Notes and the Guarantees.

(d) No directed selling efforts within the meaning of Rule 902 under the Securities Act were used by Merger Sub, the Company, the Guarantors or any of their respective affiliates or any of their respective representatives (other than you, as to whom Merger Sub, the Company and the Guarantors make no representation) with respect to Notes sold outside the United States to Non-U.S. Persons, and Merger Sub, the Company, the Guarantors or any of their respective affiliates or any of their respective representatives and any person acting on its or their behalf (other than you, as to whom Merger Sub, the Company and the Guarantors make no representation) has complied with and will implement the "offering restrictions" required by Rule 902 under the Securities Act.

(e) Each of the Preliminary Offering Memorandum, the Pricing Disclosure Package and the Final Offering Memorandum, each as of its respective date, contains all the information specified in, and meeting the requirements of, Rule 144A(d)(4) under the Securities Act.

(f) Neither Merger Sub, the Company, any Guarantor, any of their respective affiliates or any of their respective representatives nor any other person acting on behalf of Merger Sub, the Company or any Guarantor has sold or issued any securities that would be integrated with the offering of the Notes contemplated by this Agreement pursuant to the Securities Act, the rules and regulations thereunder or the interpretations thereof by the Commission.

(g) The Preliminary Offering Memorandum, the Pricing Disclosure Package and the Final Offering Memorandum have been prepared by Merger Sub for use by the Initial Purchasers in connection with the Exempt Resales. No order or decree preventing the use of the Preliminary Offering Memorandum, the Pricing Disclosure Package or the Final Offering Memorandum, or any order asserting that the transactions contemplated by this Agreement are subject to the registration requirements of the Securities Act has been issued, and no proceeding for that purpose has commenced or is pending or, to the knowledge of the Issuer or any of the Guarantors, is contemplated.

(h) The Final Offering Memorandum will not, as of its date or as of the Closing Date, contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under
which they were made, not misleading; provided that no representation or warranty is made as to information contained in or omitted from the Final Offering Memorandum in reliance upon and in conformity with written information furnished to the Issuer through the Representatives by or on behalf of any Initial Purchaser specifically for inclusion therein, which information is specified in Section 8(e).

(i) The Pricing Disclosure Package did not, as of the Applicable Time, contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that no representation or warranty is made as to information contained in or omitted from the Pricing Disclosure Package in reliance upon and in conformity with written information furnished to the Issuer through the Representatives by or on behalf of any Initial Purchaser specifically for inclusion therein, which information is specified in Section 8(e).

(j) The Issuer and the Guarantors have not made any offer to sell or solicitation of an offer to buy the Notes that would constitute a "free writing prospectus" (if the offering of the Notes was made pursuant to a registered offering under the Securities Act), as defined in Rule 405 under the Securities Act (a "Free Writing Offering Document") without the prior consent of the Representatives; any such Free Writing Offering Document the use of which has been previously consented to by the Initial Purchasers is listed on Schedule IV(B) hereto. Each such Free Writing Offering Document, when taken together with the Pricing Disclosure Package, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Issuer makes no representation and warranty with respect to any statements or omissions made in each such Free Writing Offering Document in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Issuer in writing by such Initial Purchaser through the Representatives expressly for use in any Free Writing Offering Document.

(k) Each of Merger Sub, the Company, the Guarantors and their respective subsidiaries has been duly organized, is validly existing and in good standing as a corporation or other business entity under the laws of its jurisdiction of organization and is duly qualified to do business and in good standing as a foreign corporation or other business entity in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, reasonably be expected to have a material adverse effect on the condition (financial or otherwise), results of operations or business of the Company and its subsidiaries taken as a whole (a "Material Adverse Effect"). Each of Merger Sub, the Company, the Guarantors and their respective subsidiaries has all power and authority necessary to own or hold its properties and to conduct the businesses in which it is engaged except as would not reasonably be expected to have a Material Adverse Effect. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed on Schedule V hereto.
The Company has the actual capitalization set forth in each of the Pricing Disclosure Package and the Final Offering Memorandum as of the date set forth therein. All of the issued shares of capital stock of each subsidiary of the Company have been duly authorized and validly issued, are, to the extent applicable, fully paid and non-assessable and all such shares owned directly or indirectly by the Company are free and clear of all liens, encumbrances, equities or claims, except for such liens, encumbrances, equities or claims as would not, in the aggregate, reasonably be expected to have a Material Adverse Effect or as incurred in connection with the Senior Credit Facilities.

Merger Sub has all requisite corporate power and authority to execute, deliver and perform its obligations under the Indenture. The Indenture has been duly and validly authorized by Merger Sub and, upon its execution and delivery and, assuming due authorization, execution and delivery by the Trustee, will constitute the valid and binding agreement of Merger Sub, enforceable against Merger Sub in accordance with its terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors’ rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law). Each of the Company and the Guarantors has all requisite corporate or other organizational power and authority to execute, deliver and perform its obligations under the Indenture (as supplemented by the Supplemental Indenture). The Supplemental Indenture will, on or prior to the Merger Date, be duly and validly authorized by the Company and the Guarantors, and, upon its execution and delivery and, assuming due authorization, execution and delivery by the Trustee, the Indenture (as supplemented by the Supplemental Indenture) will constitute the valid and binding agreement of the Company and the Guarantors, enforceable against the Company and the Guarantors in accordance with its terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors’ rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law). No qualification of the Indenture under the Trust Indenture Act of 1939 (the “Trust Indenture Act”) is required in connection with the offer and sale of the Notes contemplated hereby or in connection with the Exempt Resales. The Indenture will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

The Issuer has all requisite corporate power and authority to execute, issue, sell and perform its obligations under the Notes. On the Closing Date, the Notes will have been duly authorized by the Issuer and, when duly executed by the Issuer in accordance with the terms of the Indenture, assuming due authentication of the Notes by the Trustee, upon delivery to the Initial Purchasers against payment therefor in accordance with the terms hereof, will be validly issued and delivered and will constitute valid and binding obligations of the Issuer entitled to the benefits of the Indenture, enforceable against the Issuer in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors’ rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law). The Notes will conform in all material
respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(o) The Issuer has all requisite corporate power and authority to execute, issue and perform its obligations under the Exchange Notes. On the Closing Date, the Exchange Notes will have been duly and validly authorized by the Issuer and if and when issued and authenticated in accordance with the terms of the Indenture and delivered in accordance with the Exchange Offer provided for in the Registration Rights Agreement, will be validly issued and delivered and will constitute valid and binding obligations of the Issuer entitled to the benefits of the Indenture, enforceable against the Issuer in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(p) Each of the Company and the Guarantors has all requisite corporate or other organizational power and authority to enter into the Joinder Agreement. On the Merger Date, the Joinder Agreement will have been duly and validly authorized by the Company and the Guarantors and, upon consummation of the Merger, will have been duly executed and delivered by the Company and the Guarantors.

(q) Each Guarantor has all requisite corporate or other organizational power and authority to execute, issue and perform its obligations under the Guarantees. On the Merger Date, the Guarantees will have been duly and validly authorized by the Guarantors and when the Supplemental Indenture is duly executed and delivered by the Guarantors in accordance with its terms and upon the due execution, authentication and delivery of the Notes in accordance with the Indenture and the issuance of the Notes in the sale to the Initial Purchasers contemplated by this Agreement, will constitute valid and binding obligations of the Guarantors, enforceable against the Guarantors in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(r) Each Guarantor has all requisite corporate or other organizational power and authority to issue and perform its obligations under the Exchange Guarantees. On the Merger Date, the Exchange Guarantees will have been duly and validly authorized by the Guarantors and if and when executed and delivered by the Guarantors in accordance with the terms of the Indenture and upon the due execution and authentication of the Exchange Notes in accordance with the Indenture and the issuance and delivery of the Exchange Notes in the Exchange Offer contemplated by the Registration Rights Agreement, will be validly issued and delivered and will constitute valid and binding obligations of the Guarantors entitled to the benefits of the Indenture, enforceable against the Guarantors in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable
(s) Each of Merger Sub, the Company and each Guarantor has all requisite corporate power and authority to execute, deliver and perform its obligations under the Registration Rights Agreement and the Registration Rights Agreement Joinder, as applicable. The Registration Rights Agreement has been duly authorized by Merger Sub, and on the Merger Date the Registration Rights Agreement Joinder will have been duly and validly authorized by the Company and the Guarantors, and when executed and delivered by Merger Sub, the Company and the Guarantors, as applicable, in accordance with the terms hereof and thereof, will be validly executed and delivered, and (assuming the due authorization, execution and delivery thereof by you) the Registration Rights Agreement will be the legally valid and binding obligation of Merger Sub and, upon the execution and delivery of the Registration Rights Agreement Joinder, the Company and the Guarantors in accordance with the terms thereof, enforceable against the Issuer and the Guarantors in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws relating to or affecting creditor's rights generally, by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) and, as to rights of indemnification and contribution, by principles of public policy. The Registration Rights Agreement will conform in all material respects to the description thereof in each of the Pricing Disclosure Package and the Final Offering Memorandum.

(t) The Escrow Agreement has been duly authorized by Merger Sub, and if executed and delivered by Merger Sub on the Closing Date as contemplated by this Agreement, will be a valid and binding agreement of Merger Sub, enforceable against Merger Sub in accordance with its terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(u) If executed and delivered in accordance with the terms of this Agreement, the provisions of the Escrow Agreement will be effective to create a valid and enforceable security interest in favor of the Trustee for the benefit of the holders of the Notes in the right, title and interest of Merger Sub in the Escrow Account. The security interest granted under the Escrow Agreement to the Trustee in the right, title and interest of Merger Sub in the Escrow Account, assuming all filings and other actions contemplated by the Escrow Agreement to perfect such security interest are made or taken, will constitute a perfected, first priority (subject to any lien in favor of the Escrow Agent or the Trustee arising under the Escrow Agreement or the Indenture) security interest.

(v) Merger Sub has and, on or prior to the date of the Merger, if the Merger Date occurs, the Company will have all requisite corporate power and authority to consummate the Merger and the Acquisition.
(w) This Agreement has been duly and validly authorized, executed and delivered by Merger Sub.

(x) The issue and sale of the Notes and the Guarantees, the execution, delivery and performance by Merger Sub, the Company and the Guarantors of the Transaction Documents, as applicable, and the consummation of the transactions contemplated hereby and thereby, will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any lien, charge or encumbrance upon any property or assets of Merger Sub, the Company or the Guarantors, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license, lease or other agreement or instrument to which Merger Sub, the Company or the Guarantors is a party or by which Merger Sub, the Company or the Guarantors is bound or to which any of the property or assets of Merger Sub, the Company or the Guarantors is subject, other than any lien, charge or encumbrance upon any property or assets of Merger Sub, the Company or the Guarantors incurred in connection with the Escrow Agreement or the Senior Credit Facilities, (ii) result in any violation of the provisions of the charter or by-laws (or similar organizational documents) of Merger Sub, the Company or the Guarantors, or (iii) result in any violation of any statute or any judgment, order, decree, rule or regulation of any court or governmental agency or body having jurisdiction over Merger Sub, the Company, the Guarantors or any of their respective subsidiaries or any of their properties or assets, except with respect to clauses (i) and (iii), as would not reasonably be expected to have a Material Adverse Effect.

(y) No consent, approval, authorization or order of, or filing, registration or qualification with any court or governmental agency or body having jurisdiction over Merger Sub, the Company, the Guarantors or any of their respective subsidiaries or any of their properties or assets is required for the issue and sale of the Notes and the Guarantees, the execution, delivery and performance by the Issuer and the Guarantors of the Transaction Documents, as applicable, and the consummation of the transactions contemplated hereby and thereby, except for (i) the filing of a registration statement by the Issuer with the Commission pursuant to the Securities Act as required by the Registration Rights Agreement, (ii) such consents, approvals, authorizations, orders, filings, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Notes by the Initial Purchasers, (iii) a favorable vote of the stockholders of the Company approving the acquisition and consummation of the Merger, in the case of clauses (iii) and (iv) above, each of which shall have been obtained or made on or prior to the Merger Date.

(z) The historical financial statements (including the related notes and supporting schedules) included in the Pricing Disclosure Package and the Final Offering Memorandum present fairly in all material respects the financial condition, results of operations and cash flows of the entities purported to be shown thereby, on the dates and for the periods indicated, and have been prepared in conformity with accounting principles generally accepted in the United States applied on a consistent basis throughout the periods involved, except as otherwise stated therein.
The pro forma financial statements included in the Pricing Disclosure Package and the Final Offering Memorandum include assumptions that provide a reasonable basis for presenting the significant effects directly attributable to the transactions and events described therein, the related pro forma adjustments used in the preparation thereof give appropriate effect to those assumptions, and the pro forma adjustments reflect the proper application of those adjustments to the historical financial statement amounts in the pro forma financial statements included in the Pricing Disclosure Package. The pro forma financial statements included in the Pricing Disclosure Package have been prepared in accordance with the Commission's rules and guidance with respect to pro forma financial information (except as otherwise noted in the Pricing Disclosure Package and Final Offering Memorandum). The pro forma financial statements included in the Pricing Disclosure Package and the Final Offering Memorandum comply as to form with the applicable accounting requirements of Rule 11-02 of Regulation S-X under the Securities Act (except that additional periods have been presented), and the pro forma adjustments have been properly applied to the historical amounts in the compilation of those statements.

KPMG LLP, who have certified certain financial statements of the Company, whose report appears in the Pricing Disclosure Package and the Final Offering Memorandum and who have delivered an initial letter referred to in Section 7(e) hereof, are independent registered public accountants as required by the Securities Act and the rules and regulations thereunder.

The Company maintains a system of internal control over financial reporting sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization, (ii) transactions are recorded as necessary to permit preparation of the Company's financial statements in conformity with accounting principles generally accepted in the United States and to maintain accountability for its assets, (iii) access to the Company's assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for the Company's assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

Since the date of the latest audited financial statements included in the Pricing Disclosure Package and the Final Offering Memorandum, there has not been any material adverse change in the condition (financial or otherwise), results of operations or business of the Company and its subsidiaries, taken as a whole, except as described in the Pricing Disclosure Package.

The Issuer, the Guarantors and each of their respective subsidiaries own or lease all such real and personal property necessary to the conduct of their respective businesses as presently conducted, except as would not reasonably be expected to have a Material Adverse Effect.

The Company and each of its subsidiaries have such certificates, authorizations and permits issued by the appropriate federal, state or foreign authorities ("Permits") necessary to conduct their respective businesses in the manner described in
the Pricing Disclosure Package and the Final Offering Memorandum, except for any of the foregoing that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect or except as described in the Pricing Disclosure Package and the Final Offering Memorandum. Neither the Company, nor any of its subsidiaries has received written notice of any proceedings related to the revocation or modification of any such Permits that, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to have a Material Adverse Effect, except as described in the Pricing Disclosure Package and the Final Offering Memorandum.

(gg) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the Company and each of its subsidiaries own or possess, or can acquire on reasonable terms, all material patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks and trade names currently employed by them in connection with the business now operated by them. Neither the Company nor any of its subsidiaries has received any written notice of infringement of or conflict with asserted rights of others with respect to any of the foregoing which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect, except as described in the Pricing Disclosure Package and the Final Offering Memorandum.

(hh) Except as described in the Pricing Disclosure Package and the Final Offering Memorandum, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject that would, in the aggregate, reasonably be expected to have a Material Adverse Effect or would, in the aggregate, reasonably be expected to have a material adverse effect on the performance by the Company and the Guarantors of this Agreement, the Indenture, the Notes, the Guarantees or the consummation of any of the transactions contemplated hereby. To the Issuer's and each Guarantors' knowledge, no such proceedings are threatened or contemplated by governmental authorities or others.

(ii) The Company, the Guarantors and their respective subsidiaries, taken as a whole, are insured by insurers believed by the Company to be of recognized financial responsibility against such losses and risks and in such amounts as are believed to be reasonable for the businesses in which they are engaged, except as described in the Offering Memorandum.

(jj) Except as described in the Pricing Disclosure Package and the Final Offering Memorandum, no labor disturbance by or dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Issuer, is imminent that would reasonably be expected to have a Material Adverse Effect.

(kk) Except as described in the Pricing Disclosure Package and the Final Offering Memorandum, (i) there are no proceedings that are pending, or to the
knowledge of the Issuer, threatened, against the Company or any of the Guarantors or any of their respective subsidiaries under any laws, regulations, ordinances, rules, orders, judgments, decrees, permits or other legal requirements of any governmental authority, including without limitation any international, foreign, national, state, provincial, regional, or local authority, relating to pollution, the protection of human health or safety (to the extent related to exposure to hazardous or toxic substances), the environment, or natural resources, including with respect to the use, handling, storage, manufacturing, transportation, treatment, discharge, disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws") in which a governmental authority is also a party, (ii) to the knowledge of the Issuer or the Guarantors, they are in compliance with Environmental Laws, and there are no liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminates and (iii) none of the Company, the Guarantors and their respective subsidiaries anticipates capital expenditures relating to Environmental Laws, in each case, that would reasonably be expected to have a Material Adverse Effect.

(ii) Except, in each case, as would not have a Material Adverse Effect, the Company, the Guarantors and each of their respective subsidiaries have filed all federal, state, local and foreign tax returns required to be filed through the date hereof, subject to permitted extensions, and have paid all taxes due, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with generally accepted accounting principles.

(m) Except, in each case, as would not have a Material Adverse Effect, (i) each "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Security Act of 1974, as amended ("ERISA")) for which the Company or any member of its "Controlled Group" (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the "Code")) would have any liability (each a "Plan") has been maintained in compliance with its terms and with the requirements of all applicable statutes, rules and regulations including ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan excluding transactions effected pursuant to a statutory or administrative exemption; (iii) with respect to each Plan subject to Title IV of ERISA (A) no "reportable event" (within the meaning of Section 4043(c) of ERISA) has occurred or is reasonably expected to occur, (B) there is no current "accumulated funding deficiency" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, and none is reasonably expected to occur, and (C) neither the Company or any member of its Controlled Group has incurred, or reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation in the ordinary course and without default) in respect of a Plan (including a "multiemployer plan", within the meaning of Section 4001(c)(3) of ERISA); and (iv) each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification.
(nn) As of the Merger Date, except as may be limited by applicable state corporation law or comparable laws, no domestic subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in the Pricing Disclosure Package and the Final Offering Memorandum or contemplated in the Senior Credit Facilities Documentation.

(oo) None of Merger Sub, the Company or the Guarantors is, and after giving effect to the offer and sale of the Notes and the application of the proceeds therefrom as described under "Use of Proceeds" in each of the Pricing Disclosure Package and the Final Offering Memorandum will be, an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended and the rules and regulations of the Commission thereunder.

(pp) Immediately after the consummation of the Transactions and the other transactions contemplated by this Agreement, (i) the fair value and present fair saleable value of the assets of the Issuer and its subsidiaries taken as a whole on a going concern basis will exceed the sum of their stated liabilities and identified contingent liabilities taken as a whole; and (ii) the Issuer and its subsidiaries on a consolidated basis will not be (a) left with unreasonably small capital with which to carry on their business as it is proposed to be conducted, (b) unable to pay their debts (contingent or otherwise) as they will mature or (c) otherwise insolvent.

(qq) None of Merger Sub, the Company or their respective affiliates have taken or will take, directly or indirectly, any action designed to or that has constituted or that could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Issuer or the Guarantors in connection with the offering of the Notes.

(rr) None of Merger Sub, the Company nor any of their respective subsidiaries are a party to any contract, agreement or understanding with any person (other than fees contemplated by this Agreement) that could give rise to a valid claim against the Initial Purchasers for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Notes.

(ss) None of the transactions contemplated by this Agreement (including, without limitation, the use of the proceeds from the sale of the Notes), will violate or result in a violation of Section 7 of the Exchange Act, or any regulation promulgated thereunder, including, without limitation, Regulations T, U and X of the Board of Governors of the Federal Reserve System.

(tt) None of Merger Sub, the Company or their respective affiliates have taken or will take, directly or indirectly, any action designed to or that has constituted or that
could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Issuer or the Guarantors in connection with the offering of the Notes.

(uu) Neither Merger Sub, the Company nor any of its subsidiaries, nor, to the knowledge of the Issuer and the Guarantors, any director, officer, agent, employee or other person associated with or acting on behalf of Merger Sub, the Company, the Guarantors or any of their respective subsidiaries, has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment.

(vv) The operations of Merger Sub, the Company and any of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving Merger Sub, the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Issuer, threatened.

(ww) Neither Merger Sub, the Company nor any of its subsidiaries nor, to the knowledge of the Issuer, any director, officer, agent, employee or affiliate of Merger Sub, the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Issuer will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

Any certificate signed by any officer of Merger Sub, the Company or any Guarantor and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Notes shall be deemed a representation and warranty by Merger Sub, the Company or such Guarantor, jointly and severally, as to matters covered thereby, to each Initial Purchaser.

3. Purchase of the Notes by the Initial Purchasers, Agreements to Sell, Purchase and Resell.

(a) The Issuer agrees, on the basis of the representations, warranties, covenants and agreements of the Initial Purchasers contained herein and subject to all the terms and conditions set forth herein, to issue and sell to the Initial Purchasers on the Closing Date and, upon the basis of the representations, warranties and agreements of the Issuer and the Guarantors
herein contained and subject to all the terms and conditions set forth herein, each Initial Purchaser agrees, severally and not jointly, to purchase on the Closing Date from Merger Sub, at a purchase price of 100% of the principal amount thereof (the "Purchase Price"), the principal amount of Notes set forth opposite the name of such Initial Purchaser in Schedule I hereto. Merger Sub agrees, if the Merger Date is the Closing Date or if the Completion Date occurs, to pay on such date to each Initial Purchaser a fee equal to 2.50% of the principal amount of the Notes set forth opposite the name of such Initial Purchaser in Schedule I hereto. The Issuer shall not be obligated to deliver any of the securities to be delivered hereunder except upon payment for all of the securities to be purchased as provided herein.

(b) Each of the Initial Purchasers, severally and not jointly hereby represents and warrants to the Issuer that it will offer the Notes for sale upon the terms and conditions set forth in this Agreement and in the Pricing Disclosure Package. Each of the Initial Purchasers, severally and not jointly, hereby represents and warrants to, and agrees with, the Issuer, on the basis of the representations, warranties and agreements of the Issuer and the Guarantors, that such Initial Purchaser: (i) is a QIB with such knowledge and experience in financial and business matters as are necessary in order to evaluate the merits and risks of an investment in the Notes; (ii) is purchasing the Notes pursuant to a private sale exempt from registration under the Securities Act; (iii) in connection with the Exempt Resales, will solicit offers to buy the Notes only from, and will offer to sell the Notes only to, the Eligible Purchasers in accordance with this Agreement and on the terms contemplated by the Pricing Disclosure Package; and (iv) will not offer or sell the Notes, nor has it offered or sold the Notes by, or otherwise engaged in, any form of general solicitation or general advertising (within the meaning of Regulation D, including, but not limited to, advertisements, articles, notices or other communications published in any newspaper, magazine, or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising) and will not engage in any directed selling efforts within the meaning of Rule 902 under the Securities Act, in connection with the offering of the Notes. The Initial Purchasers have advised the Issuer that it will offer the Notes to Eligible Purchasers at a price initially equal to 100.0% of the principal amount thereof, plus accrued interest, if any, from the date of issuance of the Notes.

(c) The Initial Purchasers have not nor, prior to the later to occur of (A) the Closing Date and (B) completion of the distribution of the Notes, will not, use, authorize use of, refer to or distribute any material in connection with the offering and sale of the Notes other than (i) the Preliminary Offering Memorandum, the Pricing Disclosure Package, the Final Offering Memorandum, (ii) any written communication prepared by such Initial Purchaser and approved by the Issuer in writing, or (iii) any written communication relating to or that contains the terms of the Notes and/or other information that was included (including through incorporation by reference) in the Pricing Disclosure Package or the Final Offering Memorandum.

(d) Each of the Initial Purchasers hereby acknowledges that upon original issuance thereof, and until such time as the same is no longer required under the applicable requirements of the Securities Act, the Notes (and all securities issued in exchange therefore or in substitution thereof) shall bear legends substantially in the forms as set forth in the "Notice to Investors" section of the Pricing Disclosure Package and Final Offering Memorandum (along with such other legends as the Issuer and its counsel deem necessary).
Each of the Initial Purchasers understands that the Issuer and, for purposes of the opinions to be delivered to the Initial Purchasers pursuant to Sections 5(n), 7(b) and 7(c) hereof, counsel to the Issuer and counsel to the Initial Purchasers, will rely upon the accuracy and truth of the foregoing representations, warranties and agreements, and the Initial Purchasers hereby consent to such reliance.

4. Delivery of the Notes and Payment Therefor. Payment for the Notes shall be made at the office of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, (i) if the Merger has not been consummated by 1:00 p.m., New York City time, on February 16, 2011 (the "Closing Date"), by deposit of the Purchase Price in the Escrow Account or (ii) if the Merger is consummated on or prior to 1:00 p.m., New York City time, on the Closing Date, by payment of the Purchase Price, plus accrued interest, if any, to the Closing Date, to the account or accounts specified by the Issuer, in the case of each of clauses (i) and (ii), in Federal or other funds immediately available in New York City against delivery of such Notes for the respective accounts of the several Initial Purchasers. For the avoidance of doubt, unless the Merger is consummated subsequent to the Closing Date, the Merger Date, as referred to herein, shall be the same date as the Closing Date. The place of closing for the Notes and the Closing Date may be varied by agreement between the Initial Purchasers and the Issuer.

The Notes will be delivered to the Initial Purchasers, or the Trustee as custodian for The Depository Trust Company ("DTC"), against payment by or on behalf of the Initial Purchasers of the purchase price therefor by wire transfer in immediately available funds, by causing DTC to credit the Notes to the account of the Initial Purchasers at DTC. The Notes will be evidenced by one or more global securities in definitive form (the "Global Notes") and will be registered, in the case of the Global Notes, in the name of Cede & Co. as nominee of DTC, and in the other cases, in such names and in such denominations as the Initial Purchasers shall request prior to 10:00 A.M., New York City time, on the second business day preceding the Closing Date. The Notes to be delivered to the Initial Purchasers shall be made available to the Initial Purchasers in New York City for inspection and packaging not later than 10:00 A.M., New York City time, on the business day next preceding the Closing Date.

5. Agreements of the Issuer and the Guarantors. The Issuer agrees and, upon the execution and delivery of the Joinder Agreement, the Guarantors, jointly and severally, agree with each of the Initial Purchasers as follows:

   (a) The Issuer and the Guarantors will promptly furnish to the Initial Purchasers, without charge, such number of copies of the Final Offering Memorandum as may then be amended or supplemented as they may reasonably request.

   (b) The Issuer will prepare the Final Offering Memorandum in a form approved by the Representatives and will not make any amendment or supplement to the Pricing Disclosure Package or to the Final Offering Memorandum of which the Representatives shall not previously have been advised or to which it shall reasonably object after being so advised.

   (c) The Issuer and each of the Guarantors consents to the use of the Pricing Disclosure Package and the Final Offering Memorandum in accordance with the
securities or Blue Sky laws of the jurisdictions in which the Notes are offered by the Initial Purchasers and by all dealers to whom Notes may be sold, in connection with the offering and sale of the Notes.

(d) If, at any time prior to completion of the distribution of the Notes by the Initial Purchasers to Eligible Purchasers, any event occurs or information becomes known that, in the judgment of the Issuer or in the opinion of counsel for the Initial Purchasers, should be set forth in the Pricing Disclosure Package or the Final Offering Memorandum so that the Pricing Disclosure Package or the Final Offering Memorandum, as then amended or supplemented, does not include any untrue statement of material fact, or omit to state a material fact, necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary to supplement or amend the Pricing Disclosure Package or the Final Offering Memorandum in order to comply with any law, the Issuer will forthwith prepare an appropriate supplement or amendment thereto, and will expeditiously furnish to the Initial Purchasers and dealers a reasonable number of copies thereof.

(e) None of Merger Sub, the Company nor any Guarantor will make any offer to sell or solicitation of an offer to buy the Notes that would constitute a Free Writing Offering Document without the prior consent of the Representatives, which consent shall not be unreasonably withheld or delayed.

(f) Promptly from time to time to take such action as the Initial Purchasers may reasonably request to qualify or register (or obtain exemptions from qualifying or registering) the Notes for offering and sale under the securities or Blue Sky laws of such jurisdictions as the Initial Purchasers may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Notes; provided that in connection therewith the Issuer shall not be required to (i) qualify as a foreign corporation in any jurisdiction in which it would not otherwise be required to so qualify, (ii) file a general consent to service of process in any such jurisdiction, or (iii) subject itself to taxation in any jurisdiction in which it would not otherwise be required to so qualify, (ii) file a general consent to service of process in any such jurisdiction, or (iii) subject itself to taxation in any jurisdiction in which it would not otherwise be subject.

(g) For a period commencing on the date hereof and ending on the 90th day after the date of the Final Offering Memorandum, the Issuer and the Guarantors agree not to, directly or indirectly, (i) offer for sale, sell, or otherwise dispose of (or enter into any transaction or device that is designed to, or would be expected to, result in the disposition by any person at any time in the future of) any capital markets debt securities of the Issuer substantially similar to the Notes or securities convertible into or exchangeable for such debt securities of the Issuer, or sell or grant options, rights or warrants with respect to such debt securities of the Issuer or securities convertible into or exchangeable for such debt securities of the Issuer, (ii) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of such debt securities of the Issuer, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of debt securities of the Issuer or other securities, in cash or otherwise or (iii) publicly announce an offering of any debt securities of the Issuer substantially similar to the Notes or securities convertible or
exchangeable into such debt securities, in each case without the prior written consent of Merrill Lynch and Morgan Stanley, on behalf of the Initial Purchasers.

(h) So long as any of the Notes are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, unless they become subject to and comply with Section 13 or 15(d) of the Exchange Act or file the periodic reports contemplated by such provisions pursuant to the terms of the Indenture, provide or make available electronically to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Securities Act (it being acknowledged and agreed that, prior to the first date on which information is required to be provided under the Indenture, the information contained in the Final Offering Memorandum is sufficient for this purpose and it being further agreed that delivery to the holders or prospective holders of the Notes of the information required to be delivered under the Indenture will be deemed to satisfy this requirement). This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(i) The Issuer will apply the net proceeds from the sale of the Notes to be sold by it hereunder substantially in accordance with the description set forth in the Pricing Disclosure Package and the Final Offering Memorandum under the caption "Use of Proceeds."

(j) The Issuer will use its reasonable best efforts to permit the Notes to be eligible for clearance and settlement through DTC.

(k) During the period from the Closing Date until one year after the Closing Date, the Issuer will not, and will not permit any of its subsidiaries to, resell any Notes that have been acquired by any of them except for Notes resold in a transaction registered under the Securities Act.

(l) The Issuer shall and shall cause its affiliates to not seek the release of the Escrow Property from the Escrow Account unless such release is in compliance with the terms of the Indenture and the Escrow Agreement.

(m) The Issuer and its controlled affiliates will not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in the Securities Act) that would be integrated with the sale of the Notes in a manner that would require the registration under the Securities Act of the sale to the Initial Purchasers or the Eligible Purchasers of the Notes. The Issuer and the Guarantors will take reasonable precautions designed to insure that any offer or sale, direct or indirect, in the United States or to any U.S. person (as defined in Rule 902 under the Securities Act), of any Notes or any substantially similar security issued by Merger Sub, the Company or any Guarantor, within six months subsequent to the date on which the distribution of the Notes has been completed (as notified to the Issuer by the Initial Purchasers), is made under restrictions and other circumstances reasonably designed not to affect the status of the offer and sale.
of the Notes in the United States and to U.S. persons contemplated by this Agreement as transactions exempt from the registration provisions of the Securities Act, including any sales pursuant to Rule 144A under, or Regulations D or S of, the Securities Act.

(n) On the Merger Date, the Company and each Guarantor will (A) execute the Purchase Agreement Joinder, the Supplemental Indenture and the Registration Rights Agreement Joinder and (B) cause (i) Simpson Thacher & Bartlett LLP to furnish to the Initial Purchasers its written opinion (for the avoidance of doubt, without any negative assurance letter), as counsel to the Company and the Guarantors, addressed to the Initial Purchasers and dated the Merger Date, substantially in the form of Exhibit B hereto (with respect to those matters set forth therein that are contemplated to be given only on the Merger Date), and (ii) James Potter to furnish to the Initial Purchasers his written opinion, as General Counsel of the Company, addressed to the Initial Purchasers and dated the Merger Date, substantially in the form of Exhibit C hereto.

6. Expenses. Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, Merger Sub agrees, and, on and after the Merger Date, the Company and the Guarantors jointly and severally agree, to pay all expenses, costs, fees and taxes incident to and in connection with: (a) the preparation, printing, filing and distribution of the Preliminary Offering Memorandum, the Pricing Disclosure Package and the Final Offering Memorandum (including, without limitation, financial statements and exhibits) and all amendments and supplements thereto (including the fees, disbursements and expenses of Merger Sub's, the Company's and the Guarantors' accountants and counsel, but not, however, legal fees and expenses of the Initial Purchasers' counsel incurred in connection therewith); (b) the preparation, printing (including, without limitation, word processing and duplication costs) and delivery of this Agreement, the Joinder Agreement, the Indenture, the Registration Rights Agreement, the Registration Rights Joinder Agreement, the Escrow Agreement, all Blue Sky memoranda and all other agreements, memoranda, correspondence and other documents printed and delivered in connection therewith and with the Exempt Resales (but not, however, legal fees and expenses of the Initial Purchasers' counsel incurred in connection with any of the foregoing other than fees of such counsel plus reasonable disbursements incurred in connection with the preparation, printing and delivery of such Blue Sky memoranda); (c) the issuance and delivery by the Issuer of the Notes and by the Guarantors of the Guarantees and any taxes payable in connection therewith; (d) the qualification of the Notes and Exchange Notes for offer and sale under the securities or Blue Sky laws of the several states and any foreign jurisdictions as the Initial Purchasers may designate (including, without limitation, the reasonable fees and disbursements of the Initial Purchasers' counsel relating to such registration or qualification); (e) the furnishing of such copies of the Preliminary Offering Memorandum, the Pricing Disclosure Package and the Final Offering Memorandum, and all amendments and supplements thereto, as may be reasonably requested for use in connection with the Exempt Resales; (f) the preparation of certificates for the Notes (including, without limitation, printing and engraving thereof); (g) the approval of the Notes by DTC for “book-entry” transfer (including fees and expenses of counsel for the Initial Purchasers); (h) the rating of the Notes and Exchange Notes; (i) the obligations of the Trustee, any agent of the Trustee and the counsel for the Trustee in connection with the Indenture and the Notes and the Exchange Notes, and the costs and charges of the Escrow Agent (if any); (j) the performance by the Issuer and the Guarantors of their other obligations under this Agreement; (k) the travel expenses incurred by or on behalf of
representatives of Merger Sub and the Company in connection with attending or hosting meetings with prospective purchasers of the Notes, and expenses associated with any electronic road show (it being understood that the Initial Purchasers, collectively, shall bear their own transportation expenses and one half of the costs associated with any chartered aircraft); and (l) any other expenses of Merger Sub and the Company incident to the performance by Merger Sub and the Company of their obligations hereunder; provided, however that except as specifically provided in this Section 6 and in Section 11, the Initial Purchasers shall pay their own costs and expenses in connection with presentations for prospective purchasers of the Notes.

7. Conditions to Initial Purchasers’ Obligations. The respective obligations of the Initial Purchasers hereunder are subject to the accuracy in all material respects (except to the extent already qualified by materiality, in which case such obligations shall be subject to the accuracy in all respects), when made and on and as of the Closing Date, of the representations and warranties of the Issuer contained herein, and the performance by the Issuer of its obligations hereunder in all material respects, and to each of the following additional terms and conditions:

(a) All corporate proceedings and other legal matters incident to the authorization, form and validity of the Transaction Documents, the Pricing Disclosure Package and the Final Offering Memorandum, and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for the Initial Purchasers, and the Issuer shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(b) Simpson Thacher & Bartlett LLP shall have furnished to the Initial Purchasers its written opinion and negative assurance letter, as counsel to Merger Sub, addressed to the Initial Purchasers and dated the Closing Date, substantially in the form of Exhibit B hereto.

(c) The Initial Purchasers shall have received from Cahill Gordon & Reindel LLP, counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date, with respect to the issuance and sale of the Notes, the Pricing Disclosure Package, the Final Offering Memorandum and other related matters as the Initial Purchasers may reasonably require, and Merger Sub shall have furnished to such counsel such documents and information as such counsel reasonably requests for the purpose of enabling them to pass upon such matters.

(d) At the time of execution of this Agreement, the Initial Purchasers shall have received from KPMG LLP a letter, in form and substance satisfactory to the Initial Purchasers, addressed to the Initial Purchasers and dated the Closing Date, confirming that they are independent public accountants within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission and (ii) stating, as of the date hereof (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Pricing Disclosure Package, as of a date not more than three days prior to the date hereof), the conclusions and findings of such firm with respect to the financial information and

-21-
(iii) covering such other matters as are ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings.

(e) With respect to the letter of KPMG LLP referred to in the preceding paragraph and delivered to the Initial Purchasers concurrently with the execution of this Agreement (the "initial letter"), the Company shall have furnished to the Initial Purchasers a "bring-down letter" of KPMG LLP, addressed to the Initial Purchasers and dated the Closing Date (i) confirming that they are independent public accountants within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission, (ii) stating, as of the Closing Date (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in each of the Pricing Disclosure Package or the Final Offering Memorandum, as of a date not more than three days prior to the date of the Closing Date), the conclusions and findings of such firm with respect to the financial information and other matters covered by the initial letter, and (iii) confirming in all material respects the conclusions and findings set forth in the initial letter.

(f) For the period from and after the date of this Agreement and prior to the Closing Date, there shall not have been any change or development in the condition (financial or otherwise), business or results of operations of the Issuer and its subsidiaries, taken as a whole and after giving effect to the Transactions, except as described in the Pricing Disclosure Package (exclusive of any amendment or supplement thereto), the effect of which is, or would reasonably be expected to become, in the judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Notes on the terms and in the manner contemplated in the Pricing Disclosure Package (exclusive of any amendment or supplement thereto).

(g) Merger Sub shall have furnished or caused to be furnished to the Initial Purchasers dated as of the Closing Date a certificate of an officer of Merger Sub, a statement that:

(i) the representations, warranties and agreements of Merger Sub are true and correct on and as of the Closing Date, and Merger Sub has complied with all its agreements contained herein and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

(ii) such officer has examined the Pricing Disclosure Package and the Final Offering Memorandum, and, in such officer's opinion, (A) the Pricing Disclosure Package, as of the Applicable Time, and the Final Offering Memorandum, as of its date and as of the Closing Date, did not and do not contain any untrue statement of a material fact and did not and do not omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (B) since the date of the Pricing Disclosure Package and the Final Offering Memorandum, no event
has occurred which should have been set forth in a supplement or amendment to the Pricing Disclosure Package and the Final Offering Memorandum.

(h) The Issuer shall have taken all acts reasonably required to be taken by it to have the Notes be eligible for clearance and settlement through DTC.

(i) The Issuer shall have executed and delivered the Registration Rights Agreement, and the Initial Purchasers shall have received an original copy thereof, duly executed by such parties.

(j) The Issuer and the Trustee shall have executed and delivered the Indenture, and the Initial Purchasers shall have received an original copy thereof, duly executed by such parties.

(k) Unless the Merger has been consummated on or prior to 1:00 p.m., New York City time, on the Closing Date, (i) the Issuer, the Trustee and the Escrow Agent shall have executed the Escrow Agreement and the Initial Purchasers shall have received an executed copy thereof; (ii) the Escrow Agent shall have established the Escrow Account and shall have provided to the Initial Purchasers evidence thereof reasonably satisfactory to the Initial Purchasers; and (iii) all other actions to be taken under the Escrow Agreement by the Issuer as of the Closing Date in order to effect the escrow arrangements contemplated by the Pricing Disclosure Package shall have been taken.

(l) Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in securities generally on the New York Stock Exchange, the NASDAQ or the NYSE Amex Equities or in the over-the-counter market, or trading in any securities of the Company on any exchange or in the over-the-counter market, shall have been suspended or materially limited or the settlement of such trading generally shall have been materially disrupted or minimum prices shall have been established on any such exchange or such market by the Commission, by such exchange or by any other regulatory body or governmental authority having jurisdiction, (ii) a general moratorium on commercial banking activities shall have been declared by federal or state authorities, or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war, or other calamity or crisis the effect of which on financial markets is such as to make it, in the judgment of the Representatives, impractical or inadvisable to proceed with the offering, sale or delivery of the Notes as contemplated in the Pricing Disclosure Package (exclusive of any amendment or supplement thereto).

(m) On or prior to the Closing Date, Merger Sub shall have furnished to the Initial Purchasers such further customary certificates and documents as the Initial Purchasers may reasonably request.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Initial Purchasers.

8. Indemnification and Contribution.

-23-
(a) Merger Sub, on the date hereof, agrees to and, upon the execution and delivery of the Joinder Agreement, the Company and each Guarantor, hereby agree, jointly and severally, to indemnify and hold harmless each Initial Purchaser, its affiliates, directors, officers and employees and each person, if any, who controls any Initial Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or action relating to purchases and sales of Notes), to which that Initial Purchaser, affiliate, director, officer, employee or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Offering Memorandum, the Pricing Disclosure Package or the Final Offering Memorandum, or in any amendment or supplement thereto or (B) recorded electronic roadshow made available to investors (the “Recorded Road Show”), or (ii) the omission or alleged omission to state in the Preliminary Offering Memorandum, the Pricing Disclosure Package or the Final Offering Memorandum, or in any amendment or supplement thereto or in the Recorded Road Show, any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, and shall reimburse each Initial Purchaser and each such director, officer, employee or controlling person promptly upon demand, for any legal or other expenses reasonably incurred by that Initial Purchaser, director, officer, employee or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred; provided, however, that Merger Sub, the Company and the Guarantors shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, any untrue statement or alleged untrue statement or omission or alleged omission made in any Preliminary Offering Memorandum, the Pricing Disclosure Package or Final Offering Memorandum, or in any such amendment or supplement thereto or in any the Recorded Road Show, in reliance upon and in conformity with written information concerning such Initial Purchaser furnished to Merger Sub or the Company through Merrill Lynch by or on behalf of any Initial Purchaser specifically for inclusion therein, which information consists solely of the information specified in Section 8(e) with respect to the Preliminary Offering Memorandum and the Final Offering Memorandum. The foregoing indemnity agreement is in addition to any liability that Merger Sub, the Company or the Guarantors may otherwise have to any Initial Purchaser or to any affiliate, director, officer, employee or controlling person of that Initial Purchaser.

(b) Each Initial Purchaser, severally and not jointly, hereby agrees to indemnify and hold harmless as of the date hereof, Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company, each Guarantor, their respective officers and employees, each of their respective affiliates, directors, and each person, if any, who controls, as of the date hereof, Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company, and each Guarantor within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof, to which, as of the date hereof, Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company, any Guarantor or any such director, officer, employee or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the
(c) Promptly after receipt by an indemnified party under this Section 8 of notice of any claim or the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the claim or the commencement of that action; provided, however, that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under this Section 8 except to the extent it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure and; provided, further, that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under this Section 8. If any such claim or action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Section 8 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, that the indemnified party shall have the right to employ counsel to represent the indemnified party and such indemnified party's respective affiliates, directors, officers, employees and controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought by the indemnified party against the indemnifying party under this Section 8, if (i) the indemnifying party and the indemnified party shall have so mutually agreed; (ii) the indemnifying party fails within a reasonable time to retain counsel reasonably satisfactory to the indemnified party; (iii) the indemnified party and its respective directors, officers, employees and controlling persons shall have reasonably concluded, based on the advice of counsel, that there may be legal defenses available to them that are different from or in addition to those available to the indemnifying party; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the indemnifying party, on the one hand, and the indemnified party, on the other hand, and representation of both sets of parties by the same counsel would present a conflict due to actual or potential differing interests between them, and in any such event the fees and expenses of such separate counsel shall be paid by the indemnifying party. No
indemnifying party shall (x) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and does not include a statement as to, or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party, or (y) be liable for any settlement of any such action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with the consent of the indemnifying party or if there be a final judgment of the plaintiff in any such action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

(d) If the indemnification provided for in this Section 8 shall for any reason be unavailable to or insufficient to hold harmless an indemnified party under Section 8(a) or 8(b) in respect of any loss, claim, damage or liability, or any action in respect thereof, referred to therein (other than by virtue of the failure of an indemnifying party to notify the indemnifying party of its right to indemnification pursuant to subsection (a) or (b) above, where such failure materially prejudices the indemnifying party (through the forfeiture of substantive rights or defenses)), then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability, or action in respect thereof, (i) in such proportion as shall be appropriate to reflect the relative benefits received by Merger Sub, the Company and each Guarantor, on the one hand, and the Initial Purchasers, on the other, from the offering of the Notes, or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of, as of the date hereof, Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company and each Guarantor, on the one hand, and the Initial Purchasers, on the other, with respect to the statements or omissions that resulted in such loss, claim, damage or liability, or action in respect thereof, as well as any other relevant equitable considerations. The relative benefits received by Merger Sub, the Company and each Guarantor, on the one hand, and the Initial Purchasers, on the other, with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Notes purchased under this Agreement (before deducting expenses) received by Merger Sub, the Company and each Guarantor, on the one hand, and the total discounts received by the Initial Purchasers with respect to the Notes purchased under this Agreement, on the other hand, bear to the total gross proceeds from the offering of the Notes under this Agreement as set forth on the cover page of the Final Offering Memorandum. The relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by Merger Sub, the Company and the Guarantors, on the one hand, or the Initial Purchasers on the other hand, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission and any other equitable considerations appropriate in the circumstances. For purposes of the preceding two sentences, the net proceeds deemed to be received by the Issuer shall be deemed to be also for the benefit of the Guarantors, and information supplied by Merger Sub and the Company shall also be deemed to have been
supplied by the Guarantors. Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company, each Guarantor, and the Initial Purchasers agree that it would not be just and equitable if contributions pursuant to this Section 8(d) were to be determined by pro rata allocation (even if the Initial Purchasers were treated as one entity for such purpose) or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, damage or liability, or action in respect thereof, referred to above in this Section 8(d) shall be deemed to include, for purposes of this Section 8(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8(d), no Initial Purchaser shall be required to contribute any amount in excess of the amount of the total discount received by such Initial Purchaser with respect to the Notes purchased under this Agreement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Initial Purchasers' obligations to contribute as provided in this Section 8(d) are several in proportion to their respective purchase obligations and not joint.

(e) The Initial Purchasers severally confirm and Merger Sub and, upon the execution and delivery of the Joinder Agreement, the Company and each Guarantor acknowledge and agree that the statements with respect to the offering of the Notes by the Initial Purchasers set forth in the third sentence of the seventh paragraph and in the ninth paragraph under the heading "Plan of Distribution" in the Pricing Disclosure Package and the Final Offering Memorandum are correct and constitute the only information concerning the Initial Purchasers furnished in writing to Merger Sub by or on behalf of the Initial Purchasers specifically for inclusion in the Preliminary Offering Memorandum, the Pricing Disclosure Package, any Free Writing Offering Document, the Recorded Road Show and the Final Offering Memorandum or in any amendment or supplement thereto.


(a) If, on the Closing Date, any Initial Purchaser defaults in its obligations to purchase the Notes that it has agreed to purchase under this Agreement, the remaining non-defaulting Initial Purchasers may in their discretion arrange for the purchase of such Notes by the non-defaulting Initial Purchasers or other persons satisfactory to the Issuer on the terms contained in this Agreement. If, within 36 hours after any such default by any Initial Purchaser, the non-defaulting Initial Purchasers do not arrange for the purchase of such Notes, then the Issuer shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Initial Purchasers to purchase such Notes on such terms. In the event that within the respective prescribed periods, the non-defaulting Initial Purchasers notify the Issuer that they have so arranged for the purchase of such Notes, or the Issuer notifies the non-defaulting Initial Purchasers that it has so arranged for the purchase of such Notes, either the non-defaulting Initial Purchasers or the Issuer may postpone the Closing Date for up to seven full business days in order to effect any changes that in the opinion of counsel for the Issuer or counsel for the Initial Purchasers may be necessary in the Pricing Disclosure Package, the Final Offering Memorandum or in any other document or arrangement, and the Issuer agrees to promptly prepare any amendment or supplement to the Pricing Disclosure Package or the Final Offering Memorandum that effects any such changes. As used in this Agreement, the term

-27-
Initial Purchaser” includes, for all purposes of this Agreement unless the context requires otherwise, any party not listed in Schedule I hereto that, pursuant to this Section 9, purchases Notes that a defaulting Initial Purchaser agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Notes of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Issuer as provided in paragraph (a) above, the aggregate principal amount of such Notes that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Notes, then the Issuer shall have the right to require each non-defaulting Initial Purchaser to purchase the principal amount of Notes that such Initial Purchaser agreed to purchase hereunder plus such Initial Purchaser's pro rata share (based on the principal amount of Notes that such Initial Purchaser agreed to purchase hereunder) of the Notes of such defaulting Initial Purchaser or Initial Purchasers for which such arrangements have not been made; provided that the non-defaulting Initial Purchasers shall not be obligated to purchase more than 110% of the aggregate principal amount of Notes that it agreed to purchase on the Closing Date pursuant to the terms of Section 3.

(c) If, after giving effect to any arrangements for the purchase of the Notes of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Issuer as provided in paragraph (a) above, the aggregate principal amount of such Notes that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Notes, or if the Issuer shall not exercise the right described in paragraph (b) above, then this Agreement shall terminate without liability on the part of the non-defaulting Initial Purchasers. Any termination of this Agreement pursuant to this Section 9 shall be without liability on the part of the Issuer or the Guarantors, except that the Issuer and each of the Guarantors will continue to be liable for the payment of expenses as set forth in Sections 6 and 11 and except that the provisions of Section 8 shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Initial Purchaser of any liability it may have to the Issuer, the Guarantors or any non-defaulting Initial Purchaser for damages caused by its default.

10. Termination. The obligations of the Initial Purchasers hereunder may be terminated by the Initial Purchasers by notice given to and received by the Issuer prior to delivery of and payment for the Notes if, prior to that time, any of the events described in Section 7(f) or (m) shall have occurred or if the Initial Purchasers shall decline to purchase the Notes for any reason permitted under this Agreement.

11. Reimbursement of Initial Purchasers' Expenses. If the sale of the Notes provided for herein is not consummated because of any condition to the obligations of the Initial Purchasers set forth in Section 7 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Issuer or the Guarantors to perform any agreement herein or to comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, including as described in Section 9 hereof, Merger Sub will reimburse the Initial Purchasers through the Representatives on behalf of the Initial Purchasers on demand for all reasonable expenses (including reasonable fees and
disbursements of Cahill Gordon & Reindel LLP) that shall have been incurred by them in connection with the proposed purchase and sale of the Notes.

12. Notices, etc. All statements, requests, notices and agreements hereunder shall be in writing, and:

   (a) if to any Initial Purchaser, shall be delivered or sent by hand delivery, mail, telex, overnight courier or facsimile transmission to Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Bryant Park, New York, New York 10036, Attention: Legal Department (Fax: (917) 267-7085) with a copy to Cahill Gordon & Reindel LLP, Attention: James J. Clark (Fax: (212) 269-5420);

   (b) if to the Issuer or any Guarantor, shall be delivered or sent by mail, telex, overnight courier or facsimile transmission to Del Monte Foods Company, P.O. Box 193575, San Francisco, CA 94119-3575, Attention: Chief Financial Officer (Fax: (415) 222-1632), with a copy to Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, Attention: Joseph H. Kaufman (Fax: (212) 455-2502);

provided, however, that any notice to an Initial Purchaser pursuant to Section 8(c) shall be delivered or sent by hand delivery, mail, telex or facsimile or electronic transmission to such Initial Purchaser at its address set forth in its acceptance telex to Merrill Lynch, which address will be supplied to any other party hereto by Merrill Lynch upon request. Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof. The Issuer shall be entitled to act and rely upon any request, consent, notice or agreement given or made on behalf of the Initial Purchasers by Merrill Lynch.

13. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the Initial Purchasers, the Issuer, the Guarantors and their respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that the representations, warranties, indemnities and agreements of Merger Sub, the Company and the Guarantors contained in this Agreement shall also be deemed to be for the benefit of affiliates, directors, officers and employees of the Initial Purchasers and each person or persons, if any, controlling any Initial Purchaser within the meaning of Section 15 of the Securities Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section 13, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

14. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of Merger Sub, the Company, the Guarantors and the Initial Purchasers contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall survive the delivery of and payment for the Notes and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of any of them or any person controlling any of them.

15. Definition of the Terms "Business Day", "Affiliate", and "Subsidiary". For purposes of this Agreement, (a) "business day" means any day on which the New York Stock
Exchange, Inc. is open for trading, and (b) "affiliate" and "subsidiary" have the meanings set forth in Rule 405 under the Securities Act.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

17. **Waiver of Jury Trial.** Each of Merger Sub, the Company, the Guarantors and each of the Initial Purchasers hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

18. **No Fiduciary Duty.** Each of Merger Sub, the Company and the Guarantors acknowledges and agrees that in connection with this offering, or any other services the Initial Purchasers may be deemed to be providing hereunder, notwithstanding any preexisting relationship, advisory or otherwise, between the parties or any oral representations or assurances previously or subsequently made by the Initial Purchasers: (a) no fiduciary or agency relationship between Merger Sub, the Company, any Guarantor and any other person, on the one hand, and the Initial Purchasers, on the other, exists; (b) the Initial Purchasers are not acting as advisors, expert or otherwise, to Merger Sub, the Company or the Guarantors, including, without limitation, with respect to the determination of the purchase price of the Notes, and such relationship between Merger Sub, the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other, is entirely and solely commercial, based on arms-length negotiations; (c) any duties and obligations that the Initial Purchasers may have to Merger Sub, the Company and the Guarantors shall be limited to those duties and obligations specifically stated herein; (d) the Initial Purchasers and their respective affiliates may have interests that differ from those of Merger Sub, the Company and the Guarantors; and (e) Merger Sub, the Company and the Guarantors have consulted their own legal and financial advisors to the extent they deemed appropriate. Merger Sub, the Company and the Guarantors hereby waive any claims that Merger Sub, the Company and the Guarantors may have against the Initial Purchasers with respect to any breach of fiduciary duty in connection with the Notes.

19. **Counterparts.** This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument.

20. **Headings.** The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.
If the foregoing correctly sets forth the agreement between Merger Sub and the Initial Purchasers, please indicate your acceptance in the space provided for that purpose below.

Very truly yours,
BLUE MERGER SUB INC.
By: /s/ David J. Sorkin

Name: David J. Sorkin
Title: Vice President
Accepted:

On behalf of themselves and as Representatives of the several Initial Purchasers

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
By: /s/ Adam Cady
   Name: Adam Cady
   Title: Managing Director

MORGAN STANLEY & CO. INCORPORATED
By: /s/ Emily Johnson
   Name: Emily Johnson
   Title: Authorized Signatory
March 8, 2011

Merrill Lynch, Pierce, Fenner & Smith Incorporated
As Representative of the several
Initial Purchasers named in Schedule I
to the Purchase Agreement (as defined below),
c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated
One Bryant Park
New York, New York 10036

Reference is hereby made to that purchase agreement (the "Purchase Agreement") dated February 1, 2011 among Blue Merger Sub Inc., a Delaware corporation and the Initial Purchasers relating to the issuance and sale to the Initial Purchasers of $1,300,000,000 aggregate principal amount of 7.625% Senior Notes due 2019 (the "Notes"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

In connection with the Acquisition, the undersigned (other than Del Monte Foods Company) have guaranteed the Notes. This Joinder Agreement is being executed and delivered by the undersigned on the date of the consummation of the Acquisition, after giving effect to the Acquisition.

1. **Joinder.** Each of the undersigned hereby acknowledges that it has received a copy of the Purchase Agreement and acknowledges and agrees with the Initial Purchasers that by its execution and delivery hereof it shall (i) join and become a party to the Purchase Agreement; (ii) be bound by all covenants, agreements, representations, warranties and acknowledgements applicable to such party as set forth in and in accordance with the terms of the Purchase Agreement; and (iii) perform all obligations and duties as required of it in accordance with the Purchase Agreement. Each of the undersigned hereby represents and warrants that the representations and warranties set forth in the Purchase Agreement applicable to such party are true and correct on and as of the date hereof with the same force and effect as if such representations and warranties had been made on and as of the date hereof (except that representations and warranties made as of a particular date were true and correct on and as of such particular date).

2. **Counterparts.** This Joinder Agreement may be signed in one or more counterparts (which may be delivered in original form or facsimile or "pdf" file thereof), each of which shall constitute an original when so executed and all of which together shall constitute one and the same agreement.

3. **Amendments.** No amendment or waiver of any provision of this Joinder Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties thereto.
4. **Headings.** The section headings used herein are for convenience only and shall not affect the construction hereof.

5. **APPLICABLE LAW.** THE VALIDITY AND INTERPRETATION OF THIS JOINDER AGREEMENT, AND THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.
IN WITNESS WHEREOF, each of the undersigned has caused this Joinder Agreement to be duly executed and delivered in New York, New York, by its proper and duly authorized officer as of the date set forth above.

DEL MONTE FOODS COMPANY
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer
Chief Accounting Officer and Controller

DEL MONTE CORPORATION
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer
Chief Accounting Officer and Controller
The foregoing Joinder Agreement is hereby confirmed and accepted by the Initial Purchasers as of the date first above written.

On behalf of themselves and as Representatives of the several
Initial Purchasers

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: /s/ Adam Cady
   Name: Adam Cady
   Title: Managing Director

MORGAN STANLEY & CO. INCORPORATED

By: /s/ Emily Johnson
   Name: Emily Johnson
   Title: Vice President
BLUE MERGER SUB INC.

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

as Trustee

INDENTURE

Dated as of February 16, 2011

$1,300,000,000

7.625% Senior Notes Due 2019
Blue Merger Sub Inc.*

Reconciliation and tie between Trust Indenture Act of 1939 and Indenture, dated as of February 16, 2011

<table>
<thead>
<tr>
<th>Trust Indenture Act Section</th>
<th>Indenture Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 310(a)(1)</td>
<td></td>
</tr>
<tr>
<td>(a)(2)</td>
<td>608</td>
</tr>
<tr>
<td>(a)(3)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(a)(4)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(b)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(c)</td>
<td>605, 609</td>
</tr>
<tr>
<td>§ 311(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>605</td>
</tr>
<tr>
<td>(c)</td>
<td>605</td>
</tr>
<tr>
<td>§ 312(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>702</td>
</tr>
<tr>
<td>(c)</td>
<td>702</td>
</tr>
<tr>
<td>§ 313(a)</td>
<td></td>
</tr>
<tr>
<td>(a)(4)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(b)(1)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(b)(2)</td>
<td>703</td>
</tr>
<tr>
<td>(c)(1)</td>
<td>102, 602, 703</td>
</tr>
<tr>
<td>(c)(2)</td>
<td>102, 602, 703</td>
</tr>
<tr>
<td>(d)</td>
<td>703</td>
</tr>
<tr>
<td>(e)</td>
<td>102</td>
</tr>
<tr>
<td>§ 314(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(c)(1)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(c)(2)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(c)(3)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(d)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(e)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(f)</td>
<td>N.A.</td>
</tr>
<tr>
<td>§ 315(a)</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>512, 601, 603</td>
</tr>
<tr>
<td>(c)</td>
<td>602, 603</td>
</tr>
<tr>
<td>(d)</td>
<td>601, 603</td>
</tr>
<tr>
<td>(e)</td>
<td>N.A.</td>
</tr>
<tr>
<td>§ 316(a) (last sentence)</td>
<td></td>
</tr>
<tr>
<td>(a)(1)(A)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(a)(1)(B)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(a)(2)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(b)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(c)</td>
<td>N.A.</td>
</tr>
<tr>
<td>§ 317(a)(1)</td>
<td></td>
</tr>
<tr>
<td>(a)(2)</td>
<td>N.A.</td>
</tr>
<tr>
<td>(b)</td>
<td>N.A.</td>
</tr>
<tr>
<td>§ 318(a)</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

N.A. means Not Applicable.

* This reconciliation and tie shall not, for any purpose, be deemed a part of this Indenture.
Table of Contents

ARTICLE ONE
DEFINITIONS AND OTHER PROVISIONS
OF GENERAL APPLICATION

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 101.</td>
<td>Rules of Construction and Incorporation by Reference of Trust Indenture Act</td>
<td>1</td>
</tr>
<tr>
<td>SECTION 102.</td>
<td>Definitions</td>
<td>2</td>
</tr>
<tr>
<td>SECTION 103.</td>
<td>Compliance Certificates and Opinions</td>
<td>37</td>
</tr>
<tr>
<td>SECTION 104.</td>
<td>Form of Documents Delivered to Trustee</td>
<td>37</td>
</tr>
<tr>
<td>SECTION 105.</td>
<td>Acts of Holders</td>
<td>38</td>
</tr>
<tr>
<td>SECTION 106.</td>
<td>Notices, Etc., to Trustee, Company, any Guarantor and Agent</td>
<td>39</td>
</tr>
<tr>
<td>SECTION 107.</td>
<td>Notice to Holders; Waiver</td>
<td>39</td>
</tr>
<tr>
<td>SECTION 108.</td>
<td>Effect of Headings and Table of Contents</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 109.</td>
<td>Successors and Assigns</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 110.</td>
<td>Severability Clause</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 111.</td>
<td>Benefits of Indenture</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 112.</td>
<td>Governing Law</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 113.</td>
<td>Legal Holidays</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 114.</td>
<td>No Personal Liability of Directors, Officers, Employees and Stockholders</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 115.</td>
<td>Trust Indenture Act Controls</td>
<td>40</td>
</tr>
<tr>
<td>SECTION 116.</td>
<td>Counterparts</td>
<td>41</td>
</tr>
<tr>
<td>SECTION 117.</td>
<td>USA PATRIOT Act</td>
<td>41</td>
</tr>
<tr>
<td>SECTION 118.</td>
<td>Waiver of Jury Trial</td>
<td>41</td>
</tr>
</tbody>
</table>

ARTICLE TWO
NOTE FORMS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 201.</td>
<td>Form andDating</td>
<td>41</td>
</tr>
<tr>
<td>SECTION 202.</td>
<td>Execution, Authentication, Delivery and Dating</td>
<td>41</td>
</tr>
</tbody>
</table>

ARTICLE THREE
THE NOTES

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 301.</td>
<td>Title and Terms</td>
<td>43</td>
</tr>
<tr>
<td>SECTION 302.</td>
<td>Denominations</td>
<td>43</td>
</tr>
<tr>
<td>SECTION 303.</td>
<td>Temporary Notes</td>
<td>43</td>
</tr>
<tr>
<td>SECTION 304.</td>
<td>Registration, Registration of Transfer and Exchange</td>
<td>44</td>
</tr>
<tr>
<td>SECTION 305.</td>
<td>Mutilated, Destroyed, Lost and Stolen Notes</td>
<td>44</td>
</tr>
<tr>
<td>SECTION 306.</td>
<td>Payment of Interest; Interest Rights Preserved</td>
<td>45</td>
</tr>
<tr>
<td>SECTION 307.</td>
<td>Persons Deemed Owners</td>
<td>46</td>
</tr>
</tbody>
</table>

* This table of contents shall not, for any purpose, be deemed a part of this Indenture.
ARTICLE SEVEN
HOLDERS LISTS AND REPORTS BY TRUSTEE AND COMPANY
SECTION 701. Company to Furnish Trustee Names and Addresses 63
SECTION 702. Disclosure of Names and Addresses of Holders 63
SECTION 703. Reports by Trustee 63

ARTICLE EIGHT
MERGER, CONSOLIDATION OR SALE
OF ALL OR SUBSTANTIALLY ALL ASSETS
SECTION 801. Company May Consolidate, Etc., Only on Certain Terms 64
SECTION 802. Guarantors May Consolidate, Etc., Only on Certain Terms 65
SECTION 803. Successor Substituted 65

ARTICLE NINE
SUPPLEMENTAL INDENTURES
SECTION 901. Amendments or Supplements Without Consent of Holders 66
SECTION 902. Amendments, Supplements or Waivers with Consent of Holders 67
SECTION 903. Execution of Amendments, Supplements or Waivers 68
SECTION 904. Effect of Amendments, Supplements or Waivers 68
SECTION 905. Compliance with Trust Indenture Act 68
SECTION 906. Reference in Notes to Supplemental Indentures 68
SECTION 907. Notice of Supplemental Indentures 68

ARTICLE TEN
COVENANTS
SECTION 1001. Payment of Principal, Premium, if any, and Interest 69
SECTION 1002. Maintenance of Office or Agency 69
SECTION 1003. Money for Notes Payments to Be Held in Trust 69
SECTION 1004. Corporate Existence 70
SECTION 1005. Payment of Taxes and Other Claims 70
SECTION 1006. Maintenance of Properties 70
SECTION 1007. Insurance 71
SECTION 1008. Statement by Officers as to Default 71
SECTION 1009. Reports and Other Information 71
SECTION 1010. Limitation on Restricted Payments 73
SECTION 1011. Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock 80
SECTION 1012. Liens 85
SECTION 1013. Limitations on Transactions with Affiliates 86
SECTION 1014. Limitations on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries 88
SECTION 1015. Limitation on Guarantees of Indebtedness by Restricted Subsidiaries 90
SECTION 1016. Change of Control 91
SECTION 1017. Asset Sales 92
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1018</td>
<td>Special Interest Notice</td>
<td>95</td>
</tr>
<tr>
<td>1019</td>
<td>Suspension of Covenants</td>
<td>96</td>
</tr>
<tr>
<td>1020</td>
<td>Activities Prior to Consummation of the Acquisition</td>
<td>97</td>
</tr>
<tr>
<td>1101</td>
<td>Right of Redemption</td>
<td>97</td>
</tr>
<tr>
<td>1102</td>
<td>Applicability of Article</td>
<td>98</td>
</tr>
<tr>
<td>1103</td>
<td>Election to Redeem; Notice to Trustee</td>
<td>98</td>
</tr>
<tr>
<td>1104</td>
<td>Selection by Trustee of Notes to Be Redeemed</td>
<td>98</td>
</tr>
<tr>
<td>1105</td>
<td>Notice of Redemption</td>
<td>99</td>
</tr>
<tr>
<td>1106</td>
<td>Deposit of Redemption Price</td>
<td>100</td>
</tr>
<tr>
<td>1107</td>
<td>Notes Payable on Redemption Date</td>
<td>100</td>
</tr>
<tr>
<td>1108</td>
<td>Notes Redeemed in Part</td>
<td>100</td>
</tr>
<tr>
<td>1109</td>
<td>Special Redemption</td>
<td>100</td>
</tr>
<tr>
<td>1201</td>
<td>Guarantees</td>
<td>101</td>
</tr>
<tr>
<td>1202</td>
<td>Severability</td>
<td>102</td>
</tr>
<tr>
<td>1203</td>
<td>Restricted Subsidiaries</td>
<td>102</td>
</tr>
<tr>
<td>1204</td>
<td>Limitation of Guarantors' Liability</td>
<td>102</td>
</tr>
<tr>
<td>1205</td>
<td>Contribution</td>
<td>103</td>
</tr>
<tr>
<td>1206</td>
<td>Subrogation</td>
<td>103</td>
</tr>
<tr>
<td>1207</td>
<td>Reinstatement</td>
<td>103</td>
</tr>
<tr>
<td>1208</td>
<td>Release of a Guarantor</td>
<td>103</td>
</tr>
<tr>
<td>1209</td>
<td>Benefits Acknowledged</td>
<td>104</td>
</tr>
<tr>
<td>1301</td>
<td>Company's Option to Effect Legal Defeasance or Covenant Defeasance</td>
<td>104</td>
</tr>
<tr>
<td>1302</td>
<td>Legal Defeasance and Discharge</td>
<td>104</td>
</tr>
<tr>
<td>1303</td>
<td>Covenant Defeasance</td>
<td>104</td>
</tr>
<tr>
<td>1304</td>
<td>Conditions to Legal Defeasance or Covenant Defeasance</td>
<td>105</td>
</tr>
<tr>
<td>1305</td>
<td>Deposited Money and Government Securities To Be Held in Trust</td>
<td>106</td>
</tr>
<tr>
<td>1306</td>
<td>Other Miscellaneous Provisions</td>
<td>106</td>
</tr>
</tbody>
</table>
APPENDIX & EXHIBITS

ANNEX I – Rule 144A / Regulation S / IAI Appendix
EXHIBIT 1 to Rule 144A / Regulation S / IAI Appendix – Form of Initial Note
EXHIBIT 2 to Rule 144A / Regulation S / IAI Appendix – Form of Transferee Letter of Representation
EXHIBIT A – Form of Exchange Security or Private Exchange Security
EXHIBIT B – Form of Notation of Guarantee
EXHIBIT C – Form of Supplemental Indenture to Be Delivered by Subsequent Guarantors
EXHIBIT D – Form of Supplemental Indenture to Be Delivered on Effective Date
EXHIBIT E – Form of Incumbency Certificate
INDENTURE dated as of February 16, 2011 (this "Indenture"), between BLUE MERGER SUB INC., a Delaware corporation (the "Company"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee (the "Trustee").

RECTITALS OF THE COMPANY

The Company has duly authorized the creation of an issue of (i) 7.625% Senior Notes due 2019 issued on the date hereof (the "Initial Notes") and (ii) if and when issued as required by the Registration Rights Agreement (as defined herein) the Exchange Notes (collectively with the Initial Notes, the "Notes") and to provide therefor the Company has duly authorized the execution and delivery of this Indenture.

All things necessary have been done to make the Notes, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid and legally binding obligations of the Company and to make this Indenture a valid and legally binding agreement of the Company, in accordance with their and its terms.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of all Holders, as follows:

ARTICLE ONE
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION


(a) For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article, and words in the singular include the plural and words in the plural include the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP (as herein defined);

(3) 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 or other subdivision;

(4) all references to Articles, Sections, Exhibits and Appendices shall be construed to refer to Articles and Sections of, and Exhibits and Appendices to, this Indenture;

(5) "or" is not exclusive;

(6) "including" means including without limitation;

(7) all references to the date the Notes were originally issued shall refer to the Issue Date; and
(8) all references, in any context, to any interest or other amount payable on or with respect to the Notes shall be deemed to include any Special Interest (as herein defined) pursuant to the Registration Rights Agreement.

(b) This Indenture is subject to the mandatory provisions of the TIA (as herein defined) which are incorporated by reference in and made a part of this Indenture. The following TIA terms have the following meanings:

1. "Commission" means the SEC;
2. "indenture securities" means the Notes and the Guarantees;
3. "indenture security holder" means a Holder;
4. "indenture to be qualified" means this Indenture;
5. "indenture trustee" or "institutional trustee" means the Trustee; and
6. "obligor" on the indenture securities means the Company, each Guarantor and any other obligor on the indenture securities.

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

SECTION 102. Definitions.

"ACH" means Automated Clearing House.

"Acquired Indebtedness" means, with respect to any specified Person,

1. Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and
2. Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Acquisition" means the transactions contemplated by the Merger Agreement.

"Act", when used with respect to any Holder, has the meaning specified in Section 105 of this Indenture.

"Additional Notes" means any Notes issued by the Company pursuant to Section 312.

"Adjusted Net Assets" has the meaning specified in Section 1205 of this Indenture.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by"

-2-
and "under common control with"), 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.

"Affiliate Transaction" has the meaning specified in Section 1013 of this Indenture.

"Agent" means any Note Registrar, co-registrar, Paying Agent or additional paying agent.

"Appendix" has the meaning specified in Section 201 of this Indenture.

"Applicable Premium" means, with respect to any Note on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of such Note; and
(2) the excess, if any, of:
   (A) the present value at such Redemption Date of (i) the Redemption Price of the Note at February 15, 2014 (such Redemption Price being set forth in the table appearing in Section 1101), plus (ii) all required interest payments due on the Note through February 15, 2014 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over
   (B) the principal amount of such Note.

"Applicable Ratio Calculation Date" means the applicable date of calculation for (y) the Consolidated Secured Debt Ratio or (z) the Fixed Charge Coverage Ratio, as the case may be.

"Applicable Ratio Measurement Period" means the most recently ended four fiscal quarters immediately preceding the Applicable Ratio Calculation Date for which internal financial statements are available.

In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees, redeems or issues any item included in the definition of "Consolidated Total Secured Indebtedness", subsequent to the commencement of the Applicable Ratio Measurement Period for which the Consolidated Secured Debt Ratio is being calculated but prior to or simultaneous with the Applicable Ratio Calculation Date, then the Consolidated Secured Debt Ratio shall be calculated to give pro forma effect to such incurrence, assumption, guarantee, redemption or issuance of the item in question, as if the same had occurred at the beginning of the Applicable Ratio Measurement Period. In addition to the foregoing, any computations or pro forma calculations made pursuant to the "Consolidated Secured Debt Ratio" definition shall be made on a pro forma basis in the same manner as the pro forma adjustments required in determining the Fixed Charge Coverage Ratio.

"Asset Sale" means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale and Lease-Back Transaction) of the Company or any Restricted Subsidiary (each referred to in this definition as a "disposition"), or
(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than preferred stock of Restricted Subsidiaries issued in compliance with the covenant described under Section 1011), whether in a single transaction or a series of related transactions, in each case, other than:

(A) any disposition of Cash Equivalents or Investment Grade Securities or obsolete or worn out equipment in the ordinary course of business, or any disposition of inventory or goods (or other assets) held for sale or no longer used in the ordinary course of business;

(B) the disposition of all or substantially all of the assets of the Company in a manner permitted pursuant to Section 801 or any disposition that constitutes a Change of Control pursuant to this Indenture;

(C) the making of any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 1010;

(D) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of transactions with an aggregate Fair Market Value of less than $25.0 million;

(E) any disposition of property or assets or issuance of securities by a Restricted Subsidiary of the Company to the Company or by the Company or a Restricted Subsidiary of the Company to another Restricted Subsidiary;

(F) to the extent allowable under Section 1031 of the Internal Revenue Code of 1986, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(G) the lease, assignment, sub-lease, license or sub-license of any real or personal property in the ordinary course of business;

(H) any issuance, sale or pledge of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(I) foreclosures, condemnation or any similar action on assets;

(J) sales of accounts receivable, or participations therein, in connection with any Receivables Facility;

(K) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Effective Date, including Sale and Lease-Back Transactions and asset securitizations permitted by this Indenture;

(L) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business;

(M) the sale or discount of inventory, accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable;

-4-
(N) the licensing or sub-licensing of intellectual property or other general intangibles in the ordinary course of business, other than the licensing of intellectual property on a long-term basis;

(O) the unwinding of any Hedging Obligations;

(P) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(Q) the abandonment of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Company are not material to the conduct of the business of the Company and its Restricted Subsidiaries taken as a whole; and

(R) the issuance of directors' qualifying shares and shares issued to foreign nationals as required by applicable law.

"Asset Sale Proceeds Application Period" has the meaning specified in Section 1017 of this Indenture.

"Asset Sale Offer" has the meaning specified in Section 1017 of this Indenture.

"Bank Products" means any facilities or services related to cash management, including treasury, depository, overdraft, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements and commercial credit card and merchant card services.

"Bankruptcy Law" means Title 11, United States Bankruptcy Code of 1978, as amended, or any similar United States federal or state 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.

"Board of Directors" means, with respect to any Person, either the board of directors of such Person or any duly authorized committee of such board.

"Board Resolution" means, with respect to the Company, a duly adopted resolution of the Board of Directors of the Company or any committee thereof.

"Borrowing Base" means 85% of the book value of the receivables and 75% of the book value of the inventory of the Company and the Restricted Subsidiaries.

"Business Day" means each day which is not a Legal Holiday.

"Capital Stock" means:

(1) in the case of a corporation, corporate stock,

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock,
(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited), and
(4) 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.

"Capitalized 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 such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP.

"Cash Equivalents” means:
(1) United States dollars,
(2) Canadian dollars,
(3) (A) euro or any national currency of any participating member state in the European Union, or
(B) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by them from time to time in the ordinary course of business,
(4) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition,
(5) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any commercial bank having capital and surplus of not less than $250.0 million in the case of United States banks and $100.0 million (or the U.S. dollar equivalent as of the date of determination) in the case of foreign banks,
(6) repurchase obligations for underlying securities of the types described in clauses (4) and (5) above, entered into with any financial institution meeting the qualifications specified in clause (5) above,
(7) commercial paper rated at least P-1 by Moody’s or at least A-1 by S&P and in each case maturing within 12 months after the date of creation thereof,
(8) marketable short term money market and similar securities having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and in each case maturing within 12 months after the date of creation thereof,
(9) investment funds investing 95% of their assets in securities of the types described in clauses (1) through (8) above and (10) and (11) below,
(10) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority thereof having
one of the two highest rating categories obtainable from either Moody's or S&P with maturities of 24 months or less from the date of acquisition, and

(11) Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 12 months or less from the date of acquisition.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) through (3) above; provided that such amounts are converted into any currency listed in clauses (1) through (3) above, as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"Cash Management Services" means any of the following to the extent not constituting a line of credit (other than an overnight overdraft facility that is not in default): ACH transactions, treasury and/or cash management services, including, without limitation, controlled disbursement services, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services.

"Change of Control" means the occurrence of any of the following after the Effective Date:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person other than a Permitted Holder; or

(2) at any time, the Company becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, or any successor provision), other than the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Company, Holdings or any other direct or indirect parent company of the Company.

"Change of Control Offer" has the meaning specified in Section 1016 of this Indenture.

"Change of Control Payment" has the meaning specified in Section 1016 of this Indenture.

"Change of Control Payment Date" has the meaning specified in Section 1016 of this Indenture.

"Common Stock" means, with respect to any Person, any and all shares, interests, participations and other equivalents (however designated, whether voting or non voting) of such Person's common stock, whether now outstanding or issued after the date of this Indenture, and includes all series and classes of such common stock.

"Company" means the Person named as the "Company" in the first paragraph of this Indenture, until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Person.
"Company Request" or "Company Order" means a written request or order signed in the name of the Company by two Officers or one Officer and either an Assistant Treasurer or an Assistant Secretary of the Company, and delivered to the Trustee.

"consolidated" or "Consolidated" means, with respect to any Person, such Person on a consolidated basis in accordance with GAAP, but excluding from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person.

"Consolidated Depreciation and Amortization Expense" means with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs, capitalized expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than or greater than par, as applicable, other than with respect to Indebtedness issued in connection with the Transactions, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of Hedging Obligations or other derivative instruments pursuant to GAAP), (d) the interest component of Capitalized Lease Obligations and (e) net payments, if any, pursuant to interest rate Hedging Obligations with respect to Indebtedness, and excluding (t) accretion or accrual of discounted liabilities not constituting Indebtedness, (u) interest expense attributable to a parent entity resulting from push-down accounting, (v) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (w) any Additional Interest and any comparable "additional interest" with respect to other securities, (x) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, and original issue discount with respect to Indebtedness issued in connection with the Transactions, (y) any expensing of bridge, commitment and other financing fees and (z) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Receivables Facility); plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, less

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income, of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP; provided that, without duplication,
(1) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transactions to the extent incurred on or prior to the date that is the one year anniversary of the Issue Date) severance, relocation costs, new product introductions and one-time compensation charges shall be excluded,

(2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period,

(3) any after-tax effect of income (loss) from disposed or discontinued operations and any net after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded,

(4) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions other than in the ordinary course of business, as determined in good faith by the Board of Directors of the Company, shall be excluded,

(5) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash or Cash Equivalents) to the referent Person or a Restricted Subsidiary thereof in respect of such period,

(6) solely for the purpose of determining the amount available for Restricted Payments under clause (C)(1) of Section 1010(a), the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded if the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination wholly permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the 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 stockholders, unless (x) such restriction with respect to the payment of dividends or similar distributions has been legally waived or (y) such restriction is permitted by Section 1014; provided that Consolidated Net Income of the Company shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash or Cash Equivalents) to the Company or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein,

(7) effects of adjustments (including the effects of such adjustments pushed down to the Company and its Restricted Subsidiaries) in any line item in such Person's consolidated financial statements required or permitted by ASC 805 and ASC 350 (formerly Financial Accounting Standards Board Statement Nos. 141 and 142, respectively) resulting from the application of purchase accounting in relation to the Transactions and any acquisition that is consummated after the Effective Date or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(8) any after-tax effect of income (loss) from the early extinguishment of Indebtedness or Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid) shall be excluded.
(9) any impairment charge, asset or write-down or write-off pursuant to ASC 350 and ASC 360 (formerly Financial Accounting Standards Board Statement Nos. 142 and 144, respectively) and the amortization of intangibles arising pursuant to ASC 805 (formerly Financial Accounting Standards Board Statement No. 141) shall be excluded,

(10) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, phantom equity, stock options, restricted stock or other rights to officers, directors or employees shall be excluded,

(11) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, recapitalization, Asset Sale, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

(12) accruals and reserves that are established or adjusted within twelve months after the Issue Date that are so required to be established as a result of the Transactions in accordance with GAAP, or changes as a result of adoption or modification of accounting policies, shall be excluded,

(13) to the extent covered by insurance and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (a) not denied by the applicable carrier in writing within 180 days and (b) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), losses and expenses with respect to liability or casualty events or business interruption shall be excluded,

(14) any non-cash SFAS 133 (or such successor provision) income (or loss) related to Hedging Obligations, and

(15) any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowance related to such item, shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 1010 only (other than clause (C)(4) of Section 1010(a)), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Company and the Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Company and the Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Company or any Restricted Subsidiary, any sale of the stock of an Unrestricted Subsidiary or any distribution or dividend from an Unrestricted Subsidiary, in each case, only to the extent such amounts increase the amount of Restricted Payments permitted under such covenant pursuant to clause (C)(4) of Section 1010(a).

"Consolidated Secured Debt Ratio" means, for any period, the ratio of (1) Consolidated Total Secured Indebtedness as of the Applicable Ratio Calculation Date minus cash and Cash Equivalents of the Company and its Restricted Subsidiaries in an aggregate amount not to exceed $100.0 million to (2) EBITDA of the Company for the Applicable Ratio Measurement Period; provided that, for purposes
of the calculation of the Consolidated Secured Debt Ratio, in connection with the Incurrence of any Lien pursuant to clause (20) of the definition of "Permitted Liens", the Company may elect, pursuant to an Officers' Certificate delivered to the Trustee, to treat all or any portion of the commitment under any Indebtedness which is to be secured by such Lien as being Incurred as of the Applicable Ratio Calculation Date and any subsequent Incurrence of Indebtedness under such commitment that was so treated shall not be deemed, for purposes of this calculation, to be an Incurrence of additional Indebtedness or an additional Lien at such subsequent time, in each case with such pro forma adjustments to Consolidated Total Secured Indebtedness and EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Fixed Charge Coverage Ratio".

"Consolidated Total Indebtedness" means, as at any date of determination, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness of the Company and the Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, Obligations in respect of Capitalized Lease Obligations and debt obligations evidenced by promissory notes and similar instruments, and (2) the aggregate amount of all outstanding Disqualified Stock of the Company and all preferred stock of the Restricted Subsidiaries, with the amount of such Disqualified Stock and preferred stock equal to the greater of their respective voluntary or involuntary liquidation preferences and their Maximum Fixed Repurchase Prices, in each case, determined on a consolidated basis in accordance with GAAP.

For purposes hereof, the "Maximum Fixed Repurchase Price" of any Disqualified Stock or preferred stock means the price at which such Disqualified Stock or preferred stock could be redeemed or repurchased by the issuer thereof in accordance with its terms or, if such Disqualified Stock or preferred stock cannot be so redeemed or repurchased, the Fair Market Value of such Disqualified Stock or preferred stock, in each case, determined on any date on which Consolidated Total Indebtedness shall be required to be determined; provided that the amount of any Indebtedness outstanding under the Revolving Credit Facility on any date shall be deemed to be the average daily amount of such Indebtedness thereunder for the most recent twelve month period ending on such date (or, prior to the one year anniversary of the Effective Date, during the period from the Effective Date to such date).

"Consolidated Total Secured Indebtedness" means, as at any date of determination, the amount of Consolidated Total Indebtedness that is Secured Indebtedness as of such date.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent,

1. to purchase any such primary obligation or any property constituting direct or indirect security therefor,
2. to advance or supply funds:
   (A) for the purchase or payment of any such primary obligation, or
   (B) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, or
3. to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.
"Corporate Trust Office" means the principal corporate trust office of the Trustee, at which at any particular time its corporate trust business shall be administered, which office at the date of execution of this Indenture is located at The Bank of New York Mellon Trust Company, N.A., 700 South Flower Street, Suite 500, Los Angeles, CA 90017, Attn: Corporate Unit, except that with respect to presentation of the Notes for payment or for registration of transfer or exchange, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate agency business shall be conducted.

"Covenant Defeasance" has the meaning specified in Section 1303 of this Indenture.

"Covenant Suspension Event" has the meaning specified in Section 1019(a) of this Indenture.

"Credit Facilities" means, with respect to the Company or any Restricted Subsidiary, one or more debt facilities, including the Senior Credit Facilities, or other financing arrangements (including, without limitation, commercial paper facilities with banks or other institutional lenders or investors or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that Refinance any part of the loans, notes or other securities, other credit facilities or commitments thereunder, including any such Refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof \( \text{(provided that such increase in borrowings is permitted under Section 1011)} \) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"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.

"Defaulted Interest" has the meaning specified in Section 306(b) of this Indenture.

"Depositary" means The Depository Trust Company, its nominees and their respective successors.

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officers’ Certificate, setting forth the basis of such valuation, executed by a senior vice president and the principal financial officer of the Company, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

"Designated Preferred Stock" means preferred stock of the Company, Holdings or any other direct or indirect parent company of the Company (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officers’ Certificate executed by a senior vice president and the principal financial officer of the Company or the applicable parent company thereof, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (C) of Section 1010(a).
“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable, other than as a result of a change of control or asset sale, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, other than as a result of a change of control or asset sale, in whole or in part, in each case, prior to the date 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; provided, that if such Capital Stock is issued to any plan for the benefit of employees of the Company or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Domestic Subsidiary” means, with respect to any Person, any Restricted Subsidiary of such Person other than a Foreign Subsidiary.

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period

(1) increased (without duplication) by:

(A) provision for taxes based on income or profits or capital, including, without limitation, state, franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period deducted, including any penalties and interest relating to any tax examinations (and not added back) in computing Consolidated Net Income, plus

(B) Fixed Charges of such Person for such period (including (x) net losses or Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk and (y) costs of surety bonds in connection with financing activities, in each case, to the extent included in Fixed Charges), together with items excluded from the definition of "Consolidated Interest Expense" pursuant to clauses 1(u) through 1(z) thereof, to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income, plus

(C) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted in computing Consolidated Net Income, plus

(D) any expenses or charges (other than depreciation or amortization expense) related to any Equity Offering, Permitted Investment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Indenture (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the offering of the Notes and the Senior Credit Facilities and (ii) any amendment or other modification of the Notes and, in each case, deducted in computing Consolidated Net Income, plus

(E) the amount of any restructuring charge or reserve or non-recurring integration costs deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions after the Effective Date and costs related to the closure and/or consolidation of facilities, plus

-13-
any other non-cash charges, including any write off or write downs, reducing Consolidated Net Income for such period, excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, plus

the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, plus

the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid or accrued in such period to the Investors or any of their respective Affiliates, plus

expenses consisting of internal software development costs that are expensed during the period but could have been capitalized under alternative accounting policies in accordance with GAAP, plus

costs of surety bonds incurred in such period in connection with financing activities, plus

the amount of net cost savings and synergies projected by the Company in good faith to be realized as a result of specified actions taken or to be taken prior to or during such period (which cost savings or synergies shall be subject only to certification by management of the Company and shall be calculated on a pro forma basis as though such cost savings or synergies had been realized on the first day of such period), net of the amount of actual benefits realized during such period from such actions; provided that: (A) such cost savings or synergies are reasonably identifiable and factually supportable, (B) such actions have been taken or are to be taken within 12 months after the date of determination to take such action and (C) no cost savings or synergies shall be added pursuant to this clause (K) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clause (L) or (R) below with respect to such period, plus

business optimization expenses (including consolidation initiatives, severance costs and other costs relating to initiatives aimed at profitability improvement), plus

restructuring charges or reserves (including restructuring costs related to acquisitions after the Effective Date and to closure and/or consolidation of facilities and to exiting lines of business), plus

the amount of loss or discount on sale of receivables and related assets to the Receivables Subsidiary in connection with a Receivables Facility, plus

any costs or expense incurred by the Company or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Company or net cash proceeds of an issuance of Equity Interest of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (C) of Section 1010(a); and have not
been relied on for purposes of any incurrence of Indebtedness pursuant to clause (12)(b) of Section 1011(b), plus

(P) the amount of expenses relating to payments made to option holders of any direct or indirect parent company of the Company or any of its direct or indirect parent companies in connection with, or as a result of, any distribution being made to shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted under the Indenture, plus

(Q) with respect to any joint venture, an amount equal to the proportion of those items described in clauses (A) and (C) above relating to such joint venture corresponding to the Company's and the Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary), plus

(R) the amount of any loss attributable to a new plant or facility until the date that is 12 months after the date of commencement of construction or the date of acquisition thereof, as the case may be; provided that (A) such losses are reasonably identifiable and factually supportable and certified by a responsible officer of the Company, (B) losses attributable to such plant or facility after 12 months from the date of commencement of construction or the date of acquisition of such plant or facility, as the case may be, shall not be included in this clause (R) and (C) no amounts shall be added pursuant to this clause (R) to the extent duplicative of any expenses or charges relating to such cost savings or revenue enhancements that are included in clauses (K) or (L) above with respect to such period, and

(2) decreased by (without duplication) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period; and

(3) increased or decreased by (without duplication):

(A) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from hedge agreements for currency exchange risk and revaluations of intercompany balances), plus or minus, as the case may be

(B) any net gain or loss resulting in such period from Hedging Obligations, and the application of Financial Accounting Standards Codification No. 815—Derivatives and Hedging, plus or minus, as the case may be

(C) without duplication, the Historical Adjustments incurred in such period.

Notwithstanding the foregoing, the aggregate amount of addbacks made pursuant to subclauses (K), (L) and (R) of clause (1) above in any four fiscal quarter period shall not exceed 15% of EBITDA (prior to giving effect to such addbacks) for such four fiscal quarter period.
“Effective Date” means, (x) if the Acquisition is consummated on the Issue Date, the Issue Date and (y) otherwise, the Escrow Release Date.

“EMU” means economic and monetary union as contemplated in the Treaty on European Union.

“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.

“Equity Offering” means any public or private sale of common stock or preferred stock of the Company, Holdings or any other direct or indirect parent company of the Company (excluding Disqualified Stock), other than

1. public offerings with respect to the Company's or any of its direct or indirect parent company's (including Holdings) common stock registered on Form S-8;
2. issuances to any Subsidiary of the Company; and
3. any such public or private sale that constitutes an Excluded Contribution.

“Escrow Account” has the meaning set forth in the Escrow Agreement.

“Escrow Agent” means The Bank of New York Mellon Trust Company, N.A., as escrow agent under the Escrow Agreement or any successor escrow agent as set forth in the Escrow Agreement.

“Escrow Agreement” means the Escrow Agreement to be dated as of the Issue Date, among the Company, the Trustee and the Escrow Agent, as amended, supplemented, modified, extended, renewed, restated or replaced in whole or in part from time to time.

“Escrow Release Date” has the meaning set forth in the Escrow Agreement.

“Escrow Termination Notice” has the meaning set forth in the Escrow Agreement.

“Escrowed Funds” has the meaning set forth in the Escrow Agreement.

“euro” means the single currency of participating member states of the EMU.

“Event of Default” has the meaning specified in Section 501 of this Indenture.

“Excess Proceeds” has the meaning specified in Section 1017 of this Indenture.


“Exchange Notes” means the Notes that are identical in all material respects to the Initial Notes issued in an Exchange Offer in accordance with Annex I hereof and the Registration Rights Agreement.

“Exchange Offer” means the Exchange Offer as defined in the Registration Rights Agreement.
"Exchange Offer Registration Statement" means the Exchange Offer Registration Statement as defined in the Registration Rights Agreement.

"Excluded Contribution" means net cash proceeds, the Fair Market Value of marketable securities or the Fair Market Value of Qualified Proceeds received by the Company from:

1. contributions to its common equity capital, and
2. the sale (other than to a Subsidiary of the Company or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Company) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Company, in each case designated as Excluded Contributions pursuant to an Officers' Certificate executed by a senior vice president and the principal financial officer of the Company on the date such capital contributions are made or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in clause (C) of Section 1010(a).

"Existing Indebtedness" means Indebtedness of the Company or any Restricted Subsidiary in existence on the Effective Date, plus interest accruing thereon.

"Existing Notes" means Del Monte Corporation's 6 3/4% Senior Subordinated Notes due 2015 and 7 1/2% Senior Subordinated Notes due 2019.

"Fair Market Value" means, with respect to any Investment, asset or property, the fair market value of such Investment, asset or property, determined in good faith by senior management or the Board of Directors of the Company, whose determination will be conclusive for all purposes under this Indenture and the Notes and, if the Fair Market Value is determined to exceed $15.0 million, will be evidenced by a Board Resolution; provided that, for the purposes of clause (C)(5) of Section 1010(a), if the Fair Market Value of the Investment in the Unrestricted Subsidiary in question is so determined to be in excess of $50.0 million, such determination must be confirmed in writing by an independent investment banking firm of nationally recognized standing.

"Fixed Charge Coverage Ratio" means, with respect to any Person as of any Applicable Ratio Calculation Date, the ratio of (1) EBITDA of such Person for the Applicable Ratio Measurement Period to (2) the Fixed Charges of such Person for such Applicable Ratio Measurement Period. In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees or redeems any Indebtedness or issues or redeems Disqualified Stock or preferred stock subsequent to the commencement of the Applicable Ratio Measurement Period but prior to or simultaneously with the Applicable Ratio Calculation Date, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, guarantee or redemption of Indebtedness, or such issuance or redemption of Disqualified Stock or preferred stock (in each case, including a pro forma application of the net proceeds therefrom), as if the same had occurred at the beginning of the Applicable Ratio Measurement Period.

For purposes of calculating the Fixed Charge Coverage Ratio, Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (as determined in accordance with GAAP) that have been made by the Company or any Restricted Subsidiary during the Applicable Ratio Measurement Period or subsequent to such Applicable Ratio Measurement Period and on or prior to or simultaneously with the Applicable Ratio Calculation Date shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (and the change in any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the Applicable Ratio Measurement Period. If since the beginning of such period
any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period) shall have made any Investment, acquisition, disposition, merger, consolidation or disposed operation that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such Applicable Ratio Measurement Period as if such Investment, acquisition, disposition, merger, consolidation or disposed operation had occurred at the beginning of the Applicable Ratio Measurement Period.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company (and may include, for the avoidance of doubt, cost savings and operating expense reductions resulting from such Investment, acquisition, merger or consolidation which is being given pro forma effect that have been or are expected to be realized). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Applicable Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen or, if none, then based upon such optional rate chosen as the Company may designate.

"Fixed Charges" means, with respect to any Person for any period, the sum of
(1) Consolidated Interest Expense of such Person for such period,
(2) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock (including any Designated Preferred Stock) or any Refunding Capital Stock of such Person made during such period, and
(3) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Stock made during such period.

"Foreign Subsidiary" means, with respect to any Person, any Restricted Subsidiary of such Person that is not organized or existing under the laws of the United States, any state thereof or the District of Columbia and any Restricted Subsidiary of such Foreign Subsidiary.

"Funding Guarantor" has the meaning specified in Section 1205 of this Indenture.

"GAAP" means generally accepted accounting principles in the United States which are in effect on the Effective Date.

"Government Securities" means securities that are:
(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or
(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuers thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

"guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

"Guarantee" means the guarantee by any Guarantor of the Company’s Obligations under this Indenture.

"Guarantor" means each Restricted Subsidiary that guarantees the Notes in accordance with the terms of this Indenture.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contract, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

"Historical Adjustments" means, with respect to any Person, without duplication, the following items to the extent incurred prior to the Effective Date and, in each case, during the applicable period:

(1) gains (losses) from the early extinguishment of Indebtedness;
(2) the cumulative effect of a change in accounting principles;
(3) gains (losses), net of tax, from disposed or discontinued operations;
(4) non-cash adjustments to LIFO reserves;
(5) gains (losses) attributable to the disposition of fixed assets; and
(6) other costs consisting of (i) one-time restructuring charges, (ii) one-time severance costs in connection with former employees, (iii) debt financing costs, (iv) unusual litigation expenses, (v) fees and expenses related to acquisitions and (vi) consulting services in connection with acquisitions.

"Holder" means a holder of the Notes.
"Holdings" means Blue Acquisition Group, Inc., a Delaware corporation.

"incur" has the meaning specified in Section 1011 of this Indenture.

"incurrence" has the meaning specified in Section 1011 of this Indenture.

"Indebtedness" means, with respect to any Person,

(1) any indebtedness (including principal and premium) 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 bankers' acceptances (or, without double counting, reimbursement agreements in respect thereof),

   (C) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case, accrued in the ordinary course of business and (ii) any earn-out obligation that, after 30 days of becoming due and payable, has not been paid and such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, or

   (D) representing any Hedging Obligations,

if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any direct or indirect parent company appearing upon the balance sheet of the Company solely by reason of push down accounting under GAAP shall be excluded,

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of another Person secured by a Lien on any asset owned by such Person, whether or not such Indebtedness is assumed by such Person;

provided that notwithstanding the foregoing, Indebtedness shall be deemed not to include (A) Contingent Obligations incurred in the ordinary course of business; or (B) obligations under or in respect of Receivables Facilities.

"Indenture" means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this Indenture and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be part of and govern this instrument and any such supplemental indenture, respectively.
“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant to Persons engaged in Similar Businesses of nationally recognized standing that is, in the good faith judgment of the Company, qualified to perform the task for which it has been engaged.

“Initial Notes” has the meaning stated in the first recital of this Indenture.


“Interest Payment Date” means the Stated Maturity of an installment of interest on the Notes.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

(1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries,

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) above, which fund may also hold immaterial amounts of cash pending investment or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit, advances to customers, commission, travel and similar advances to officers and employees, in each case, made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Company in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 1010,

1) “Investments” shall include the portion (proportionate to the Company's equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to: -21-
(A) the Company's "Investment" in such Subsidiary at the time of such redesignation less
(B) the portion (proportionate to the Company's equity interest in such Subsidiary) of the Fair Market Value of the net assets of such
Subsidiary at the time of such redesignation; and
(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Company or a Restricted Subsidiary in respect of such Investment.

"Investors" means Kohlberg Kravis Roberts & Co. L.P., Centerview Capital, L.P., Vestar Capital Partners V, L.P. and each of their respective Affiliates but not including, however, any portfolio companies of any of the foregoing.

"Issue Date" means February 16, 2011.

"Legal Defeasance" has the meaning specified in Section 1302 of this Indenture.

"Legal Holiday" means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest, preference, priority 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; provided that in no event shall an operating lease be deemed to constitute a Lien.

"Maturity" when used with respect to any Note, means the date on which the principal of such Note or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption or otherwise.

"Merger Agreement" means the Agreement and Plan of Merger, dated as of November 24, 2010, among Holdings, the Company and Del Monte Foods Company, as the same may be amended prior to the Effective Date.

"Moody's" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"Net Income" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

"Net Proceeds" means the aggregate cash proceeds and the Fair Market Value of any Cash Equivalents, excluding, in an aggregate amount not to exceed $200.0 million, any cash proceeds and the Fair Market Value of any Cash Equivalents received in connection with sales of manufacturing facilities and related assets, in connection with establishing outsourcing arrangements providing substantially
similar functionality, received by the Company or a Restricted Subsidiary in respect of any Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, net of the direct costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, and brokerage and sales commissions, any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness or Indebtedness of any Restricted Subsidiary required (other than required by Section 1017(b)(1)) to be paid as a result of such transaction and any deduction of appropriate amounts to be provided by the Company or any of its Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Company or any of its Restricted Subsidiaries after such sale or other disposition thereof, including, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

"Non-U.S. Person” means a Person who is not a U.S. Person.

"Note Register” and "Note Registrar” have the respective meanings specified in Section 304.

"Notes” has the meaning stated in the first recital of this Indenture and more particularly means any Notes authenticated and delivered under this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes of this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes, any Additional Notes and the Exchange Notes issued in exchange for the Initial Notes and any Additional Notes.

"Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

"Offering Document” means the confidential offering memorandum dated February 1, 2011, pursuant to which the Initial Notes were offered to potential purchasers.

"Officer” means the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, the Controller or the Secretary of the Company or any other Person, as the case may be.

"Officers’ Certificate” means a certificate signed on behalf of the Company by two Officers of the Company, or on behalf of any other Person, as the case may be, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company or such other Person that meets the requirements set forth in this Indenture.

"Opinion of Counsel” means a written opinion acceptable to the Trustee from legal counsel. The counsel may be an employee of or counsel to the Company.

"Outside Date” has the meaning set forth in the Escrow Agreement.
"Outstanding", when used with respect to Notes, means, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

(1) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, or portions thereof, for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Notes; provided that, if such Notes are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Notes, except to the extent provided in Sections 1302 and 1303, with respect to which the Company has effected Legal Defeasance or Covenant Defeasance as provided in Article Thirteen; and

(4) Notes which have been paid pursuant to Section 305 or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a Protected Purchaser in whose hands the Notes are valid obligations of the Company;

provided that, in determining whether the Holders of the requisite principal amount of Outstanding Notes have given any request, demand, authorization, direction, consent, notice or waiver hereunder, and for the purpose of making the calculations required by TIA Section 313, Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded.

"Paying Agent" means any Person (including the Company acting as Paying Agent) authorized by the Company to pay the principal of (and premium, if any) or interest on any Notes on behalf of the Company.

"Permitted Asset Swap" means the concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or a Restricted Subsidiary and another Person; provided, that any cash or Cash Equivalents received must be applied in accordance with Section 1017.

"Permitted Holders" means each of (i) the Investors and their respective Affiliates and members of management of the Company (or its direct or indirect parent company) on the Effective Date and any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing are members; provided that, in the case of such group and without giving effect to the existence of such group or any other group, such Investors, their respective Affiliates and members of management, collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Company, Holdings or any other direct or indirect parent company of the Company and (ii) any Permitted Parent. Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which a Change of Control Offer is made in accordance
with the requirements of the Indenture will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

"Permitted Investments" means:

(1) any Investment in the Company or any Restricted Subsidiary;

(2) any Investment in cash, Cash Equivalents or Investment Grade Securities;

(3) any Investment by the Company or any Restricted Subsidiary in a Person that is engaged in a Similar Business if as a result of such Investment:
   (A) such Person becomes a Restricted Subsidiary, or
   (B) such Person, in one transaction or a series of related transactions, 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, and, in each case, any Investment held by such Person; provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;

(4) any Investment in securities or other assets not constituting cash or Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to Section 1017, or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the Effective Date;

(6) any Investment acquired by the Company or any Restricted Subsidiary:
   (A) in exchange for any other Investment or accounts receivable held by the Company or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the Company of such other Investment or accounts receivable, or
   (B) as a result of a foreclosure by the Company or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(7) Hedging Obligations permitted under Section 1011(b)(10);

(8) any Investment in a Similar Business having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (8) that are at that time outstanding, not to exceed the greater of (A) $175.0 million and (B) 2.25% of Total Assets at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(9) Investments the payment for which consists of Equity Interests of the Company, Holdings or any other direct or indirect parent company of the Company (exclusive of Disqualified Stock); provided that such Equity Interests will not increase the amount available for Restricted Payments under clause (C) of Section 1010(a);
(10) guarantees of Indebtedness permitted under Section 1011;

(11) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with Section 1013(b) (except transactions described in Section 1013(b)(2), (5) and (9));

(12) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(13) additional Investments having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (13) that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed the greater of (A) $175.0 million and (B) 2.25% of Total Assets at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(14) Investments relating to any special purpose Wholly Owned Subsidiary of the Company organized in connection with a Receivables Facility that, in the good faith determination of the Board of Directors of the Company, are necessary or advisable to effect such Receivables Facility;

(15) advances to, or guarantees of Indebtedness of, employees not in excess of $25.0 million outstanding at any one time, in the aggregate; and

(16) loans and advances to officers, directors and employees for business related travel expenses, moving expenses and other similar expenses, in each case, incurred in the ordinary course of business or consistent with past practices or to fund such Person's purchase of Equity Interests of the Company or any direct or indirect parent company thereof.

"Permitted Liens" means, with respect to any Person:

(1) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case, incurred in the ordinary course of business;

(2) Liens imposed by law, such as carriers', warehousemen's, materialmen's, repairmen's and mechanics' Liens, in each case for sums not yet overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for taxes, assessments or other governmental charges not yet overdue for a period of more than 30 days or which are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP, or for property taxes on property the Company or one
of its Subsidiaries has determined to abandon if the sole recourse for such tax, assessment, charge, levy or claim is to such property;

(4) Liens in favor of Company's of performance, surety, bid, indemnity, warranty, release, appeal or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances issued, and completion guarantees provided for, in each case pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights-of-way, servitudes, sewers, electric lines, drains, telegraph and telephone and cable television lines, gas and oil pipelines and other similar purposes, or zoning, building codes or other restrictions (including, without limitation, minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) Liens securing Indebtedness permitted to be incurred pursuant to Section 1011(b)(1), (4), 12(b) or (18); provided that, (x) in the case of Section 1011(b)(4), such Lien may not extend to any property or equipment (or assets affixed or appurtenant thereto) other than the property or equipment being financed or refinanced under such Section 1011(b)(4); and (y) in the case of Section 1011(b)(18), such Lien may not extend to any assets other than the assets owned by the Foreign Subsidiaries incurring such Indebtedness;

(7) Liens existing on the Effective Date (other than Liens incurred in connection with the Senior Credit Facilities);

(8) Liens on property or shares of stock of a Person at the time such Person becomes a Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary; provided, further, however, that such Liens may not extend to any other property owned by the Company or any Restricted Subsidiary;

(9) Liens on property at the time the Company or a Restricted Subsidiary acquired the property, including any acquisition by means of a merger or consolidation with or into the Company or any Restricted Subsidiary; provided that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, merger or consolidation; provided, further, that the Liens may not extend to any other property owned by the Company or any Restricted Subsidiary;

(10) Liens securing Indebtedness or other obligations of a Restricted Subsidiary owing to the Company or another Restricted Subsidiary permitted to be incurred in accordance with Section 1011 hereof;

(11) Liens securing Hedging Obligations and Cash Management Services so long as the related Indebtedness is, and is permitted under this Indenture to be, secured by a Lien on the same property securing such Hedging Obligations;

(12) Liens on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the
account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(13) leases, subleases, licenses or sublicenses granted to others in the ordinary course of business, which do not materially interfere with the ordinary conduct of the business of the Company or any Restricted Subsidiary and do not secure any Indebtedness;

(14) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or consignments entered into by the Company or any Restricted Subsidiary in the ordinary course of business;

(15) Liens in favor of the Company or any Guantor;

(16) Liens on equipment of the Company or any Restricted Subsidiary granted in the ordinary course of business to the Company's client at which such equipment is located;

(17) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(18) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9), (10), (11), (15) and (20) of this definition of "Permitted Liens"; provided that (A) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus improvements on such property), and (B) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (i) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15) and (20) at the time the original Lien became a Permitted Lien under this Indenture, and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement;

(19) deposits made or other security provided to secure liabilities to insurance carriers under insurance or self-insurance arrangements in the ordinary course of business;

(20) Liens to secure Indebtedness incurred pursuant to the covenant described under Section 1011; provided that (x) no Default or Event of Default shall have occurred and be continuing at the time of the incurrence of such Lien, the related Indebtedness and the application of net proceeds therefrom would be no greater than 4.00 to 1.00;

(21) other Liens securing obligations incurred in the ordinary course of business which obligations do not exceed $50.0 million at any one time outstanding;

(22) Liens securing judgments for the payment of money not constituting an Event of Default under Section 501(5) so long as such Liens are adequately bonded and any appropriate legal proceedings that may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;
(23) 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;

(24) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business and (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(25) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 1011; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(26) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(27) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Company or any of its Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(28) Liens solely on any cash earnest money deposits made by the Company or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted under the Indenture;

(29) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Company or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(30) restrictive covenants affecting the use to which real property may be put; provided that the covenants are complied with;

(31) security given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of business;

(32) zoning by-laws and other land use restrictions, including, without limitation, site plan agreements, development agreements and contract zoning agreements;

(33) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Company or any Restricted Subsidiary in the ordinary course of business;

(34) Liens on real property located in Topeka, Kansas granted as security for synthetic lease obligations; and
any Lien granted pursuant to a security agreement between the Company or any Restricted Subsidiary and a licensee of intellectual property to secure the damages, if any, of such licensee resulting from the rejection of the licensee of such licensee in a bankruptcy, reorganization or similar proceeding with respect to the Company or such Restricted Subsidiary; provided that such Liens, in the aggregate, do not encumber any assets of the Company or any Restricted Subsidiary other than the assets securing such Liens in existence on the Issue Date.

For purposes of this definition, the term "Indebtedness" shall be deemed to include interest on such Indebtedness.

"Permitted Parent" means any direct or indirect parent of the Company formed not in connection with, or in contemplation of, a transaction (other than Transactions) that, assuming such parent was not formed, after giving effect thereto would constitute a Change of Control.

"Person" means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Predecessor Note" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 305 in exchange for a mutilated Note or in lieu of a destroyed, lost or stolen Note shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Note.

"preferred stock" means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

"Private Exchange Notes" means the Notes that are identical in all material respects to the Initial Notes issued in offer in accordance with Annex I hereof and the Registration Rights Agreement.

"Protected Purchaser" has the meaning specified in Section 305 of this Indenture.

"Qualified Proceeds" means assets that are used or useful in, or Capital Stock of any Person engaged in, a Similar Business.

"Rating Agencies" mean Moody's and S&P or if Moody's or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company (as certified by a Board Resolution) which shall be substituted for Moody's or S&P or both, as the case may be.

"Receivables Facility" means any of one or more receivables financing facilities, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the Obligations of which are non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such facilities) to the Company and the Restricted Subsidiaries (other than a Receivables Subsidiary) pursuant to which the Company or any Restricted Subsidiary sells its accounts receivable to either (a) a Person that is not a Restricted Subsidiary or (b) a Receivables Subsidiary that in turn funds such purchase by purporting to sell its accounts receivable to a Person that is not a Restricted Subsidiary or by borrowing from such a Person or from another Receivables Subsidiary that in turn funds itself by borrowing from such a Person.
"Receivables Fee" means distributions or payments made directly or by means of discounts with respect to any accounts receivable or participation interest issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Receivables Facility.

"Receivables Subsidiary" means any Subsidiary formed for the purpose of facilitating or entering into one or more Receivables Facilities, and in each case engages only in activities reasonably related or incidental thereto.

"Redemption Date", when used with respect to any Note to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Indenture.

"Redemption Price", when used with respect to any Note to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"Refinance" means, in respect of any Indebtedness, Disqualified Stock or preferred stock, to refinance, extend, renew, refund, repay, prepay, purchase, redeem, defease or retire, or to issue other Indebtedness, Disqualified Stock or preferred stock in exchange or replacement for, such Indebtedness, Disqualified Stock or preferred stock, in whole or in part. "Refinanced" and "Refinancing" shall have correlative meanings.

"Refinancing Indebtedness" has the meaning specified in Section 1011 of this Indenture.

"Refunding Capital Stock" has the meaning specified in Section 1010 of this Indenture.

"Registration Rights Agreement" means the Registration Rights Agreement related to the Notes dated as of the Issue Date, among the Company and the Initial Purchasers, and as of the Effective Date, upon execution of the Joinder Agreement referenced therein, Del Monte Foods Company and Del Monte Corporation, and, with respect to any Additional Notes, one or more registration rights agreements among the Company, the Guarantors and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

"Regular Record Date" has the meaning specified in Section 301 of this Indenture.

"Related Business Assets" means assets (other than cash or Cash Equivalents) used or useful in a Similar Business; provided that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

"Representative" means any trustee, agent or representative (if any) for an issue of Senior Indebtedness of the Company.

"Responsible Officer", when used with respect to the Trustee, means any vice president, any assistant treasurer, any trust officer or assistant trust officer, 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 Payments" has the meaning specified in Section 1010 of this Indenture.

"Restricted Subsidiary" means, at any time, any direct or indirect Subsidiary of the Company (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary; provided that upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be included in the definition of "Restricted Subsidiary".

"Retired Capital Stock" has the meaning specified in Section 1010 of this Indenture.

"Revolving Credit Facility" means the credit facility provided under the ABL Credit Agreement dated as of the Effective Date among the Company, the lenders party thereto from time to time in their capacities as lenders thereunder, and Bank of America, N.A., as administrative agent and collateral agent, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refinancing of refinancings thereof and any one or more indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that extend, replace, refund, refinance, renew or defease any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., and any successor to its rating agency business.

"Sale and Lease-Back Transaction" means any arrangement with any Person providing for the leasing by the Company or any Restricted Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person in contemplation of such leasing.

"SEC" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"Secured Indebtedness" means any Indebtedness of the Company or any of its Restricted Subsidiaries secured by a Lien.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Senior Credit Facilities" means the Revolving Credit Facility and the Term Loan Facility.

"Senior Indebtedness" means with respect to any Person:

(1) Indebtedness of such Person, whether outstanding on the Effective Date or thereafter incurred; and
(2) all other Obligations of such Person (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to such Person whether or not post-filing interest is allowed in such proceeding) in respect of Indebtedness described in clause (1) above in the case of both clauses (1) and (2), to the extent permitted to be incurred under the terms of this Indenture, unless, in the case of clauses (1) and (2), in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such Indebtedness or other Obligations are subordinated in right of payment to the Notes or the Guarantee of such Person, as the case may be;

provided that Senior Indebtedness shall not include:

(1) any obligation of such Person to the Company or any Subsidiary of the Company;
(2) any liability for Federal, state, local or other taxes owed or owing by such Person;
(3) any accounts payable or other liability to trade creditors arising in the ordinary course of business;
(4) any Capital Stock;
(5) any Indebtedness or other Obligation of such Person which is subordinate or junior in any respect to any other Indebtedness or other Obligation of such Person; or
(6) that portion of any Indebtedness which at the time of incurrence is incurred in violation of this Indenture.

"Senior Secured Indebtedness" means Senior Indebtedness that is Secured Indebtedness.

"Shelf Registration Statement" means the shelf registration statement as defined in the Registration Rights Agreement.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such regulation is in effect on the Effective Date.

"Similar Business" means any business conducted or proposed to be conducted by the Company and the Restricted Subsidiaries on the Effective Date or any business that is similar, reasonably related, incidental or ancillary thereto.

"Special Interest" means all additional interest then owing pursuant to the Registration Rights Agreement.

"Special Interest Notice" has the meaning specified in Section 1018 hereof.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 306.

"Special Redemption" a redemption of the Notes required pursuant to the Escrow Agreement and conducted in accordance with the procedures set forth in Article XI hereof.

-33-
"Special Redemption Date" has the meaning set forth in the Escrow Agreement.

"Sponsor Management Agreement" means the management agreement between certain of the management companies associated with the Investors and the Company.

"Stated Maturity", when used with respect to any Note or any installment of principal thereof or interest thereon, means the date specified in such Notes as the fixed date on which the principal of such Notes or such installment of principal or interest is due and payable.

"Subordinated Indebtedness" means:

(1) with respect to the Company, any Indebtedness of the Company which is by its terms subordinated in right of payment to the Notes, and

(2) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms subordinated in right of payment to the Guarantee of such Guarantor under this Indenture.

"Subsidiary" means, with respect to any Person,

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar 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 of determination 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

(2) any partnership, joint venture, limited liability company or similar entity of which:

(A) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as the case may be, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(B) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

"Successor Company" has the meaning specified in Section 801 of this Indenture.

"Suspended Covenants" has the meaning specified in Section 1019(a) of this Indenture.

"Suspension Date" has the meaning specified in Section 1019(a) of this Indenture.

"Suspension Period" has the meaning specified in Section 1019(a) of this Indenture.

"Term Loan Facility" means the credit facility provided under the Term Loan Credit Agreement dated as of the Effective Date among the Company, the lenders party thereto from time to time in their capacities as lenders thereunder, and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent or other financing arrangements (including, without limitation, commercial paper
facilities or indentures) providing for revolving credit loans, term loans, letters of credit or other long-term indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, replacements, renewals, restatements, refusals or refinancings thereof and any one or more indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that extend, replace, refund, refinance, renew or defease any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders.

"Total Assets" means the total assets of the Company and the Restricted Subsidiaries, on a consolidated basis, as shown on the most recent consolidated balance sheet of the Company or such other Person as may be expressly stated, as the case may be.

"Transactions" means the transactions contemplated by the Merger Agreement, the issuance of the Notes and the borrowings under the Senior Credit Facilities.

"Treasury Rate" means, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the Redemption Date to February 15, 2014; provided that if the period from the Redemption Date to February 15, 2014 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

"Trust Indenture Act" or "TIA" means the Trust Indenture Act of 1939 as in force at the date as of which this Indenture was executed, except as provided in Section 905.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., until a successor replaces it and, thereafter, means the successor.

"Uniform Commercial Code" means the New York Uniform Commercial Code as in effect from time to time.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Company which at the time of determination is an Unrestricted Subsidiary (as designated by the Board of Directors of the Company, as provided below), and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Company may designate any Subsidiary of the Company (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of the Company or any Subsidiary of the Company (other than any Subsidiary of the Subsidiary to be so designated); provided that
any Unrestricted Subsidiary must be an entity of which the Equity Interests entitled to cast at least a majority of the votes that may be cast by all Equity Interests having ordinary voting power for the election of directors or other governing body are owned, directly or indirectly, by the Company,

(2) such designation complies with Section 1010, and

(3) each of

(A) the Subsidiary to be so designated and
(B) its Subsidiaries has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any Restricted Subsidiary.

The Board of Directors of the Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation no Default shall have occurred and be continuing and either:

(1) the Company could incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test described under Section 1011(a), or

(2) the Fixed Charge Coverage Ratio for the Company and the Restricted Subsidiaries would be greater than such ratio for the Company and the Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the Board of Directors of the Company shall be notified by the Company to the Trustee by promptly filing with the Trustee a copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"U.S. Person" means a U.S. Person as defined in Rule 902(k) promulgated under the Securities Act.

"Vice President", when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president".

"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, Disqualified Stock or preferred stock, as the case may be, at any date, the quotient obtained by dividing:

(1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or preferred stock multiplied by the amount of such payment, by

(2) the sum of all such payments.
"Wholly-Owned Subsidiary” of any Person means a Subsidiary of such Person, 100% of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) shall at the time be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

SECTION 103. Compliance Certificates and Opinions. Upon any application or request by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture (including any covenant compliance with which constitutes a condition precedent) relating to the proposed action have been complied with and, other than in connection with the authentication of the Initial Notes, an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than pursuant to Section 1008(a)) shall include:

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) 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;

(3) a statement that, in the opinion of each such individual, he 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 complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 104. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.
Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.


(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Note Register.

(d) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. Notwithstanding TIA Section 316(c), such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of such record date; provided, that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than eleven months after the record date. Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Company or any Guarantor in reliance thereon, whether or not notation of such action is made upon such Note.
SECTION 106. Notices, Etc., to Trustee, Company, any Guarantor and Agent. Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with, 

(1) the Trustee by any Holder or by the Company or any Guarantor shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (which may be via facsimile) to or with the Trustee at The Bank of New York Mellon Trust Company, N.A., 700 S. Flower Street, Suite 500, Los Angeles, CA 90017, Attention: Corporate Unit, or 

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if made, given, furnished or delivered in writing and mailed, first class postage prepaid, or delivered by recognized overnight courier, to the Company or such Guarantor addressed to it at the address of its principal office specified in the first paragraph, Attention: General Counsel, or at any other address previously furnished in writing to the Trustee by the Company or such Guarantor.

SECTION 107. Notice to Holders; Waiver. Where this Indenture provides for notice of any event to Holders by the Company or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and delivered electronically or mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Note Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Notices given by publication shall be deemed given on the first date on which publication is made and notices sent electronically or given by first-class mail, postage prepaid, shall be deemed given five calendar days after being sent or mailed.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Company elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

In case by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impracticable to mail notice of any event to Holders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall
be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 108. Effect of Headings and Table of Contents. The Article and Section headings herein, the Table of Contents and the reconciliation and tie between the TIA and this Indenture are for convenience of reference only, are not intended to be considered a part hereof and shall not affect the construction hereof.

SECTION 109. Successors and Assigns. All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 1209 hereof.

SECTION 110. Severability Clause. 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 111. Benefits of Indenture. Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Notes Registrar and their successors hereunder and the Holders any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 112. Governing Law. This Indenture, the Notes and any Guarantee shall be governed by and construed in accordance with the laws of the State of New York. This Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions.

SECTION 113. Legal Holidays. In any case where any Interest Payment Date, Redemption Date or Stated Maturity or Maturity of any Note shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes) payment of principal (or premium, if any) or interest need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, or at the Stated Maturity or Maturity; provided, that no interest shall accrue for purposes of such payment for the period from and after such Interest Payment Date, Redemption Date, Stated Maturity or Maturity, as the case may be.

SECTION 114. No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator or stockholder of the Company or any Guarantor or any of their parent companies shall have any liability for any obligations of the Company or the Guarantors under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation to the extent permitted by applicable law. Each Holder by accepting a Note and the related Guarantee waives and releases all such liability to the extent permitted by applicable law. The waiver and release are part of the consideration for issuance of the Notes and the Guarantees. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 115. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the provision required by the TIA shall control. If any provision of this Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.
SECTION 116. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be original; but such counterparts shall together constitute but one and the same instrument. One signed copy is enough to prove this Indenture.

SECTION 117. USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account. The Company agrees that it will provide the Trustee with information about the Company as the Trustee may reasonably request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

SECTION 118. Waiver of Jury Trial. EACH OF THE COMPANY, ANY GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

ARTICLE TWO
NOTE FORMS

SECTION 201. Form and Dating. Provisions relating to the Initial Notes, the Private Exchange Notes and the Exchange Notes are set forth in Annex 1 attached hereto (the "Appendix") which is hereby incorporated in, and expressly made part of, this Indenture. The Initial Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit 1 to the Appendix which is hereby incorporated in, and expressly made a part of, this Indenture. The Exchange Notes, the Private Exchange Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Company is subject, if any, or usage (provided that any such notation, legend or endorsement is in a form reasonably acceptable to the Company). Each Note shall be dated the date of its authentication. The terms of the Note set forth in the Appendix and Exhibit A are part of the terms of this Indenture.

SECTION 202. Execution, Authentication, Delivery and Dating. The Notes shall be executed on behalf of the Company by any two Officers. The signature of any Officer on the Notes may be manual or facsimile signatures of the present or any future such authorized officer and may be imprinted or otherwise reproduced on the Notes.

Notes bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes.

On the Issue Date, the Company shall deliver the Initial Notes in the aggregate principal amount of $1,300,000,000 executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, specifying the principal amount and
registered holder of each Note, directing the Trustee to authenticate the Notes and deliver the same to the persons named in such Company Order and the
Trustee in accordance with such Company Order shall authenticate and deliver such Initial Notes. At any time and from time to time after the Issue Date, the
Company may deliver Additional Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and
delivery of such Additional Notes, specifying the principal amount of and registered holder of each Note, directing the Trustee to authenticate the Additional
Notes and deliver the same to the persons in such Order and the Trustee in accordance with such Company Order shall authenticate and deliver such
Additional Notes. On Company Order, the Trustee shall authenticate for original issue Exchange Notes in an aggregate principal amount not to exceed
$1,300,000,000 plus the aggregate principal amount of any Additional Notes issued; provided that such Exchange Notes shall be issuable only upon the valid
surrender for cancellation of Initial Notes and any Additional Notes of a like aggregate principal amount in accordance with an Exchange Offer pursuant to
the Registration Rights Agreement and a Company Order for the authentication and delivery of such Exchange Notes and certifying that all conditions
precedent to the issuance of such Exchange Notes are complied with (including the effectiveness of the Exchange Offer Registration Statement related
thereto). In each case, the Trustee shall receive an Officers’ Certificate and an Opinion of Counsel of the Company that it may reasonably require in
connection with such authentication of Notes. Such Company Order shall specify the amount of Notes to be authenticated and the date on which the original
issue of Notes is to be authenticated.

Each Note shall be dated the date of its authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a
certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized officer, and such
certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder and is
entitled to the benefits of this Indenture.

In case the Company or any Guarantor, pursuant to Article Eight of this Indenture, shall be consolidated or merged with or into any other Person
or shall convey, transfer, lease or otherwise dispose of its properties and assets substantially as an entirety to any Person, and the successor Person resulting
from such consolidation, or surviving such merger, or into which the Company or such Guarantor shall have been merged, or the Person which shall have
received a conveyance, transfer, lease or other disposition as aforesaid, shall have executed a supplemental indenture hereto with the Trustee pursuant to
Article Eight of this Indenture, any of the Notes authenticated or delivered prior to such consolidation, merger, conveyance, transfer, lease or other disposition
may, from time to time, at the request of the successor Person, be exchanged for other Notes executed in the name of the successor Person with such changes
in phraseology and form as may be appropriate, but otherwise in substance of like tenor as the Notes surrendered for such exchange and of like principal
amount; and the Trustee, upon Company Request of the successor Person, shall authenticate and deliver Notes as specified in such request for the purpose of
such exchange. If Notes shall at any time be authenticated and delivered in any new name of a successor Person pursuant to this Section in exchange or
substitution for or upon registration of transfer of any Notes, such successor Person, at the option of the Holders but without expense to them, shall provide for
the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

-42-
ARTICLE THREE

THE NOTES

SECTION 301. Title and Terms. The aggregate principal amount of Notes which may be authenticated and issued under this Indenture is not limited; provided that any Additional Notes issued under this Indenture are issued in accordance with Sections 202, 312 and 1011 hereof, as part of the same series as the Initial Notes.

The Notes shall be known and designated as the "7.625% Senior Notes Due 2019" of the Company. The Stated Maturity of the Notes shall be October 1, 2017, and the Notes shall bear interest at the rate of 7.625% per annum from the Issue Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable on August 15, 2011 and semiannually thereafter on February 15 and August 15 in each year and at said Stated Maturity, until the principal thereof is paid or duly provided for and to the Person in whose name the Note (or any predecessor Note) is registered at the close of business on February 1 and August 1 immediately preceding such Interest Payment Date (each, a "Regular Record Date").

The principal of (and premium, if any), interest and Special Interest, if any, on the Notes shall be payable at the office or agency of the Company maintained for such purpose in The City and State of New York or, at the option of the Company, payment of interest may be made by check mailed to the Holders of the Notes at their respective addresses set forth in the Note Register of Holders; provided that all payments of principal, premium, if any, and interest and Special Interest, if any, with respect to Notes represented by one or more permanent Global Notes registered in the name of or held by the Depositary or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof. Until otherwise designated by the Company, the Company's office or agency in New York shall be the office of the Trustee maintained for such purpose.

Holders shall have the right to require the Company to purchase their Notes, in whole or in part, in the event of a Change of Control pursuant to Section 1016. The Notes shall be subject to repurchase pursuant to an Asset Sale Offer as provided in Section 1017.

The Notes shall be redeemable as provided in Article Eleven.

The due and punctual payment of principal of (and premium, if any) and interest on the Notes payable by the Company is irrevocably unconditionally guaranteed, to the extent set forth herein, by each of the Guarantors.

SECTION 302. Denominations. The Notes shall be issuable only in registered form without coupons and only in denominations of $2,000 and any integral multiples of $1,000 in excess thereof.

SECTION 303. Temporary Notes. Pending the preparation of definitive Notes, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Notes which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Notes may determine, as conclusively evidenced by their execution of such Notes.

If temporary Notes are issued, the Company will cause definitive Notes to be prepared without unreasonable delay. After the preparation of definitive Notes, the temporary Notes shall be
exchangeable for definitive Notes upon surrender of the temporary Notes at the office or agency of the Company designated for such purpose pursuant to Section 1002, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Notes of authorized denominations. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as definitive Notes.

SECTION 304. Registration, Registration of Transfer and Exchange. The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes referred to as the "Note Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. The Note Register shall be in written form or any other form capable of being converted into written form within a reasonable time. At all reasonable times, the Note Register shall be open to inspection by the Trustee. The Trustee is hereby initially appointed as note registrar (the "Note Registrar") for the purpose of registering Notes and transfers of Notes as herein provided.

Upon surrender for registration of transfer of any Note at the office or agency of the Company designated pursuant to Section 1002, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations of a like aggregate principal amount.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes which the Holder making the exchange is entitled to receive; provided that no exchange of Notes for Exchange Notes shall occur until an Exchange Offer Registration Statement shall have been declared effective by the SEC, the Trustee shall have received an Officers' Certificate confirming that the Exchange Offer Registration Statement has been declared effective by the SEC and the Initial Notes to be exchanged for the Exchange Notes shall be cancelled by the Trustee.

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

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Note Registrar) be duly endorsed, or be accompanied by written instruments of transfer, in form satisfactory to the Company and the Note Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange or redemption of Notes, but the Company may require payment of a sum sufficient to cover any taxes, fees or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Sections 202, 303, 906, 1016, 1017, or 1108 not involving any transfer.

SECTION 305. Mutilated, Destroyed, Lost and Stolen Notes. If (1) any mutilated Note is surrendered to the Trustee, or (2) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless from any claim,
loss, cost or liability resulting from such lost or stolen Note, then, in the absence of notice to the Company or the Trustee that such Note has been acquired by a Protected Purchaser (as defined in Section 8-303 of the Uniform Commercial Code) (a “Protected Purchaser”), the Company shall execute and upon Company Order the Trustee shall authenticate and deliver, in exchange for any such mutilated Note or in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section in lieu of any mutilated, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company and each Guarantor, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

SECTION 306. Payment of Interest; Interest Rights Preserved.

(a) Interest on any Note which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose pursuant to Section 1002; provided that, subject to Section 301 hereof, each installment of interest may at the Company's option be paid by (1) mailing a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 307, to the address of such Person as it appears in the Note Register or (2) transfer to an account located in the United States maintained by the payee.

(b) Any interest on any Note which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the Holder on the Regular Record Date by virtue of having been such Holder, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate borne by the Notes (such defaulted interest and interest thereon herein collectively called "Defaulted Interest") may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. 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, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted
Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date, and in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given in the manner provided for in Section 107, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so given, such Defaulted Interest shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions of this Section, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 307. Persons Deemed Owners. Prior to the due presentment of a Note for registration of transfer, the Company, any Guarantor, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Note is registered as the owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and (subject to Sections 304 and 306) interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and none of the Company, the Trustee or any agent of the Company or the Trustee shall be affected by notice to the contrary.

SECTION 308. Cancellation. All Notes surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Notes previously authenticated hereunder which the Company has not issued and sold, and all Notes so delivered shall be promptly cancelled by the Trustee. If the Company shall so acquire any of the Notes, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation. No Notes shall be authenticated in lieu of or in exchange for any Notes cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Notes held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures unless by Company Order the Company shall direct that cancelled Notes be returned to it.

SECTION 309. Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 310. Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer. When a Note is presented to the Notes Registrar or a co-registrar with a request to register a transfer, the Notes Registrar shall register the transfer as requested if the requirements of this Indenture and Section 8-401(a) of
the Uniform Commercial Code are met. When Notes are presented to the Notes Registrar or a co-registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Notes Registrar shall make the exchange as requested if the same requirements are met.

SECTION 311. CUSIP Numbers. The Company in issuing the Notes may use "CUSIP" numbers, ISINs and "Common Code" numbers (in each case, if then generally in use) in addition to serial numbers, and, if so, the Trustee shall use such "CUSIP" numbers, ISINs and "Common Code" numbers in addition to serial numbers in notices of redemption, repurchase or other notices to Holders as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such "CUSIP" numbers, ISINs and "Common Code" numbers either as printed on the Notes or as contained in any notice of a redemption or repurchase and that reliance may be placed only on the serial or other identification numbers printed on the Notes, and any such redemption or repurchase shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers, ISINs and "Common Code" numbers applicable to the Notes.

SECTION 312. Issuance of Additional Notes. The Company may, subject to Section 1011 of this Indenture, issue additional Notes having identical terms and conditions to the Initial Notes issued on the Issue Date (the "Additional Notes"). The Initial Notes issued on the Issue Date and any Additional Notes subsequently issued shall be treated as a single class for all purposes under this Indenture. Exchange Notes issued in exchange for Initial Notes issued on the Issue Date and Exchange Notes issued for any Additional Notes subsequently issued shall be treated as a single class for all purposes under this Indenture.

ARTICLE FOUR
SATISFACTION AND DISCHARGE

SECTION 401. Satisfaction and Discharge of Indenture. This Indenture shall upon Company Request and at the Company's expense cease to be of further effect (except as set forth in the last paragraph of this Section and as to surviving rights of registration of transfer or exchange of Notes expressly provided for herein or pursuant hereto) and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture when:

(1) either,

(A) all Notes theretofore authenticated and delivered (other than (i) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Notes for whose payment money has theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or

(B) all such Notes not theretofore delivered to the Trustee for cancellation,

(i) have become due and payable by reason of the making of a notice of redemption pursuant to Section 1105 or otherwise, or

(ii) will become due and payable at their Stated Maturity within one year, or

-47-
(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company or any Guarantor, in the case of (i), (ii) or (iii) above, 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 such Notes not theretofore delivered to the Trustee for cancellation, for principal (and premium, if any) and interest to the Stated Maturity or Redemption Date, as the case may be;

(2) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith) with respect to this Indenture or the Notes shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit shall not result in a breach or violation of, or constitute a default under any Credit Facilities or any other material agreement or instrument (other than this Indenture) to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith);

(3) the Company has paid or caused to be paid all sums payable by it under this Indenture;

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of such Notes at the Stated Maturity or the Redemption Date, as the case may be; and

(5) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 607, the obligations of the Company to any Authenticating Agent under Section 612 and, if money or Government Securities shall have been deposited with the Trustee pursuant to subclause (B) of clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive such satisfaction and discharge.

SECTION 402. Application of Trust Money. Subject to the provisions of the last paragraph of Section 1003, all money or Government Securities deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) of the principal (and premium, if any) and interest for whose payment such money or Government Securities has been deposited with the Trustee; but such money or Government Securities need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 401 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the
Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 401 until such time as the Trustee or Paying Agent is permitted to apply all such money or Government Securities in accordance with Section 401; provided that if the Company has made any payment of principal of (and premium, if any) or interest on any Notes because of 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 or Government Securities held by the Trustee or Paying Agent.

ARTICLE FIVE

REMEDIES

SECTION 501. Events of Default. "Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in payment when due and payable, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes issued under this Indenture;

(2) default for 30 days or more in the payment when due of interest on or with respect to the Notes issued under this Indenture;

(3) failure by the Company or any Restricted Subsidiary for 60 days after receipt of written notice given by the Trustee or the Holders of not less than 30% in principal amount of the Notes then outstanding to comply with any of its obligations, covenants or agreements (other than a default referred to in clauses (1) and (2) above) contained in this Indenture or the Notes;

(4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any Restricted Subsidiary or the payment of which is guaranteed by the Company or any Restricted Subsidiary, other than Indebtedness owed to the Company or any Restricted Subsidiary, whether such Indebtedness or guarantee now exists or is created after the issuance of the Notes, if both

(A) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated maturity and

(B) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate $50.0 million or more at any one time outstanding;

(5) failure by the Company or any Significant Subsidiary to pay final judgments aggregating in excess of $50.0 million (net of amounts covered by insurance policies issued by reputable insurance companies), which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such
judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) any of the following events with respect to the Company or any Significant Subsidiary:

(A) the Company or any Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law
   (i) commences a voluntary case;
   (ii) consents to the entry of an order for relief against it in an involuntary case;
   (iii) consents to the appointment of a custodian of it or for any substantial part of its property;
   (iv) takes any comparable action under any foreign laws relating to insolvency; or
   (v) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(B) is for relief against the Company or any Significant Subsidiary in an involuntary case;
   (i) appoints a custodian of the Company or any Significant Subsidiary or for any substantial part of its property; or
   (ii) orders the winding up or liquidation of the Company or any Significant Subsidiary;
   (iii) and the order or decree remains unstayed and in effect for 60 days; or

(7) the Guarantee of any Significant Subsidiary shall for any reason cease to be in full force and effect or be declared null and void or any responsible officer of any Guarantor that is a Significant Subsidiary, as the case may be, denies that it has any further liability under its Guarantee or gives notice to such effect, other than by reason of the termination of this Indenture or the release of any such Guarantee in accordance with this Indenture.

SECTION 502. Acceleration of Maturity; Rescission and Annulment.

(a) If any Event of Default (other than an Event of Default specified in Section 501(6) with respect to the Company) occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the Outstanding Notes issued under this Indenture may declare the principal of (and premium, if any), interest and any other monetary obligations on all the Outstanding Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders).

(b) Upon the effectiveness of such declaration, such principal and interest will be due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in Section

-50-
501(6) with respect to the Company occurs and is continuing, then the principal amount of all Outstanding Notes shall ipso facto become and be immediately due and payable without any notice, declaration or other act on the part of the Trustee or any Holder.

(c) At any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article, the Holders of a majority in aggregate principal amount of the Outstanding Notes, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences, so long as such rescission and annulment would not conflict with any judgment of a court of competent jurisdiction, if:

1. the Company has paid or deposited with the Trustee a sum sufficient to pay:
   - all overdue interest on all Outstanding Notes,
   - all unpaid principal of (and premium, and Special Interest, if any, on) any Outstanding Notes which has become due otherwise than by such declaration of acceleration, and interest on such unpaid principal at the rate borne by the Notes,
   - the extent that payment of such interest is lawful, interest on overdue interest at the rate borne by the Notes, and
   - all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

2. Events of Default, other than the non payment of amounts of principal of (or premium, if any, on) or interest on Notes, which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 513,

no such rescission shall affect any subsequent default or impair any right consequent thereon.

(d) Notwithstanding the preceding paragraph, in the event of any Event of Default specified in Section 501(4) above, such Event of Default and all consequences thereof (excluding any resulting payment default) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 20 days after such Event of Default arose,

1. the Indebtedness or guarantee that is the basis for such Event of Default has been discharged, or
2. the holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default, or
3. if the default that is the basis for such Event of Default has been cured.

(e) At the request of the Holders of a majority in principal amount of the Notes then outstanding following any declaration of the acceleration of the Notes pursuant to this Section 502 that has not been rescinded, the Trustee may instruct the Escrow Agent to release the funds in the Escrow Account to the Trustee to consummate a Special Redemption.
SECTION 503. **Collection of Indebtedness and Suits for Enforcement by Trustee.** The Company covenants that if:

(1) default is made in the payment of any installment of interest on any Note when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, or Special Interest, if any, on) any Note at the Maturity thereof, the Company will, upon demand of the Trustee, pay to the Trustee for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for principal (and premium, if any) and interest, and interest on any overdue principal (and premium, if any) and, to the extent that payment of such interest shall be legally enforceable, upon any overdue installment of interest, at the rate borne by the Notes, and, in addition thereto, 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.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, any Guarantor or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company, any Guarantor or any other obligor upon the Notes, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders under this Indenture and the Guarantees by such appropriate judicial proceedings as the Trustee shall deem necessary to protect and enforce any such rights, including seeking recourse against any Guarantor, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy, including seeking recourse against any Guarantor.

SECTION 504. **Trustee May File Proofs of Claim.** In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor including any Guarantor, upon the Notes or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium, if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(1) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Notes and to file such 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 of the Holders allowed in such judicial proceeding, and

(2) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or similar official 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 the

-52-
Trustee any amount due 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 607.

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 thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 505. Trustee May Enforce Claims Without Possession of Notes. All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

SECTION 506. Application of Money Collected. Any money or property collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607;

SECOND: To the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes for principal (and premium, if any) and interest, respectively; and

THIRD: The balance, if any, to the Company or as a court of competent jurisdiction may direct in writing; provided that all sums due and owing to the Holders and the Trustee have been paid in full as required by this Indenture.

SECTION 507. Limitation on Suits. No Holder of any Notes shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(1) such Holder has previously given the Trustee notice that an Event of Default is continuing;

(2) Holders of at least 30% in principal amount of the outstanding Notes have requested the Trustee to pursue the remedy;

(3) such Holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
(5) Holders of a majority in principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period,

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture or the Guarantees to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture or the Guarantees, except in the manner herein provided and for the equal and ratable benefit of all the Holders (it being further understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 508. Unconditional Right of Holders to Receive Principal, Premium and Interest. Notwithstanding any other provision in this Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article Eleven) and in such Note of the principal of (and premium, if any) and (subject to Section 306) interest on such Note on the respective Stated Maturities expressed in such Note (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment on or after such respective dates, and such rights shall not be impaired without the consent of such Holder.

SECTION 509. Restoration of Rights and Remedies. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture or the Guarantees 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 Guarantor, any other obligor of the Notes, 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 510. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in the last paragraph of Section 305, 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 or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511. 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 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 512. Control by Holders. The Holders of not less than a majority in principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or of exercising any trust or power conferred on the Trustee; provided that:

(1) such direction shall not be in conflict with any rule of law or with this Indenture, and such Holders have complied with Section 603(6),

-54-
subject to Section 315 of the Trust Indenture Act, the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

the Trustee need not take any action which might involve it in personal liability or be unjustly prejudicial to the Holders not consenting.

SECTION 513. Waiver of Past Defaults. Subject to Sections 508 and 902, the Holders of not less than a majority in principal amount of the Outstanding Notes may on behalf of the Holders of all such Notes waive any past Default hereunder and its consequences, except a continuing Default or Event of Default (1) in respect of the payment of principal of (and premium, if any), or the interest on any such Note held by a non-consenting Holder, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Note affected.

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 Event of Default or impair any right consequent thereon.

SECTION 514. Waiver of Stay or Extension Laws. Each of the Company, the Guarantors and any other obligor on the Notes covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and each of the Company, the Guarantors and any other obligor on the Notes (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 515. 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 attorney's fees and expenses, 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 515 does not apply to a suit by the Trustee, a suit by a Holder relating to right to payment hereof, or a suit by Holders of more than 10% in principal amount of the then Outstanding Notes.

ARTICLE SIX

THE TRUSTEE

SECTION 601. Duties of the Trustee.

(a) Except during the continuance of a Default or an Event of Default,
(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith or willful misconduct 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 requirements of this Indenture; but in the case of any such certificates or opinions specifically required by any provision hereof to be provided to it, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, but not to verify the contents thereof.

(b) If a Default or an Event of Default has occurred and is continuing of which a Responsible Officer of the Trustee has actual knowledge or of which written notice of such Default or Event of Default shall have been given to the Trustee by the Company, any other obligor of the Notes or by any Holder, 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 their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

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

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the Outstanding Notes relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602. Notice of Defaults. Within 30 days after the earlier of receipt from the Company of notice of the occurrence of any Default or Event of Default hereunder or the date when such Default or Event of Default becomes known to the Trustee, the Trustee shall transmit, in the manner and to the extent provided in TIA Section 313(c), notice of such Default or Event of Default hereunder known to the Trustee, unless such Default or Event of Default shall have been cured or waived; provided
that, except in the case of a Default or Event of Default in the payment of the principal of (or premium, if any, on) or interest on any Note, the Trustee shall be protected in withholding such notice if and so long as a committee of Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the best interest of the Holders.

SECTION 603. Certain Rights of Trustee. Subject to the provisions of TIA Sections 315(a) through 315(d):

(1) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate;

(4) the Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes unless either (i) a Responsible Officer of the Trustee shall have actual knowledge of such Default or Event of Default or (ii) written notice of such Default or Event of Default shall have been received by the Trustee by the Company or by any Holder of Notes and references this Indenture and the Notes;

(5) the Trustee may consult with counsel of its own selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel;

(6) 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 pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses, losses and liabilities which might be incurred by it in compliance with such request or direction;

(7) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(8) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be
responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(9) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the
discretion or rights or powers conferred upon it by this Indenture;

(10) the rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and
shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(11) the Trustee may request that the Company deliver an Officers' Certificate substantially in the Form of Exhibit D hereto setting forth the
names of individuals or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be
signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously
delivered and not superseded;

(12) the Trustee shall not be required to give any note, bond or surety in respect of the execution of the trusts and powers under this Indenture;

(13) in no event shall the Trustee be responsible or liable for any failure or delay in the performance its obligations hereunder arising out of or
caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war or
terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunction of utilities,
communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent
with accepted practices to resume performance as soon as practicable under the circumstances; and

(14) in no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including,
but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the
form of action.

SECTION 604. Trustee Not Responsible for Recitals or Issuance of Notes. The recitals contained herein and in the Notes, except for the Trustee's
certificates of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee
makes no representations as to the validity or sufficiency of this Indenture or of the Notes, except that the Trustee represents that it is duly authorized to
execute and deliver this Indenture, authenticate the Notes and perform its obligations hereunder and that the statements made by it in a Statement of Eligibility
on Form T-1 supplied to the Company are true and accurate, subject to the qualifications set forth therein. The Trustee shall not be accountable for the use or
application by the Company of Notes or the proceeds thereof.

SECTION 605. May Hold Notes. The Trustee, any Paying Agent, any Note Registrar or any other agent of the Company or of the Trustee, in its
individual or any other capacity, may become the owner or pledgee of Notes and, subject to TIA Sections 310(b) and 311, may otherwise deal with the
Company with the same rights it would have if it were not the Trustee, Paying Agent, Note Registrar or such other agent; provided, that, if it acquires any
conflicting interest, it must eliminate such conflict within 90 days, apply to the SEC for permission to continue or resign.
SECTION 606. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

SECTION 607. Compensation and Reimbursement. The Company and the Guarantors, jointly and severally, agree:

(1) to pay to the Trustee from time to time such compensation as shall be agreed in writing between the Company and the Trustee for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall be determined to have been caused by its own negligence or willful misconduct; and

(3) to indemnify the Trustee and any predecessor Trustee for, and to hold it harmless against, any and all loss, liability, claim, damage or expense, including taxes (other than the taxes based on the income of the Trustee) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim regardless of whether the claim is asserted by the Company, a Guarantor, a Holder or any other Person or liability in connection with the exercise or performance of any of its powers or duties hereunder.

The obligations of the Company under this Section to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and resignation or removal of the Trustee. As security for the performance of such obligations of the Company, the Trustee shall have a claim prior to the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust solely for the benefit of the Holders entitled thereto for payment of principal of (and premium, if any) and interest on particular Notes.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 501(8), the expenses (including the reasonable charges and expenses of its counsel) of and the compensation for such services are intended to constitute expenses of administration under any applicable Bankruptcy Law.

The provisions of this Section shall survive the termination of this Indenture and resignation or removal of the Trustee.

SECTION 608. Corporate Trustee Required; Eligibility. There shall be at all times a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and shall have a combined capital and surplus of at least $50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of federal, State, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance
with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 609. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 610.

(b) The Trustee may resign at any time by giving written notice thereof to the Company. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument executed by authority of the Board of Directors, a copy of which shall be delivered to the resigning Trustee and a copy to the successor Trustee. If the instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of not less than a majority in principal amount of the Outstanding Notes, delivered to the Trustee and to the Company. If the instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

(d) The Trustee shall comply with TIA Section 310(b); provided that, there shall be excluded from the operation of TIA Section 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 Section 310(b)(1) are met.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Notes delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Note for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to the Holders in the manner provided for in Section 107. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 610. Acceptance of Appointment by Successor.

(a) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and
duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

(b) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Notes shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes. In case at that time any of the Notes shall not have been authenticated, any successor Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee shall have; provided that, the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 612. Appointment of Authenticating Agent. At any time when any of the Notes remain Outstanding, the Trustee may appoint an Authenticating Agent or Agents with respect to the Notes which shall be authorized to act on behalf of the Trustee to authenticate Notes and the Trustee shall give written notice of such appointment to all Holders of Notes with respect to which such Authenticating Agent will serve, in the manner provided for in Section 107. Notes so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Any such appointment shall be evidenced by an instrument in writing signed by a Responsible Officer of the Trustee, and a copy of such instrument shall be promptly furnished to the Company. Wherever reference is made in this Indenture to the authentication and delivery of Notes by the Trustee or the Trustee’s certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any state thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or state authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Section.
Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent; provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Notes, in the manner provided for in Section 107. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time such compensation for its services under this Section as shall be agreed in writing between the Company and such Authenticating Agent.

If an appointment is made pursuant to this Section, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

This is one of the Notes designated therein referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. as Trustee

Date: ________________  By: ________________  as Authenticating Agent

By: ________________  as Authorized Officer

SECTION 613. Escrow Authorization. Each Holder, by its acceptance of a Note, consents and agrees to the terms of the Escrow Agreement, including related documents thereto, as the same may be in effect or may be amended from time to time in writing by the parties thereto (provided that no amendment that would materially adversely affect the rights of the Holders may be effected without the consent of each Holder of Notes affected thereby), and authorizes and directs the Trustee to enter into the Escrow Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith. The Company shall do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Escrow Agreement, to assure and confirm to the
Trustee the security interest contemplated by the Escrow Agreement or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Notes and Guarantees secured hereby, according to the intent and purpose herein expressed. The Company shall take, or shall cause to be taken, any and all actions reasonably required to cause the Escrow Agreement to create and maintain, as security for the obligations of the Company under this Indenture, the Notes and the Guarantees as provided in the Escrow Agreement, valid and enforceable first priority perfected liens on the Escrow Account and in and on all the Escrowed Funds, in favor of the Trustee for its benefit, and the ratable benefit of the Holders, superior to and prior to the rights of third Persons and subject to no other Liens.

ARTICLE SEVEN

HOLDERS LISTS AND REPORTS BY TRUSTEE AND COMPANY

SECTION 701. Company to Furnish Trustee Names and Addresses. The Company will furnish or cause to be furnished to the Trustee:

(1) semiannually, not more than 10 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date; and

(2) at such other times as the Trustee may reasonably request in writing, within 30 days after receipt by the Company of any such request, a list of similar form and content to that in clause (1) hereof as of a date not more than 15 days prior to the time such list is furnished;

provided that, if and so long as the Trustee shall be the Note Registrar, no such list need be furnished.

SECTION 702. Disclosure of Names and Addresses of Holders. Every Holder of Notes, by receiving and holding the same, agrees with the Company and the Trustee that none of the Company or the Trustee or any agent of either of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

SECTION 703. Reports by Trustee. Within 60 days after May 15 of each year commencing with May 15, 2012, the Trustee shall transmit to the Holders of Notes (with a copy to the Company at the address specified in Section 106), in the manner and to the extent provided in TIA Section 313(c), a brief report dated as of such May 15 that complies with TIA Section 313(a). The Trustee also shall comply with TIA Section 313(b). A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange, if any, upon which the Notes are listed, with the Commission and with the Company. The Company will promptly notify the Trustee in writing when the Notes are listed on any stock exchange and of any delisting thereof.
ARTICLE EIGHT

MERGER, CONSOLIDATION OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS

SECTION 801. Company May Consolidate, Etc., Only on Certain Terms.

(a) The Company may not consolidate or merge with or into or wind up into (whether or not the Company is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

1. the Company is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a Person organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Person, as the case may be, being herein called the "Successor Company");

2. the Successor Company, if other than the Company, expressly assumes all the obligations of the Company under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee;

3. immediately after such transaction, no Default exists;

4. immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the applicable four-quarter period,

   A. the Successor Company or 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 1011(a) or

   B. the Fixed Charge Coverage Ratio for the Successor Company and the Restricted Subsidiaries would be greater than the Fixed Charge Coverage Ratio for the Company and the Restricted Subsidiaries immediately prior to such transaction;

5. each Guarantor, unless it is the other party to the transactions described above, in which case Section 802(1)(B) below shall apply, shall have by supplemental indenture confirmed that its Guarantee shall apply to such Person's obligations under this Indenture, the Notes and the Registration Rights Agreement; and

6. the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(b) The Successor Company shall succeed to, and be substituted for the Company under this Indenture, the Registration Rights Agreement and the Notes. The foregoing clauses (3), (4), (5) and (6) of Section 801(a) shall not apply to the transaction contemplated by the Merger Agreement. Notwithstanding clauses (3) and (4) of Section 801(a).
(1) any Restricted Subsidiary may consolidate with, merge into or transfer all or part of its properties and assets to the Company or any Restricted Subsidiary and

(2) the Company may merge with an Affiliate of the Company solely for the purpose of reincorporating the Company in another state of the United States, the District of Columbia or any territory thereof so long as the amount of Indebtedness of the Company and the Restricted Subsidiaries is not increased thereby.

SECTION 802. Guarantors May Consolidate, Etc., Only on Certain Terms. Subject to Section 1209, no Guarantor shall, and the Company shall not permit any Guarantor to, consolidate or merge with or into or wind up into (whether or not the Company or such Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) (A) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation or merger (if other than such Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a Person organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Guarantor or such Person, as the case may be, being herein called the “Successor Person”);

(B) the Successor Person, if other than such Guarantor, expressly assumes all the obligations of such Guarantor under this Indenture and such Guarantor’s related Guarantee pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee;

(C) immediately after such transaction, no Default exists; and

(D) the Company shall have delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture; or

(2) the transaction is an Asset Sale that is made in compliance with Section 1017.

Subject to Section 1209, the Successor Person shall succeed to, and be substituted for, such Guarantor under this Indenture and such Guarantor’s Guarantee. Notwithstanding the foregoing, any Guarantor may (i) merge into or transfer all or part of its properties and assets to another Guarantor or the Company, (ii) merge with an Affiliate of the Issuer solely for the purpose of reincorporating or reorganizing the Guarantor in the United States, any state thereof, the District of Columbia or any territory thereof so long as the amount of Indebtedness of the Issuer and its Restricted Subsidiaries is not increased thereby or (iii) convert into a Person organized or existing under the laws of the jurisdiction of such Guarantor.

SECTION 803. Successor Substituted. Upon any consolidation or merger, or any sale, assignment, conveyance, transfer, lease or disposition of all or substantially all of the assets of the Company or any Guarantor in accordance with Sections 801 and 802 hereof, the successor Person formed by such consolidation or into which the Company or such Guarantor, as the case may be, is merged or the successor Person to which such sale, assignment, conveyance, transfer, lease or disposition is made, shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Indenture or the Guarantees, as the case may be, with the same effect as if such successor Person had been named as the Company or such Guarantor, as the case may be,
herein or the Guarantees, as the case may be. When a successor Person assumes all obligations of its predecessor hereunder, the Notes or the Guarantees, as the case may be, such predecessor shall be released from all obligations; provided that in the event of a transfer or lease, the predecessor shall not be released from the payment of principal and interest or other obligations on the Notes or the Guarantees, as the case may be.

ARTICLE NINE
SUPPLEMENTAL INDENTURES

SECTION 901. Amendments or Supplements Without Consent of Holders. Without the consent of any Holder, the Company, any Guarantor (with respect to a Guarantee or this Indenture to which it is a party), when authorized by Board Resolutions of their respective Board of Directors, and the Trustee, at any time and from time to time, may amend or supplement this Indenture, the Notes and any related Guarantee, in form satisfactory to the Trustee, for any of the following purposes:

(1) to cure any ambiguity, omission, mistake, defect or inconsistency;
(2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
(3) to comply with Article Eight hereof;
(4) to provide for the assumption of the Company's or such Guarantor's obligations to Holders;
(5) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder;
(6) to add covenants for the benefit of the Holders or to surrender any right or power conferred in this Indenture upon the Company or any Guarantor;
(7) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act;
(8) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee pursuant to the requirements of Sections 609 and 610 hereof;
(9) to provide for the issuance of Exchange Notes or Private Exchange Notes, which are identical to Exchange Notes except that they are not freely transferable;
(10) to provide for the issuance of Additional Notes, in accordance with this Indenture;
(11) to add a Guarantor or a parent guarantee under this Indenture;
(12) to conform the text of this Indenture, Guarantees or the Notes to any provision of the "Description of the Notes" section of the Offering Document to the extent that such provision in the "Description of the Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Guarantees or the Notes; or
to amend the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without limitation, to facilitate the issuance and administration of the Notes; provided that, (A) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any applicable securities law and (B) such amendment does not materially and adversely affect the rights of Holders to transfer Notes.

SECTION 902. Amendments, Supplements or Waivers with Consent of Holders.

(a) With the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, any Guarantor (with respect to any Guarantee to which it is a party or this Indenture), when authorized by Board Resolutions of their respective Board of Directors, and the Trustee may amend or supplement this Indenture, any Guarantee or the Notes for the purpose of adding any provisions hereto or thereto, changing in any manner or eliminating any of the provisions or of modifying in any manner the rights of the Holders hereunder or thereunder (including consents obtained in connection with a purchase of, or tender offer or Exchange Offer for, the Notes) and 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 not less than a majority in principal amount of the Outstanding Notes, other than Notes beneficially owned by the Company or its Affiliates (including consents obtained in connection with a purchase of or tender offer or Exchange Offer for Notes); provided that no such amendment, supplement or waiver shall, without the consent of the Holder of each Outstanding Note affected thereby:

1. reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver,
2. reduce the principal of or change the Maturity of any such Note or alter or waive the provisions with respect to the redemption of the Notes (other than Sections 1016, 1017 and 1105),
3. reduce the rate of or change the time for payment of interest on any Note,
4. waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes issued under this Indenture, 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, or in respect of a covenant or provision contained in this Indenture or any guarantee which cannot be amended or modified without the consent of all Holders,
5. make any Note payable in money other than that stated in the Notes,
6. make any change in Section 513 or the rights of Holders to receive payments of principal of or premium, if any, or interest on the Notes,
7. make any change in these amendment and waiver provisions,
8. impair the right of any Holder to receive payment of principal of, or interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes.
(9) make any change to or modify in the ranking of any Note or related Guarantee that would adversely affect the Holders, or
(10) release the Lien on the Escrow Account or any Escrowed Funds other than in accordance with the terms of this Indenture and the Escrow Agreement.

(b) It shall not be necessary for the consent of Holders under this Section 902 to approve the particular form of any proposed amendment or waiver, and it shall be sufficient if such consent approves the substance thereof.

c) Neither the Company nor any of its Restricted Subsidiaries may, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders that are "qualified institutional buyers" within the meaning of Rule 144A of the Securities Act, who, upon request, confirm that they are "qualified institutional buyers," consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or amendment.

SECTION 903. Execution of Amendments, Supplements or Waivers. In executing, or accepting the additional trusts created by, any amendment, supplement or waiver permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be provided with, and shall be fully protected in relying upon, an Officers' Certificate and Opinion of Counsel stating that the execution of such amendment, supplement or waiver is authorized and permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such amendment, supplement or waiver which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

SECTION 904. Effect of Amendments, Supplements or Waivers. Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such amendment, supplement or waiver shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 905. Compliance with Trust Indenture Act. Every supplemental indenture executed pursuant to the Article shall comply with the requirements of the Trust Indenture Act as then in effect.

SECTION 906. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

SECTION 907. Notice of Supplemental Indentures. Promptly after the execution by the Company, any Guarantor and the Trustee of any supplemental indenture pursuant to the provisions of Section 902, the Company shall give notice thereof to the Holders of each Outstanding Note affected, in the manner provided for in Section 107, setting forth in general terms the substance of such supplemental indenture.
ARTICLE TEN

COVENANTS

SECTION 1001. Payment of Principal, Premium, if any, and Interest. The Company covenants and agrees for the benefit of the Holders that it will duly and punctually pay the principal of (and premium, if any) and interest and Special Interest, if any, on the Notes in accordance with the terms of the Notes and this Indenture.

The Company shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

SECTION 1002. Maintenance of Office or Agency. The Company will maintain in The City of New York, an office or agency where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The designated office of the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any 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, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

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

SECTION 1003. Money for Notes Payments to Be Held in Trust. If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of (or premium, if any) or Special Interest, if any, or interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal of (or premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for the Notes, it will, on or before each due date of the principal of (or premium, if any) or interest on any Notes, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent (other than the Trustee) to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:
(1) hold all sums held by it for the payment of the principal of (and premium, if any) or interest on Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any Default by the Company (or any other obligor upon the Notes) in the making of any payment of principal (and premium, if any) or interest; and

(3) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

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 (or premium, if any) or interest on any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general 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, that the Trustee or such Paying Agent, before being required to make any such repayment, shall at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, 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 publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004. Corporate Existence. Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect the corporate existence and that of each Restricted Subsidiary and the corporate rights (charter and statutory) and franchises of the Company and each Restricted Subsidiary; provided, that the Company shall not be required to preserve any such right or franchise if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries as a whole.

SECTION 1005. Payment of Taxes and Other Claims. The Company will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all taxes, assessments and governmental charges levied or imposed upon the Company or any Subsidiary or upon the income, profits or property of the Company or any Subsidiary and (2) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien upon the property of the Company or any Subsidiary; provided, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Company) are being maintained in accordance with GAAP.

SECTION 1006. Maintenance of Properties. The Company will cause all properties owned by the Company or any Restricted Subsidiary or used or held for use in the conduct of its business
or the business of any Restricted Subsidiary to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, that nothing in this Section shall prevent the Company from discontinuing the maintenance of any of such properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of its business or the business of any Restricted Subsidiary.

SECTION 1007. Insurance. The Company will at all times keep all of its and its Subsidiaries' properties which are of an insurable nature insured with insurers, believed by the Company to be responsible, against loss or damage to the extent that property of similar character is usually so insured by corporations similarly situated and owning like properties.

SECTION 1008. Statement by Officers as to Default.

(a) The Company will deliver to the Trustee within 120 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding quarter or the preceding fiscal year, as the case may be, has been made under the supervision of the signing officers with a view to determining whether it has kept, observed, performed and fulfilled, and has caused each of its Restricted Subsidiaries to keep, observe, perform and fulfill its obligations under this Indenture and further stating, as to each such officer signing such certificate, that, to the best of his or her knowledge, the Company during such preceding quarter or the preceding fiscal year, as the case may be, has kept, observed, performed and fulfilled, and has caused each of its Restricted Subsidiaries to keep, observe, perform and fulfill each and every such covenant contained in this Indenture and no Default or Event of Default occurred during such quarter or year, as the case may be, and at the date of such certificate there is no Default or Event of Default which has occurred and is continuing or, if such signers do know of such Default or Event of Default, the certificate shall describe its status, with particularity and that, to the best of his or her knowledge, no event has occurred and remains by reason of which payments on the 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 each is taking or proposes to take with respect thereto. The Officers' Certificate shall also notify the Trustee should the Company elect to change the manner in which it fixes its fiscal year-end. For purposes of this Section 1008(a), such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) (1) When any Default or Event of Default has occurred and is continuing under this Indenture, or (2) if the trustee for or the holder of any other evidence of Indebtedness of the Company or any Restricted Subsidiary gives any notice or takes any other action with respect to a claimed default (other than with respect to Indebtedness in the principal amount of less than $50,000,000), the Company shall deliver to the Trustee by registered or certified mail or facsimile transmission an Officers' Certificate specifying such event, notice or other action within ten Business Days of its occurrence.

SECTION 1009. Reports and Other Information.

(a) Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, the Indenture will require the Company to file with the SEC (and make available to the Trustee and Holders of the Notes (without exhibits), without cost to each Holder, within 15 days after it files them with the SEC):
(1) within 90 days after the end of each fiscal year (120 days for the fiscal year ended May 1, 2011), all financial information that would be required to be contained in an annual report on Form 10-K, or any successor or comparable form, filed with the SEC, including a “Management's Discussion and Analysis of Financial Condition and Results of Operations” and a report on the annual financial statements by the Company's independent registered public accounting firm;

(2) within 45 days after the end of each of the first three fiscal quarters of each fiscal year (60 days for the fiscal quarter ended January 30, 2011), all financial information that would be required to be contained in a quarterly report on Form 10-Q, or any successor or comparable form, filed with the SEC;

(3) promptly from time to time after the occurrence of an event required to be therein reported, such other reports on Form 8-K, or any successor or comparable form; and

(4) any other information, documents and other reports which the Company would be required to file with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act;

in each case, in a manner that complies in all material respects with the requirements specified in such form. Notwithstanding the foregoing, the Company shall not be so obligated to file such reports with the SEC (i) if the SEC does not permit such filing or (ii) prior to the consummation of an Exchange Offer or the effectiveness of a Shelf Registration Statement as required by the Registration Rights Agreement, so long as if clause (i) or (ii) is applicable the Company makes available such information to prospective purchasers of Notes (for example, by posting such information on its public website), in addition to providing such information to the Trustee and the Holders of the Notes, in each case, at the Company's expense and by the applicable date the Company would be required to file such information pursuant to the immediately preceding sentence. To the extent any such information is not so filed or furnished, as applicable, within the time periods specified above and such information is subsequently filed or furnished, as applicable, the Company will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured; provided that such cure shall not otherwise affect the rights of the Holders under "Events of Default and Remedies" if Holders of at least 30% in principal amount of the then Outstanding Notes have declared the principal, premium, if any, interest and any other monetary obligations on all the then Outstanding Notes to be due and payable immediately and such declaration shall not have been rescinded or cancelled prior to such cure. In addition, to the extent not satisfied by the foregoing, the Company will agree that, for so long as any Notes are outstanding, it will furnish to Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act. The Company will deliver the financial statements and information of the type required to be delivered pursuant to clause (b) of the first sentence of this covenant with respect to the fiscal quarter ended January 30, 2011, which, notwithstanding the foregoing, shall not be required to give pro forma effect to the Transactions, shall not be required to contain financial statement footnote disclosure and shall not be required to contain consolidating financial data with respect to the Guarantor and non-Guarantor Subsidiaries of the type contemplated by Rule 3-10 of Regulation S-X promulgated under the Securities Act or otherwise.

In the event that any direct or indirect parent company of the Company guarantees the Notes (which shall be permitted, subject to compliance with the Indenture, at any time, at the Company’s sole discretion), the Indenture will permit the Company to satisfy its obligations under this Section 1009 with respect to financial information relating to the Company by furnishing financial information relating to such parent; provided that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such parent, on the one hand, and the
information relating to the Company and the Restricted Subsidiaries on a standalone basis, on the other hand. Such parent shall not be considered a Guarantor by virtue of providing such guarantee, which may be released at any time.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

(b) Notwithstanding the foregoing, such requirements shall be deemed satisfied prior to the commencement of the Exchange Offer or the effectiveness of the Shelf Registration Statement by the filing with the SEC of the Exchange Offer Registration Statement or Shelf Registration Statement within the time periods specified in the Registration Rights Agreement, and any amendments thereto, with such financial information that satisfies Regulation S-X of the Securities Act.

SECTION 1010. Limitation on Restricted Payments.

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

1. declare or pay any dividend or make any payment or distribution on account of the Company's or any Restricted Subsidiary's Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation, other than:
   - (A) dividends or distributions by the Company payable in Equity Interests (other than Disqualified Stock) of the Company or in options, warrants or other rights to purchase such Equity Interests; or
   - (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Subsidiary other than a Wholly-Owned Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

2. purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Company or Holdings or any other direct or indirect parent company of the Company, including in connection with any merger or consolidation;

3. make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness of the Company or any Restricted Subsidiary, other than:
   - (A) Indebtedness permitted under clauses (7) and (8) of Section 1011(b); or
   - (B) the purchase, repurchase or other acquisition of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or
(4) make any Restricted Investment;

(all such payments and other actions set forth in clauses (1) through (4) above (other than any exception thereto) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

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

(B) immediately after giving effect to such transaction on a pro forma basis, the Company could incur $1.00 of additional Indebtedness under Section 1011(a); and

(C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and the Restricted Subsidiaries after the Effective Date (including Restricted Payments permitted by clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock pursuant to clause (B) thereof only), (6)(C) and (9) of Section 1010(b), but excluding all other Restricted Payments permitted by Section 1010(b)), is less than the sum of (without duplication):

(1) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the first day of the fiscal quarter during which the Effective Date occurs, 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, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit, plus

(2) 100% of the aggregate net cash proceeds and the Fair Market Value of marketable securities or other property received by the Company since immediately after the Effective Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or preferred stock pursuant to Section 1011(b)(12)(a) from the issue or sale of

(x) Equity Interests of the Company, including Retired Capital Stock (as defined below), but excluding cash proceeds and the Fair Market Value of marketable securities or other property received from the sale of

(A) Equity Interests to any employee, director or consultant of the Company, any direct or indirect parent company of the Company and the Company's Subsidiaries after the Effective Date to the extent such amounts have been applied to Restricted Payments made in accordance with Section 1010(b)(4) and

(B) Designated Preferred Stock

and to the extent such net cash proceeds are actually contributed to the Company, Equity Interests of Holdings or any other direct or indirect parent company of the Company (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts

-74-
have been applied to Restricted Payments made in accordance with Section 1010(b)(4) or

(y) debt securities of the Company or a Restricted Subsidiary that have been converted into or exchanged for such Equity Interests of the Company or Holdings or any other direct or indirect parent company of the Company;

provided that this clause (2) shall not include the proceeds from (a) Refunding Capital Stock (as defined below), (b) Equity Interests or convertible debt securities of the Company sold to a Restricted Subsidiary or the Company, as the case may be, (c) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (d) Excluded Contributions, plus

(3) 100% of the aggregate amount of cash and the Fair Market Value of marketable securities or other property contributed to the capital of the Company following the Effective Date (other than net cash proceeds to the extent such net cash proceeds (i) have been used to incur Indebtedness, Disqualified Stock or preferred stock pursuant to Section 1011(b)(12)(a), (ii) are contributed by a Restricted Subsidiary or (iii) constitute Excluded Contributions), plus

(4) to the extent not already included in Consolidated Net Income, 100% of the aggregate amount received in cash and the Fair Market Value of marketable securities or other property received by means of

(A) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of Restricted Investments made by the Company and the Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Company and the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments made by the Company or its Restricted Subsidiaries, in each case, after the Effective Date or

(B) the sale (other than to the Company or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 1010(b) or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Effective Date, plus

(5) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary after the Effective Date, the Fair Market Value of the Investment in such Unrestricted Subsidiary at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary, other than to the extent the Investment in such Unrestricted Subsidiary was made by the Company or a Restricted Subsidiary pursuant to clause (7) of Section 1010(b) or to the extent such Investment constituted a Permitted Investment.

(b) The foregoing provisions shall not prohibit:
(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration thereof or the giving of such irrevocable notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Indenture;

(2) (A) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock") or Subordinated Indebtedness of the Company, or any Equity Interests of Holdings or any other direct or indirect parent company of the Company, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Company or any direct or indirect parent company of the Company to the extent contributed to the Company (in each case, other than any Disqualified Stock) ("Refunding Capital Stock") and

(B) if immediately prior to the retirement of Retired Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this Section 1010(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of Holdings or any other direct or indirect parent company of the Company) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that was declarable and payable on such Retired Capital Stock immediately prior to such retirement;

(3) the redemption, defeasance, repurchase or other acquisition or retirement for value of Subordinated Indebtedness of the Company or a Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Company or a Guarantor, as the case may be, which is incurred in compliance with Section 1011 so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on the Subordinated Indebtedness being so redeemed, defeased, repurchased, exchanged, acquired or retired for value, plus the amount of any reasonable premium (including reasonable tender premiums), defeasance costs and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness,

(B) such new Indebtedness is subordinated to the Notes or the applicable Guarantee at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, acquired or retired for value,

(C) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, defeased, repurchased, exchanged, acquired or retired, and

(D) such new Indebtedness has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, defeased, repurchased, exchanged, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Company or Holdings or any other direct or indirect parent company of the Company held by any future, present or former employee, director or consultant of the Company, any of its Subsidiaries, Holdings or any
other direct or indirect parent company of the Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, or any stock subscription or shareholder agreement (including, for the avoidance of doubt, any principal and interest payable on any notes issued by the Company or any direct or indirect parent company of the Company in connection with such repurchase, retirement or other acquisition), including any Equity Interests rolled over by management of the Company or any direct or indirect parent company of the Company in connection with the Transactions; provided that the aggregate Restricted Payments made under this clause (4) do not exceed in any calendar year $40.0 million (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of $60.0 million in any calendar year); provided, further, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Company and, to the extent contributed to the Company, the cash proceeds from the sale of Equity Interests of Holdings or any other direct or indirect parent company of the Company, in each case to any future, present or former employees, directors or consultants of the Company, any of its Subsidiaries, Holdings or any other direct or indirect parent company of the Company that occurs after the Effective Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (C) of Section 1010(a); plus

(B) the cash proceeds of key man life insurance policies received by the Company and the Restricted Subsidiaries after the Effective Date, less

(C) the amount of any Restricted Payments previously made pursuant to clauses (A) and (B) of this Section

and provided further that cancellation of Indebtedness owing to the Company or any Restricted Subsidiary from any future, present or former employees, directors or consultants of the Company, Holdings, any other direct or indirect parent company of the Company or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Company, Holdings or any other direct or indirect parent company of the Company will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Company or any Restricted Subsidiary or any class or series of preferred stock of any Restricted Subsidiary, in each case, issued in accordance with the covenant described under Section 1011 to the extent such dividends are included in the definition of Fixed Charges;

(6) (A) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Company after the Effective Date;

(B) the declaration and payment of dividends to Holdings or any other direct or indirect parent company of the Company, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such parent company issued after the Effective Date; provided that the amount of dividends paid pursuant to this clause (B) shall not exceed

-77-
the aggregate amount of cash actually contributed to the Company from the sale of such Designated Preferred Stock, or

(C) the declaration and payment of dividends on Refunding Capital Stock in excess of the dividends declarable and payable thereon pursuant to Section 1010(b)(2);

provided that, in the case of each of (A), (B) and (C) of this clause (6), for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock, after giving effect to such issuance or declaration on a pro forma basis, the Company and the Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed $100.0 million at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(8) payments made or expected to be made by the Company or any Restricted Subsidiary in respect of withholding or similar taxes payable upon exercise of Equity Interests by any future, present or former employee, director or consultant and repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(9) the declaration and payment of dividends on the Company's common stock (or the payment of dividends to Holdings or any other direct or indirect parent company of the Company to fund a payment of dividends on such company's common stock), following consummation of the first public offering of the Company's common stock or the common stock of Holdings or any other direct or indirect parent company of the Company after the Effective Date, of up to 6.0% per annum of the net cash proceeds received by or contributed to the Company in or from any such public offering, other than public offerings with respect to the Company's common stock registered on Form S-8 and other than any public sale constituting an Excluded Contribution;

(10) Restricted Payments in an amount equal to the amount of Excluded Contributions made since the Effective Date;

(11) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause not to exceed $125.0 million at the time made;

(12) distributions or payments of Receivables Fees;

(13) any Restricted Payment made in connection with the Transactions and the fees and expenses related thereto or used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent company of the Company to permit payment by such parent of such amount), in each case to the extent permitted by Section 1013;

(14) the repurchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness pursuant to the provisions similar to those of Section 1016.
and Section 1017; provided that all Notes tendered by Holders of the Notes in connection with a Change of Control Offer or an Asset Sale Offer, as the case may be, have been repurchased, redeemed, defeased or acquired or retired for value;

(15) the declaration and payment of dividends by the Company to, or the making of loans to, Holdings or any other direct or indirect parent company of the Company in amounts required for such parent company to pay:

(A) franchise and excise taxes and other fees, taxes and expenses required to maintain its corporate existence,

(B) foreign, federal, state and local income and similar taxes, to the extent such income taxes are attributable to the income, revenue, receipts, capital or margin of the Company and the Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Company and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Company, its Restricted and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such direct or indirect parent company of the Company;

(C) customary salary, bonus and other benefits payable to officers, employees and directors of Holdings or any other direct or indirect parent company of the Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Company and the Restricted Subsidiaries, including the Company's proportionate share of such amount relating to such parent company being a public company,

(D) general corporate operating (including, without limitation, expenses related to auditing or other accounting matters) and overhead costs and expenses of Holdings or any other direct or indirect parent company of the Company to the extent such costs and expenses are attributable to the ownership or operation of the Company and the Restricted Subsidiaries, including the Company's proportionate share of such amount relating to such parent company being a public company,

(E) amounts required for any direct or indirect parent company of the Company to pay fees and expenses incurred by any direct or indirect parent company of the Company related to (i) the maintenance by such parent entity of its corporate or other entity existence and (ii) any unsuccessful equity or debt offering of such parent company of the Company,

(F) taxes with respect to income of any direct or indirect parent company of the Company derived from funding made available to the Company and its Restricted Subsidiaries by such direct or indirect parent company and

(G) 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 Company or any such direct or indirect parent company of the Company;
the repurchase, redemption or other acquisition for value of Equity Interests of the Company deemed to occur in connection with paying cash in lieu of fractional shares of such Equity Interests in connection with a share dividend, distribution, share split, reverse share split, merger, consolidation, amalgamation or other business combination of the Company, in each case, permitted under the Indenture;

(17) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents); and

(18) Restricted Payments made in connection with the repurchase, redemption, defeasance or other acquisition of the Existing Notes;

provided that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11) and (17) of this Section 1010(b), no Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) As of the Effective Date, all of the Company's Subsidiaries shall be Restricted Subsidiaries. The Company shall not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of "Unrestricted Subsidiary" in Section 102 of this Indenture. For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Company and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated shall be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investment" in Section 102 of this Indenture. Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to Section 1010(a) or under clauses (7), (10) or (11) of Section 1010(b), or pursuant to the definition of "Permitted Investments", and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries shall not be subject to any of the restrictive covenants set forth in this Indenture.

SECTION 1011. Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, (collectively, "incur" and collectively, an "incurrence") with respect to any Indebtedness (including Acquired Indebtedness) and the Company shall not issue any shares of Disqualified Stock and shall not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or preferred stock; provided that the Company may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of preferred stock, if, after giving effect thereto, the Fixed Charge Coverage Ratio of the Company and the Restricted Subsidiaries would be at least 2.00 to 1.00; provided, further, that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Stock and preferred stock that may be incurred pursuant to the foregoing, together with any amounts incurred under clause 14(x) of Section 1011(b) by Restricted Subsidiaries that are not Guarantors shall not exceed $200.0 million at any one time outstanding.

(b) The foregoing limitations shall not apply to:

(1) (x) Indebtedness incurred pursuant to the Revolving Credit Facility by the Company or any Restricted Subsidiary; provided that immediately after giving effect to any such

-80-
incurrence, the then-outstanding aggregate principal amount of all Indebtedness incurred under this clause (x) does not exceed the greater of (A) $750.0 million and (B) the Borrowing Base, and (y) Indebtedness incurred pursuant to the Term Loan Facility by the Company or any Restricted Subsidiary; provided that after giving effect to any such incurrence, the aggregate principal amount of all Indebtedness incurred under this clause (y) and then outstanding does not exceed $3,200.0 million;

(2) Indebtedness represented by the Notes (including any Guarantee thereof, but excluding Indebtedness represented by Additional Notes, if any, or guarantees with respect thereto) and Exchange Notes issued in respect of such Notes and any Guarantee thereof;

(3) Existing Indebtedness (other than Indebtedness described in clauses (1) and (2) above);

(4) Indebtedness (including Capitalized Lease Obligations), Disqualified Stock and preferred stock incurred by the Company or any Restricted Subsidiary, to finance the purchase, lease, construction, installation or improvement of property (real or personal) or equipment that is used or useful in a Similar Business, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets and Indebtedness arising from the conversion of the obligations of the Company or any Restricted Subsidiary under or pursuant to the "synthetic lease" transactions to on-balance sheet Indebtedness of the Company or such Restricted Subsidiary, in an aggregate principal amount which, when aggregated with the principal amount of all other Indebtedness, Disqualified Stock and preferred stock then outstanding and incurred pursuant to this clause (4) and all Refinancing Indebtedness incurred to Refinance any other Indebtedness, Disqualified Stock and preferred stock incurred pursuant to this clause (4), does not exceed the greater of (x) $175.0 million and (y) 2.25% of Total Assets at the time of incurrence;

(5) Indebtedness incurred by the Company or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance; provided that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(6) Indebtedness arising from agreements of the Company or a Restricted Subsidiary providing for indemnification, adjustment of purchase price, earnout or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; provided that such Indebtedness is not reflected on the balance sheet of the Company or any Restricted Subsidiary (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet) shall not be deemed to be reflected on such balance sheet for purposes of this clause (6));

(7) Indebtedness of the Company to a Restricted Subsidiary; provided that any such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Notes; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a
Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(8) Indebtedness of a Restricted Subsidiary owing to the Company or another Restricted Subsidiary; provided that if a Guarantor incurs such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor, such Indebtedness is subordinated in right of payment to the Guarantee of such Guarantor; provided further that any subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary) shall be deemed, in each case to be an incurrence of such Indebtedness not permitted by this clause;

(9) shares of preferred stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of preferred stock (except to the Company or another Restricted Subsidiary) shall be deemed in each case to be an issuance of such shares of preferred stock not permitted by this clause;

(10) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to this Section 1011, exchange rate risk or commodity pricing risk;

(11) obligations in respect of self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by the Company or any Restricted Subsidiary or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business;

(12) (a) Indebtedness, Disqualified Stock and preferred stock of the Company or any Restricted Subsidiary in an aggregate principal amount or liquidation preference up to 100% of the net cash proceeds received by the Company since immediately after the Effective Date from the issue or sale of Equity Interests of the Company or cash contributed to the capital of the Company (in each case, other than Excluded Contributions or proceeds of Disqualified Stock or sales of Equity Interests to the Company or any of its Subsidiaries) as determined in accordance with clauses (C)(2) and (C)(3) of Section 1010(a) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 1010(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) and (b) Indebtedness, Disqualified Stock or preferred stock of the Company or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and preferred stock then outstanding and incurred pursuant to this clause (12)(b), does not at any one time outstanding exceed $225.0 million (it being understood that any Indebtedness, Disqualified Stock or preferred stock incurred pursuant to this clause (12)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(b) but shall be deemed incurred for the purposes of Section 1011(a) from and after the first date on which the Company or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or preferred stock under Section 1011(a) without reliance on this clause (12)(b));

(13) the incurrence by the Company or any Restricted Subsidiary of Indebtedness, Disqualified Stock or preferred stock which serves to Refinance any Indebtedness, Disqualified Stock or preferred stock incurred as permitted under Section 1011(a) and clauses (2) and (3)
above, clause 12(a), this clause (13) and clause (14) below or any Indebtedness, Disqualified Stock or preferred stock issued to so Refinance such
Indebtedness, Disqualified Stock or preferred stock including additional Indebtedness, Disqualified Stock or preferred stock incurred to pay premiums
(including reasonable tender premiums), defeasance costs and fees in connection therewith (the “Refinancing Indebtedness”) prior to its respective
maturity; provided that such Refinancing Indebtedness

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining
Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or preferred stock being Refinanced,

(B) to the extent such Refinancing Indebtedness Refinances (i) Indebtedness subordinated to the Notes or any Guarantee of the Notes, such
Refinancing Indebtedness is subordinated to the Notes or such Guarantee at least to the same extent as the Indebtedness being Refinanced or
(ii) Disqualified Stock or preferred stock, such Refinancing Indebtedness must be Disqualified Stock or preferred stock, respectively and

(C) shall not include

(i) Indebtedness, Disqualified Stock or preferred stock of a Subsidiary of the Company that is not a Guarantor that Refinances
Indebtedness, Disqualified Stock or preferred stock of the Company,

(ii) Indebtedness, Disqualified Stock or preferred stock of a Subsidiary of the Company that is not a Guarantor that Refinances
Indebtedness, Disqualified Stock or preferred stock of a Guarantor, or

(iii) Indebtedness, Disqualified Stock or preferred stock of the Company or a Restricted Subsidiary that Refinances Indebtedness,
Disqualified Stock or preferred stock of an Unrestricted Subsidiary;

and provided further that subclause (A) above of this clause (13) shall not apply to any refunding or Refinancing of any Indebtedness outstanding under
the Senior Credit Facilities;

(14) Indebtedness, Disqualified Stock or preferred stock of (x) the Company or a Restricted Subsidiary incurred or issued to finance an
acquisition; provided that the amount of Indebtedness (other than Acquired Indebtedness), Disqualified Stock and preferred stock that may be incurred
pursuant to the foregoing, together with any amounts incurred under Section 1011(a) (by Restricted Subsidiaries that are not Guarantors shall not
exceed $200.0 million at any one time outstanding, or (y) Persons that are acquired by the Company or any Restricted Subsidiary or merged into or
consolidated with the Company or a Restricted Subsidiary in accordance with the terms of this Indenture; provided that after giving effect to such
acquisition or merger, either:

(A) 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 1011(a), or

(B) the Fixed Charge Coverage Ratio of the Company and the Restricted Subsidiaries is greater than immediately prior to such acquisition,
merger or consolidation;
(15) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(16) Indebtedness of the Company or any Restricted Subsidiary supported by a letter of credit issued pursuant to any Credit Facility, in a principal amount not in excess of the stated amount of such letter of credit;

(17) (A) any guarantee by the Company or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as, in the case of a guarantee by a Restricted Subsidiary that is not a Guarantor, such Indebtedness could have been incurred directly by the Restricted Subsidiary providing such guarantee, or

(B) any guarantee by a Restricted Subsidiary of Indebtedness of the Company, provided that such guarantee is incurred in accordance with Section 1015;

(18) Indebtedness of Foreign Subsidiaries of the Company in an amount not to exceed, in the aggregate, at any one time outstanding, 5.0% of the Total Assets of the Foreign Subsidiaries at the time of incurrence;

(19) Indebtedness of the Company or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take or pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business;

(20) Indebtedness of the Company or any of its Restricted Subsidiaries undertaken in connection with cash management and related activities with respect to any Subsidiary or joint venture in the ordinary course of business;

(21) Indebtedness consisting of Indebtedness issued by the Company or any of its Restricted Subsidiaries to future current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Company or any direct or indirect parent company of the Company to the extent described in Section 1010(b)(4);

(22) guarantees furnished by the Company or any of its Restricted Subsidiaries in the ordinary course of business of Indebtedness of another Person in an aggregate amount not to exceed $50.0 million at any time outstanding; and

(23) Indebtedness incurred in connection with any Sale and Lease-Back Transaction; provided that the aggregate Indebtedness incurred pursuant to this clause shall not exceed $50.0 million at any time outstanding.

(c) For purposes of determining compliance with this Section 1011,

(1) in the event that an item of Indebtedness, Disqualified Stock or preferred stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Stock or preferred stock described in clauses (1) through (23) of Section 1011(b) or is entitled to be incurred pursuant to Section 1011(a), the Company, in its sole discretion, shall classify or reclassify such item of Indebtedness, Disqualified Stock or preferred stock (or any portion thereof) and shall only be required to include the amount and type of such

-84-
Indebtedness, Disqualified Stock or preferred stock in one of the above clauses of this Section 1011(b); provided that all Indebtedness outstanding under the Senior Credit Facilities on the Issue Date after giving effect to the Transactions will be treated as incurred on the Effective Date under Section 1011(b)(1); and

(2) at the time of incurrence, the Company shall be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in Sections 1011(a) and (b).

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or preferred stock shall not be deemed to be an incurrence of Indebtedness, Disqualified Stock or preferred stock for purposes of this Section 1011.

(d) For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to Refinance other Indebtedness denominated in a foreign currency, and such Refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such Refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed (i) the principal amount of such Indebtedness being Refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums and other costs and expenses incurred in connection with such Refinancing.

(e) The principal amount of any Indebtedness incurred to Refinance other Indebtedness, if incurred in a different currency from the Indebtedness being Refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such Refinancing.

SECTION 1012. Liens. The Company shall not, and shall not permit any Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien (except Permitted Liens) that secures Obligations under any Indebtedness or any related Guarantee on any asset or property of the Company or any Guarantor, or any income or profits therefrom, or assign or convey any right to receive income therefrom, unless the Notes (or a Guarantee in the case of Liens of a Guarantor) are equally and ratably secured with (or in the event the Lien relates to Subordinated Indebtedness, are secured on a senior basis to) the obligations so secured until such time as such obligations are no longer secured by a Lien. Any Lien created for the benefit of the Holders of the Notes pursuant to this Section 1012 will provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Lien that gave rise to the obligation to secure the Notes.

-85-
SECTION 1013. Limitations on Transactions with Affiliates.

(a) The Company shall not, and shall not permit any Restricted Subsidiary 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 or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate payments or consideration in excess of $15.0 million, unless:

(1) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis; and

(2) the Company delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of $30.0 million, a resolution adopted by the majority of the Board of Directors of the Company approving such Affiliate Transaction and set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with clause (1) above.

(b) The foregoing provisions will not apply to the following:

(1) transactions between or among the Company or any of the Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(2) Restricted Payments permitted by Section 1010 and the definition of "Permitted Investments"

(3) (i) the payment of management, consulting, monitoring and advisory fees and related expenses (including indemnification and other similar amounts) to the Investors pursuant to the Sponsor Management Agreement (plus any unpaid management, consulting, monitoring, advisory and other fees and related expenses (including indemnification and other similar amounts) accrued in any prior year) and the termination fees pursuant to the Sponsor Management Agreement, or in each case as in effect on the Effective Date or any amendment thereto (so long as any such amendment is not materially disadvantageous, in the good faith judgment of the Board of Directors of the Company, to the Holders when taken as a whole as compared to the Sponsor Management Agreement in effect on the Effective Date); and (ii) payments by the Company or any of its Restricted Subsidiaries to any of the Investors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved by a majority of the Board of Directors of the Company in good faith;

(4) the payment of reasonable and customary fees and compensation paid to, and indemnities and reimbursements and employment and severance arrangements provided on behalf of, or for the benefit of, former, current or future officers, directors, employees or consultants of the Company, Holdings, any other direct or indirect parent company of the Company or any Restricted Subsidiary;

(5) transactions in which the Company or any Restricted Subsidiary, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or
stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis;

(6) any agreement or arrangement as in effect as of the Effective Date, or any amendment thereto (so long as any such amendment is not disadvantageous in any material respect to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Effective Date);

(7) the existence of, or the performance by the Company or any Restricted Subsidiary of its obligations under the terms of, any stockholders agreement or the equivalent (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Effective Date and any similar agreements which it may enter into thereafter; provided that the existence of, or the performance by the Company or any Restricted Subsidiary of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Effective Date shall only be permitted by this clause (7) to the extent that the terms of any such amendment or new agreement are not otherwise disadvantageous to the Holders in any material respect when taken as a whole;

(8) the Transactions and the payment of all fees and expenses related to the Transactions, in each case as disclosed in the Offering Document;

(9) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Company and the Restricted Subsidiaries, in the reasonable determination of the Board of Directors of the Company or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(10) the issuance or transfer of Equity Interests (other than Disqualified Stock) of the Company to any direct or indirect parent company of the Company or to any Permitted Holder or to any director, officer, employee or consultant (or their respective estates, investment funds, investment vehicles, spouses or former spouses) of the Company, any of its direct or indirect parent companies or any of its Subsidiaries;

(11) sales of accounts receivable, or participations therein, in connection with any Receivables Facility;

(12) payments by the Company or any Restricted Subsidiary to any of the Investors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures which payments are approved by a majority of the Board of Directors of the Company in good faith;

(13) payments or loans (or cancellation of loans) to employees, directors or consultants of the Company, Holdings, any other direct or indirect parent company of the Company or any Restricted Subsidiary and employment agreements, stock option plans and other similar arrangements with such employees, directors or consultants which, in each case, are approved by the Company in good faith;
(14) investments by the Investors in securities of the Company or any Restricted Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Investors in connection therewith) so long as (i) the investment is being generally offered to other investors on the same or more favorable terms and (ii) the investment constitutes less than 5% of the proposed or outstanding issue amount of such class of securities;

(15) payments to any future, current or former employee, director, officer, manager or consultant of the Company, any of its Subsidiaries or any direct or indirect parent company of the Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement; and any employment agreements, stock option plans and other compensatory arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or arrangements with any such employees, directors, officers, managers or consultants that are, in each case, approved by the Company in good faith;

(16) any transaction with a Person (other than an Unrestricted Subsidiary) which would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary owns an Equity Interest in or otherwise controls such Person;

(17) payments by the Company (and any direct or indirect parent company of the Company) and its Subsidiaries pursuant to tax sharing agreements among the Company (and any direct or indirect parent company) and its Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Company, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of the amount received from Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Company, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such direct or indirect parent company of the Company;

(18) any lease entered into between the Company or any Restricted Subsidiary, as lessee, and any Affiliate of the Company, as lessor, which is approved by a majority of the disinterested members of the Board of Directors of the Company; and

(19) intellectual property licenses in the ordinary course of business.

SECTION 1014. Limitations on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries. The Company shall not, and shall not permit any of its Restricted Subsidiaries that are not Guarantors to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to:

(a) (1) pay dividends or make any other distributions to the Company or any Restricted Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or (2) pay any Indebtedness owed to the Company or any Restricted Subsidiary;

(b) make loans or advances to the Company or any Restricted Subsidiary; or

(c) sell, lease or transfer any of its properties or assets to the Company or any Restricted Subsidiary, except (in each case) for such encumbrances or restrictions existing under or by reason of:
(1) contractual encumbrances or restrictions in effect on the Effective Date, including, pursuant to the Senior Credit Facilities and the related
documentation and related Hedging Obligations;
(2) this Indenture, the Notes and the Guarantees;
(3) purchase money obligations for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose
restrictions of the nature discussed in clause (c) above on the property so acquired;
(4) applicable law or any applicable rule, regulation or order;
(5) any agreement or other instrument of a Person acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary
in existence at the time of such acquisition or at the time it merges with or into the Company or any Restricted Subsidiary or assumed in connection
with the acquisition of assets from such Person (but not created in contemplation thereof), which encumbrance or restriction is not applicable to any
Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries,
so acquired;
(6) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Company pursuant to an agreement that
has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary;
(7) Secured Indebtedness otherwise permitted to be incurred pursuant to Sections 1011 and 1012 that limit the right of the debtor to dispose of the
assets securing such Indebtedness;
(8) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
(9) other Indebtedness, Disqualified Stock or preferred stock of Restricted Subsidiaries permitted to be incurred subsequent to the Effective Date
pursuant to Section 1011 and either (A) the provisions relating to such encumbrance or restriction contained in such Indebtedness are no less favorable
to the Company, taken as a whole, as determined by the Board of Directors of the Company in good faith, than the provisions contained in the Senior
Credit Facilities as in effect on the Effective Date or (B) any such encumbrance or restriction contained in such Indebtedness does not prohibit (except
upon a default or an event of default thereunder) the payment of dividends in an amount sufficient, as determined by the Board of Directors of the
Company in good faith to make scheduled payments of cash interest on the Notes when due;
(10) customary provisions in joint venture agreements or arrangements and other similar agreements or arrangements relating solely to such joint
venture;
(11) customary provisions contained in leases, subleases, licenses, sub/licenses or similar agreements, in each case, entered into in the ordinary
course of business;
(12) any encumbrance or restriction with respect to a Subsidiary Guarantor or a Foreign Subsidiary or Securitization Subsidiary which was
previously an Unrestricted Subsidiary pursuant to or by reason of an agreement that such Subsidiary is a party to or entered into before the date on
which such Subsidiary became a Restricted Subsidiary; provided that such agreement

-89-
was not entered into in anticipation of an Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction does not extend to any assets or property of the Company or any other Restricted Subsidiary other than the assets and property of such Subsidiary;

(13) restrictions created in connection with any Receivables Facility that, in the good faith determination of the Board of Directors of the Company, are necessary or advisable to effect such Receivables Facility; and

(14) any encumbrances or restrictions of the type referred to in clauses (a), (b) and (c) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (13) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Board of Directors of the Company, no more restrictive in any material respect with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

SECTION 1015. Limitation on Guarantees of Indebtedness by Restricted Subsidiaries. The Company will not permit any of its Wholly-Owned Subsidiaries that are Restricted Subsidiaries (and non-Wholly-Owned Subsidiaries if such non-Wholly-Owned Subsidiaries guarantee other capital markets debt securities of the Company or a Guarantor), other than a Guarantor or a special-purpose Restricted Subsidiary formed in connection with a Receivables Facility, to guarantee the payment of any Indebtedness of the Company or any other Guarantor unless:

(1) such Restricted Subsidiary within 30 days executes and delivers a supplemental indenture to this Indenture providing for a Guarantee by such Restricted Subsidiary the form of which is attached as Exhibit C hereto; provided that, if such Indebtedness is by its express terms subordinated in right of payment to the Notes or such Guarantor's Guarantee of the Notes, any such guarantee of such Restricted Subsidiary with respect to such Indebtedness shall be subordinated in right of payment to such Restricted Subsidiary's Guarantee with respect to the Notes substantially to the same extent as such Indebtedness is subordinated to the Notes;

(2) such Restricted Subsidiary waives and shall not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against the Company or any other Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Guarantee; and

(3) such Restricted Subsidiary shall deliver to the Trustee an Opinion of Counsel to the effect that

(A) such Guarantee has been duly executed and authorized, and

(B) such Guarantee constitutes a valid, binding and enforceable obligation of such Restricted Subsidiary, except insofar as enforcement thereof may be limited by any Bankruptcy Law (including all laws relating to fraudulent transfers) and except insofar as enforcement thereof is subject to general principles of equity;
provided that this Section 1015 shall not be applicable to any guarantee of any Restricted Subsidiary that existed at the time such Person became a Restricted Subsidiary and was not incurring in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary.

SECTION 1016. Change of Control.

(a) If a Change of Control occurs after the Effective Date, unless, prior to the time the Company is required to make a Change of Control Offer (as defined below), the Company has previously or concurrently mailed a redemption notice with respect to all the Outstanding Notes as described under Sections 401 or 1101, the Company shall make an offer to purchase all of the Notes pursuant to the offer described below (the "Change of Control Offer") at a price in cash (the "Change of Control Payment") equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest, if any, to, but excluding the date of purchase, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date. Within 30 days following any Change of Control, the Company shall send notice of such Change of Control Offer by first class mail, with a copy to the Trustee, to each Holder to the address of such Holder appearing in the Note Register with a copy to the Trustee, or otherwise in accordance with the procedures of the Depositary with the following information:

(1) that a Change of Control Offer is being made pursuant to this Section 1016 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Company;

(2) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the "Change of Control Payment Date");

(3) that any Note not properly tendered will remain outstanding and continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, to the Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Company to purchase such Notes; provided that the Paying Agent receives, not later than the expiration time of the Change of Control Offer, facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) that if the Company is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to $2,000 or an integral multiple of $1,000 in excess thereof;
(8) if such notice is delivered prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control; and

(9) the other instructions, as determined by us, consistent with this Section 1016, that a Holder must follow.

(b) While the Notes are in global form and the Company makes an offer to purchase all of the Notes pursuant to the Change of Control Offer, a Holder may exercise its option to elect for the purchase of the Notes through the facilities of the Depositary subject to its rules and regulations.

(c) 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 or regulations are applicable in connection with the repurchase of the Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(d) On the Change of Control Payment Date, the Company shall, to the extent permitted by law,

(1) accept for payment all Notes issued by it or portions thereof properly tendered pursuant to the Change of Control Offer,

(2) deposit with the Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officers' Certificate stating that all Notes or portions thereof have been tendered to and purchased by the Company.

(e) The Paying Agent shall promptly mail to each Holder the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each such new Note shall be in a principal amount of $2,000 or an integral multiple of $1,000 in excess thereof. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(f) The Company shall not be required to make a Change of Control Offer following 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 such Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of the making of such Change of Control Offer.

SECTION 1017. Asset Sales.

(a) After the Effective Date, the Company shall not, and shall not permit any Restricted Subsidiary to consummate, directly or indirectly, an Asset Sale, unless:
(1) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined at the time of contractually agreeing to such Asset Sale) of the assets sold or otherwise disposed of; and

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; provided that the amount of:

(A) any liabilities (as shown on the Company's most recent consolidated balance sheet or in the footnotes thereto, or if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been shown on the Company's consolidated balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such balance sheet, as determined in good faith by the Company) of the Company, other than liabilities that are by their terms subordinated to the Notes, that are assumed by the transferee of any such assets (or are otherwise extinguished in connection with the transactions relating to such Asset Sale) and for which the Company and all such Restricted Subsidiaries have been validly released by all applicable creditors in writing,

(B) any securities, notes or other obligations or assets received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of such Asset Sale, and

(C) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of (x) $150.0 million and (y) 2.00% of Total Assets at the time of the receipt of such Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value,

shall be deemed to be cash for purposes of this provision and for no other purpose.

(b) Within 450 days after the Company's or any Restricted Subsidiary's receipt of the Net Proceeds of any Asset Sale (the "Asset Sale Proceeds Application Period"), the Company or such Restricted Subsidiary, at its option, may apply the Net Proceeds from such Asset Sale

(1) to permanently repay:

(A) Obligations under a Credit Facility to the extent such Obligations were incurred under Section 1011(b)(1), and to correspondingly reduce any outstanding commitments with respect thereto;

(B) Obligations under Senior Secured Indebtedness of the Company or a Guarantor, and to correspondingly reduce any outstanding commitments with respect thereto;
(C) Obligations under the Notes or any other Senior Indebtedness of the Company or any Restricted Subsidiary (and, in the case of other Senior Indebtedness, to correspondingly reduce any outstanding commitments with respect thereto, if applicable); provided that if the Company or any Restricted Subsidiary shall so repay any such other Senior Indebtedness, the Company will reduce Obligations under the Notes on a pro rata basis by, at its option, (A) redeeming Notes as described under Section 1101, (B) making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all Holders to purchase their Notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, thereon up to the principal amount of Notes to be repurchased or (C) purchasing Notes through open market purchases, at a price equal to or higher than 100% of the principal amount thereof, in a manner that complies with this Indenture and applicable securities law; or

(D) Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Company or another Restricted Subsidiary; or

(2) to make (a) an Investment in any one or more businesses; provided that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Company or a Restricted Subsidiary, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes or continues to constitute a Restricted Subsidiary, (b) capital expenditures or (c) acquisitions of other property or assets, in the case of each of (a), (b) and (c), either (i) used or useful in a Similar Business or (ii) that replace the businesses, properties and assets that are the subject of such Asset Sale;

provided that the Company and its Restricted Subsidiaries will be deemed to have complied with this clause (2) if and to the extent that, within 450 days after the Asset Sale that generated the Net Proceeds, the Company has entered into and not abandoned or rejected a binding agreement to consummate any such Investment described in this clause (2), and such Investment is thereafter completed within 180 days after the end of such 450-day period.

(c) To the extent of the balance of any Net Proceeds not invested or applied as permitted by clauses (1) and (2) above (any such Net Proceeds, whether from one or more Asset Sales, "Excess Proceeds"), the Company shall, prior to the expiration of the Asset Sale Proceeds Application Period, make an offer to all Holders of the Notes, and, if required by the terms of any Indebtedness that is pari passu with the Notes ("Pari Passu Indebtedness"), to the holders of such Pari Passu Indebtedness (an "Asset Sale Offer"), to purchase the maximum aggregate principal amount of Notes and such Pari Passu Indebtedness, in denominations of $2,000 initial principal amount and multiples of $1,000 thereafter, that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, or, in the case of Pari Passu Indebtedness represented by securities sold at a discount, the amount of the accreted value thereof at such time, plus accrued and unpaid interest and Special Interest, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in this Indenture. In the event that the Company or a Restricted Subsidiary prepays any Pari Passu Indebtedness that is outstanding under a revolving credit or other committed loan facility pursuant to an Asset Sale Offer, the Company or such Restricted Subsidiary shall cause the related loan commitment to be reduced in an amount equal to the principal amount so prepaid.

Any Asset Sale Offer shall be commenced by the Company with respect to Excess Proceeds within ten Business Days after the date that Excess Proceeds exceed $50.0 million by mailing the notice required pursuant to the terms of this Indenture, with a copy to the Trustee. To the extent that the aggregate amount of Notes and, if applicable, Pari Passu Indebtedness tendered pursuant to an Asset Sale

-94-
Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds in any manner not prohibited by this Indenture. If the aggregate principal amount of Notes and, if applicable, Pari Passu Indebtedness surrendered in an Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such Pari Passu Indebtedness to be purchased or repaid on a pro rata basis based on the accreted value or principal amount of the Notes or such Pari Passu Indebtedness tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(d) Pending the final application of any Net Proceeds pursuant to this Section 1017, the Company or the applicable Restricted Subsidiary may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(e) 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 or regulations are applicable in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(f) With respect to any partial redemption or repurchase of Notes made pursuant to this Indenture, if less than all of the Notes are to be redeemed at any given time, selection of such Notes for redemption will be made by the Trustee (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed, (b) on a pro rata basis to the extent practicable or (c) by lot or such other similar method in accordance with the procedures of the Depositary; provided that no Notes of $2,000 or less shall be redeemed or repurchased in part.

(g) Notices of purchase or redemption shall be delivered electronically or mailed by first-class mail, postage prepaid, at least 30 but not more than 60 days before the purchase or Redemption Date to each Holder of Notes at such Holder's registered address or otherwise in accordance with the procedures of the Depositary, except that redemption notices may be mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture. If any Note is to be purchased or redeemed in part only, any notice of purchase or redemption that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased or redeemed.

(h) The Company shall issue a new Note in principal amount equal to the unredeemed portion of the original Note in the name of the Holder thereof upon cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption, unless such redemption is conditioned on the happening of a future event. On and after the Redemption Date, unless the Company defaults in payment of the Redemption Price, interest shall cease to accrue on Notes or portions thereof called for redemption, unless such redemption is conditioned on the happening of a future event.

SECTION 1018. Special Interest Notice. In the event that the Company is required to pay Special Interest to Holders of Notes pursuant to the Registration Rights Agreement, the Company will provide written notice ("Special Interest Notice") to the Trustee of its obligation to pay Special Interest no later than fifteen days prior to the proposed payment date for the Special Interest, and the Special Interest Notice shall set forth the amount of Special Interest to be paid by the Company on such payment date. The Trustee shall not at any time be under any duty or responsibility to any Holder of Notes to
determine the Special Interest, or with respect to the nature, extent, or calculation of the amount of Special Interest owed, or with respect to the method employed in such calculation of the Special Interest.

SECTION 1019. Suspension of Covenants.

(a) During any period of time after the Effective Date that: (1) the Notes have Investment Grade Ratings from both Rating Agencies and (2) no Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (1) and (2) being collectively referred to as a "Covenant Suspension Event"), the Company and the Restricted Subsidiaries shall not be subject to the following provisions of this Indenture:

(A) clause (a)(4) of Section 801;
(B) Section 1010;
(C) Section 1011;
(D) Section 1013;
(E) Section 1014;
(F) Section 1015; and
(G) Section 1017;

(collectively, the "Suspended Covenants"). Upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be set at zero. In addition, the Guarantees of the Guarantors shall also be suspended as of such date (the "Suspension Date"). In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraws its Investment Grade Rating or downgrades the rating assigned to the Notes below an Investment Grade Rating or a Default or an Event of Default occurs and is continuing, then the Company and the Restricted Subsidiaries shall thereafter again be subject to the Suspended Covenants with respect to future events and the Guarantees shall be reinstated. The period of time between the Suspension Date and the Reversion Date is referred to in this description as the "Suspension Period". Notwithstanding that the Suspended Covenants may be reinstated, no Default, Event of Default or breach of any kind shall be deemed to exist under the Indenture, the Registration Rights Agreement, the Notes or the Guarantees with respect to the Suspended Covenants, and none of the Company or any of its Subsidiaries shall bear any liability for any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising prior to the Reversion Date, as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or upon termination of the Suspension Period or after that time based solely on events that occurred during the Suspension Period).

(b) On the Reversion Date, all Indebtedness incurred, or Disqualified Stock issued, during the Suspension Period shall be classified to have been incurred or issued pursuant to Section 1011(a) or 1011(b) (in each case, to the extent such Indebtedness or Disqualified Stock would be permitted to be incurred or issued thereunder as of the Reversion Date and after giving effect to Indebtedness incurred or issued prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness or Disqualified Stock would not be so permitted to be incurred or issued pursuant to Section 1011(a) or 1011(b), such Indebtedness or Disqualified Stock shall be deemed to have been outstanding on the Effective Date, so that it is classified as permitted under Section 1011(b)(3). On the
Reversion Date, all Liens created, incurred or assumed during the Suspension Period in compliance with this Indenture will be deemed to have been outstanding on the Effective Date, so that they are classified as permitted under clause (7) of the definition of "Permitted Liens." Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 1010 shall be made as though Section 1010 had been in effect prior to, but not during, the Suspension Period; provided that any Subsidiaries designated as Unrestricted Subsidiaries during the Suspension Period shall automatically become Restricted Subsidiaries on the Reversion Date (subject to the Company's right to subsequently designate them as Unrestricted Subsidiaries in compliance with this Indenture).

(c) The Company shall give the Trustee prompt (and in any event not later than five business days after a Covenant Suspension Event) written notice of any Covenant Suspension Event. In the absence of such notice, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Company shall give the Trustee prompt (and in any event not later than five business days after a Covenant Suspension Event) written notice of any occurrence of a Reversion Date. After any such notice of the occurrence of a Reversion Date, the Trustee shall assume the Suspended Covenants apply and are in full force and effect.

SECTION 1020. Activities Prior to Consummation of the Acquisition. Prior to the consummation of the Acquisition, the Company's primary activities shall be restricted to issuing the Notes, issuing capital stock to, and receiving capital contributions from, Holdings, performing its obligations in respect of the Notes and the Escrow Agreement, performing its obligations under the Merger Agreement, consummating the Transactions, effecting the release of the Escrowed Funds and redeeming the Notes, if applicable, and conducting such other activities as are necessary or appropriate to carry out the activities described above. Prior to the consummation of the Acquisition, the Company shall not own, hold or otherwise have any interest in any assets other than the Escrow Account, cash and Cash Equivalents and its rights under the Merger Agreement.

Prior to the consummation of the Acquisition, the Company and its Restricted Subsidiaries shall not engage in any business activity or enter into any transaction or agreement (including, without limitation, making any restricted payment, incurring any debt, incurring any Liens except in favor of the Holders of the Notes, entering into any merger, consolidation or sale of all or substantially all of its assets or engaging in any transaction with its Affiliates) except in the ordinary course of business or necessary to effectuate the Acquisition and the Transactions substantially in accordance with the description of the Transactions set forth in the Offering Document, together with such amendments, modifications and waivers that are not, individually or in the aggregate, materially adverse to Del Monte Foods Company and its Subsidiaries (after giving effect to the consummation of the Transactions), taken as a whole, or to the Holders of the Notes.

ARTICLE ELEVEN
REDEMPTION OF NOTES

SECTION 1101. Right of Redemption. At any time prior to February 15, 2014, the Company may redeem all or a part of the Notes, upon notice as set forth in Section 1105, at a Redemption Price equal to 100% of the principal amount of Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest, if any, to, but excluding, the date of redemption (the "Redemption Date"), subject to the rights of Holders on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date.

On and after February 15, 2014, the Company may redeem the Notes, in whole or in part, upon notice as set forth in Section 1105, at the Redemption Prices (expressed as percentages of principal

-97-
amount of Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon and Special Interest, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record on the relevant Regular Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve month period beginning on February 15 of each of the years indicated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>103.813%</td>
</tr>
<tr>
<td>2015</td>
<td>101.906%</td>
</tr>
<tr>
<td>2016 and thereafter</td>
<td>100.000%</td>
</tr>
</tbody>
</table>

In addition, until February 15, 2014, the Company may, at its option, upon notice as set forth in Section 1105, redeem up to 35% of the aggregate principal amount of Notes issued under this Indenture at a Redemption Price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Special Interest, if any, to, but excluding, the applicable Redemption Date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings of the Company or Holdings or any other indirect parent company of the Company to the extent such net cash proceeds are contributed to the Company; provided that at least 50% of the sum of the aggregate principal amount of Notes originally issued under this Indenture (including any Additional Notes issued under this Indenture after the Issue Date) remains outstanding immediately after the occurrence of each such redemption; provided, further, that each such redemption occurs within 120 days of the date of closing of each such Equity Offering.

SECTION 1102. Applicability of Article. Redemption of Notes at the election of the Company or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and this Article.

SECTION 1103. Election to Redeem; Notice to Trustee. The election of the Company to redeem any Notes pursuant to Section 1101 above shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Notes to be redeemed and shall deliver to the Trustee such documentation and records as shall enable the Trustee to select the Notes to be redeemed pursuant to Section 1104.

SECTION 1104. Selection by Trustee of Notes to Be Redeemed. If less than all of the Notes of the Company are to be redeemed at any given time, selection of such Notes for redemption will be made by the Trustee (a) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed, (b) on a pro rata basis to the extent practicable or (c) by lot or such other similar method in accordance with the procedures of Depositary; provided that no Notes of $2,000 or less shall be redeemed or repurchased in part.

Notices of purchase or redemption shall be delivered electronically or mailed by first class mail, postage prepaid, at least 30 but not more than 60 days before the purchase or Redemption Date to each Holder of Notes to be purchased or redeemed at such Holder’s registered address or otherwise in accordance with the Procedures of the Depositary, except that redemption notices may be mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture. If any Note is to be purchased or redeemed in part

-98-
only, any notice of purchase or redemption that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased or redeemed.

A new Note in principal amount equal to the unpurchased or unredeemed portion of any Note purchased or redeemed in part will be issued in the name of the Holder thereof upon cancellation of the original Note. On and after the purchase or Redemption Date, unless the Company defaults in payment of the purchase or Redemption Price, interest shall cease to accrue on Notes or portions thereof purchased or called for redemption unless such purchase or redemption is conditioned on the happening of a future event.

SECTION 1105. Notice of Redemption. Notice of redemption shall be given in the manner provided for in Section 107 not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder to be redeemed.

All notices of redemption shall state:

(1) the Redemption Date,
(2) the Redemption Price and the amount of accrued interest to the Redemption Date payable as provided in Section 1107, if any,
(3) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of a partial redemption, the principal amounts) of the particular Notes to be redeemed,
(4) in case any Note is to be redeemed in part only, the notice which relates to such Note shall state that on and after the Redemption Date, upon surrender of such Note, the Holder will receive, without charge, a new Note or Notes of authorized denominations for the principal amount thereof remaining unredeemed,
(5) that on the Redemption Date the Redemption Price (and accrued interest, if any, to the Redemption Date payable as provided in Section 1107) will become due and payable upon each such Note, or the portion thereof, to be redeemed, and that interest thereon will cease to accrue on and after said date,
(6) the place or places where such Notes are to be surrendered for payment of the Redemption Price and accrued interest, if any,
(7) the name and address of the Paying Agent,
(8) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price,
(9) the “CUSIP” number, ISIN or “Common Code” number and that no representation is made as to the accuracy or correctness of the “CUSIP” number, ISIN or “Common Code” number, if any, listed in such notice or printed on the Notes, and
(10) the paragraph of the Notes pursuant to which the Notes are to be redeemed.

Notice of redemption of Notes to be redeemed at the election of the Company shall be given by the Company or, at the Company's request and provision of such notice information three
Business Days (unless a shorter notice shall be agreed to by the Trustee) prior to the date notice is to be given, by the Trustee in the name and at the expense of the Company.

Any redemption or notice of any redemption may, at the Company's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering, other offering or other corporate transaction or event. Notice of any redemption in respect of an Equity Offering may be given prior to the completion thereof.

SECTION 1106. Deposit of Redemption Price. Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and accrued interest and Special Interest, if any, on, all the Notes which are to be redeemed on that date.

SECTION 1107. Notes Payable on Redemption Date. Notice of redemption having been given as aforesaid, the Notes so to be redeemed shall, on the Redemption Date, become due and payable, unless such redemption is conditioned on the happening of a future event, at the Redemption Price therein specified (together with accrued interest and Special Interest, if any, to the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Notes shall cease to bear interest. Upon surrender of any such Note for redemption in accordance with said notice, such Note shall be paid by the Company at the Redemption Price, together with accrued interest and Special Interest, if any, to the Redemption Date and such Notes shall be canceled by the Trustee; provided, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Notes, or one or more Predecessor Notes, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

If any Note called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes, unless such redemption is conditioned on the happening of a future event.

SECTION 1108. Notes Redeemed in Part. Any Note which is to be redeemed only in part (pursuant to the provisions of this Article) shall be surrendered at the office or agency of the Company maintained for such purpose pursuant to Section 1002 (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Note without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered.

SECTION 1109. Special Redemption. In the event that either (i) the Escrow Release Date has not occurred on or prior to the Outside Date, (ii) the Company delivers an Escrow Termination Notice prior to the Escrow Release Date or (iii) the Trustee delivers an Enforcement Notice, the Trustee, on behalf of the Company, shall redeem the Notes on the Special Redemption Date (solely from Escrowed Funds actually received by the Trustee in accordance with the Escrow Agreement), at a Redemption Price of 100% of the initial issue price of the Notes, plus all accrued and unpaid interest on the Notes, if any, from and including the Issue Date to, but excluding, the Special Redemption Date.
ARTICLE TWELVE

GUARANTEES

SECTION 1201. Guarantees. Each Guarantor hereby jointly and severally, unconditionally and irrevocably guarantees the Notes and obligations of the Company hereunder and thereunder, and guarantees to each Holder of a Note authenticated and delivered by the Trustee, and to the Trustee for itself and on behalf of such Holder, that: (1) the principal of (and premium, if any) and interest on, or Special Interest in respect of, the Notes will be paid in full when due, whether at Stated Maturity, by acceleration or otherwise (including the amount that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Law), together with interest on the overdue principal, if any, and interest on any overdue interest, to the extent lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be paid in full or performed, all in accordance with the terms hereof and thereof; and (2) in case of any extension of time of payment or renewal of any Notes or of any such other obligations, the same shall be 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, subject, however, in the case of clauses (1) and (2) above, to the limitation set forth in Section 1204 hereof.

Each Guarantor hereby agrees that its 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 with respect to any provisions hereof or thereof, any release of any other Guarantor, 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.

Each Guarantor hereby waives (to the extent permitted by law) the benefits of diligence, presentment, demand for 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 or any other Person, protest, notice and all demands whatsoever and covenants that the Guarantee of such Guarantor shall not be discharged as to any Note except by complete performance of the obligations contained in such Note, this Indenture and such Guarantee. Each Guarantor acknowledges that the Guarantee is a guarantee of payment, performance and compliance when due and not of collection. Each of the Guarantors hereby agrees that, in the event of a default in payment of principal (or premium, if any) or interest on such Note, whether at its Stated Maturity, by acceleration, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Note, subject to the terms and conditions set forth in this Indenture, directly against each of the Guarantors to enforce such Guarantor's Guarantee without first proceeding against the Company or any other Guarantor. Each Guarantor agrees that if, after the occurrence and during the continuance of an Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the Maturity of the Notes, to collect interest on the Notes, or to enforce or exercise any other right or remedy with respect to the Notes, such Guarantor shall pay to the Trustee for the account of the Holder, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

If any Holder or the Trustee is required by any court or otherwise to return to the Company or any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or any Guarantor, any amount paid by any of them to the Trustee or such Holder, the Guarantee of each of the Guarantors, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor further agrees that, as between each Guarantor, on the one hand, and the Holders and the Trustee on the other hand, (1) subject to this Article Twelve, the Maturity of the
obligations guaranteed hereby may be accelerated as provided in Article Five hereof for the purposes of the Guarantee of such Guarantor notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any acceleration of such obligation as provided in Article Five hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of the Guarantee of such Guarantor.

Each Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation, reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes, whether as a "voidable preference", "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned. The form of Notation of Guarantee to be executed on each Note by each Guarantor is attached as Exhibit B hereto.

SECTION 1202. Severability. In case any provision of any Guarantee 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 to the extent permitted by applicable law.

SECTION 1203. Restricted Subsidiaries. The Company shall cause any Restricted Subsidiary required to guarantee payment of the Notes pursuant to the terms and provisions of Section 1015 to (1) execute and deliver to the Trustee any amendment or supplement to this Indenture in accordance with the provisions of Article Nine of this Indenture pursuant to which such Restricted Subsidiary shall guarantee all of the obligations on the Notes, whether for principal, premium, if any, interest (including interest accruing after the filing of, or which would have accrued but for the filing of, a petition by or against the Company under any Bankruptcy Law, whether or not such interest is allowed as a claim after such filing in any proceeding under such law) and other amounts due in connection therewith (including any fees, expenses and indemnities), on an unsecured senior basis and (2) deliver to such Trustee an Opinion of Counsel reasonably satisfactory to such Trustee to the effect that such amendment or supplement has been duly executed and delivered by such Restricted Subsidiary and is in compliance with the terms of this Indenture. Upon the execution of any such amendment or supplement, the obligations of the Guarantors and any such Restricted Subsidiary under their respective Guarantees shall become joint and several and each reference to the "Guarantor" in this Indenture shall, subject to Section 1208, be deemed to refer to all Guarantors, including such Restricted Subsidiary. Such Guarantee shall be released in accordance with Section 803 and Section 1208.

SECTION 1204. Limitation of Guarantors' Liability. Each Guarantor and by its acceptance hereof each Holder confirms that it is the intention of all such parties that the guarantee by each such Guarantor pursuant to its Guarantee not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or the provisions of its local law relating to fraudulent transfer or conveyance. To effectuate the foregoing intention, the Holders and each such Guarantor hereby irrevocably agree that the obligations of such Guarantor under its Guarantee shall be limited to the maximum amount that will not, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect

-102-
of the obligations of such other Guarantor under its Guarantee or pursuant to this Section 1204, result in the obligations of such Guarantor under its Guarantee constituting such fraudulent transfer or conveyance.

SECTION 1205. Contribution. In order to provide for just and equitable contribution among the Guarantors, the Guarantors agree, inter se, that in the event any payment or distribution is made by any Guarantor (a "Funding Guarantor") under a Guarantee, such Funding Guarantor shall be entitled to a contribution from all other Guarantors in a pro rata amount based on the Adjusted Net Assets (as defined below) of each Guarantor (including the Funding Guarantor) for all payments, damages and expenses incurred by that Funding Guarantor in discharging the Company's obligations with respect to the Notes or any other Guarantor's obligations with respect to the Guarantee of such Guarantor. "Adjusted Net Assets" of such Guarantor at any date shall mean the lesser of (1) the amount by which the fair value of the property of such Guarantor exceeds the total amount of liabilities, including contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under the Guarantee of such Guarantor at such date and (2) the amount by which the present fair salable value of the assets of such Guarantor at such date exceeds the amount that will be required to pay the probable liability of such Guarantor on its debts (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), excluding debt in respect of the Guarantee of such Guarantor, as they become absolute and matured.

SECTION 1206. Subrogation. Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 1201; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full.

SECTION 1207. Reinstatement. Each Guarantor hereby agrees (and each Person who becomes a Guarantor shall agree) that the Guarantee provided for in Section 1201 shall continue to be effective or be reinstated, as the case may be, if at any time, payment, or any part thereof, of any obligations or interest thereon is rescinded or must otherwise be restored by a Holder to the Company upon the bankruptcy or insolvency of the Company or any Guarantor.

SECTION 1208. Release of a Guarantor. Any Guarantee by a Guarantor of the Notes shall be automatically and unconditionally released and discharged upon:

1. (A) any sale, exchange or transfer (by merger or otherwise) of (i) the Capital Stock of such Guarantor (including any sale, exchange or transfer) after which the applicable Guarantor is no longer a Restricted Subsidiary or (ii) all the assets of such Guarantor, which sale, exchange or transfer is made in compliance with the applicable provisions of this Indenture;

   (B) the release or discharge of the guarantee by such Guarantor of the Senior Credit Facilities or the guarantee which resulted in the creation of such Guarantee, except a discharge or release by or as a result of payment under such guarantee;

   (C) the designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of this Indenture;

   (D) the Legal Defeasance of the Notes under Section 1302 hereof, or the Covenant Defeasance of the Notes under Section 1303 hereof, or if the Company's obligations under this Indenture are discharged in accordance with Section 401; or
(E) as described under Section 901 or 902; and

(2) such Guarantor delivering to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for to such transaction have been complied with.

SECTION 1209. Benefits Acknowledged. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and from its guarantee and waivers pursuant to its Guarantees under this Article Twelve.

ARTICLE THIRTEEN

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 1301. Company's Option to Effect Legal Defeasance or Covenant Defeasance. The Company may, at its option by Board Resolution, at any time, with respect to the Notes, elect to have either Section 1302 or Section 1303 be applied to all Outstanding Notes upon compliance with the conditions set forth below in this Article Thirteen.

SECTION 1302. Legal Defeasance and Discharge. Upon the Company's exercise under Section 1301 of the option applicable to this Section 1302, each of the Company and the Guarantors shall be deemed to have been discharged from its respective obligations with respect to all Outstanding Notes on the date the conditions set forth in Section 1304 are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that each of the Company and the Guarantors shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Notes, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 1305 and the other Sections of this Indenture referred to in (1) and (2) below, and to have satisfied all its other obligations under such Notes and this Indenture insofar as such Notes are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (1) the rights of Holders of Outstanding Notes to receive payments in respect of the principal of (and premium, if any, on) and interest on such Notes when such payments are due, solely out of the trust described in Section 1304, (2) the Company's obligations with respect to such Notes under Sections 303, 304, 305, 1002 and 1003, (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder, and the obligations of each of the Company in connection therewith and (4) this Article Thirteen. Subject to compliance with this Article Thirteen, the Company may exercise its option under this Section 1302 notwithstanding the prior exercise of its option under Section 1303 with respect to the Notes.

SECTION 1303. Covenant Defeasance. Upon the Company's exercise under Section 1301 of the option applicable to this Section 1303, each of the Company and the Guarantors shall be released from its respective obligations under any covenant contained in Sections 801 and 802 and in Sections 1005, 1006, 1007 and 1009 through and including 1017 with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not to be "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. For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Company or any Guarantor, as applicable, 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
SECTION 1304. Conditions to Legal Defeasance or Covenant Defeasance. The following shall be the conditions to application of either
Section 1302 or Section 1303 to the Outstanding Notes:

(1) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of
Section 608 who shall agree to comply with the provisions of this Article Thirteen applicable to it) as trust funds in trust for the purpose of making
the following payments, specifically pledged as security for, and dedicated solely to the benefit of the Holders of such Notes; (A) cash in U.S. dollars, or
(B) non-callable Government Securities, or (C) a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized
firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be
applied by the Trustee (or other qualifying trustee) to pay and discharge, the principal of (and premium, if any) and interest on the Outstanding Notes
at the Stated Maturity (or Redemption Date, if applicable and so indicated to the Trustee in writing); provided that the Trustee shall have been irrevocably
instructed to apply such cash or the proceeds of such Government Securities or combination thereof to said payments with respect to the Notes. Before
such a deposit, the Company may give to the Trustee, in accordance with Section 1103 hereof, a notice of its election to redeem all of the Outstanding
Notes at a future date in accordance with Article Eleven hereof, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be
given effect in applying the foregoing;

(2) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably
acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

(A) the Company has received from, or there has been published by, the United States Internal Revenue Service a ruling, or

(B) since the issuance of the Notes, 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 in the United States shall confirm that, subject to customary assumptions
and exclusions, the Holders of the Outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such
Legal Defeasance 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 Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably
acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders of the Outstanding Notes will not recognize
income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance 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 Covenant Defeasance had not occurred;

-105-
(4) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens in connection therewith) with respect to the Notes shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under the Senior Credit Facilities or any other material agreement or instrument (other than this Indenture) to which, the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens in connection therewith);

(6) the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that, as of the date of such opinion and subject to customary assumptions and exclusions following the deposit, the trust funds will not be subject to the effect of Section 547 of Title 11 of the United States Code;

(7) 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 defeating, hindering, delaying or defrauding any creditors of the Company or any Guarantor or others; and

(8) the Company shall have delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel in the United States (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

SECTION 1305. Deposited Money and Government Securities To Be Held in Trust Other Miscellaneous Provisions. Subject to the provisions of the last paragraph of Section 1003, all cash and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 1305, the “Qualifying Trustee”) pursuant to Section 1304 in respect of the Outstanding Notes shall be held in trust and applied by the Qualifying 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 its own Paying Agent) as the Qualifying Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, but such money or Government Securities need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Qualifying Trustee against any tax, fee or other charge imposed on or assessed against the Government Securities deposited pursuant to Section 1304 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 Thirteen to the contrary notwithstanding, the Qualifying Trustee shall deliver or pay to the Company from time to time upon Company Request any money or Government Securities held by it as provided in Section 1304 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Qualifying Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance, as applicable, in accordance with this Article.

SECTION 1306. Reinstatement. If the Trustee or any Paying Agent is unable to apply any money or Government Securities in accordance with Section 1305 by reason of any order or
judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and each Guarantor's obligations under this Indenture and the Outstanding Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 1302 or 1303, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money or Government Securities in accordance with Section 1305; provided that, if the Company makes any payment of principal of (or 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 or Government Securities held by the Trustee or Paying Agent.
IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

BLUE MERGER SUB INC.,
By: /s/ Simon Brown

Name: Simon Brown
Title: President

-108-
1. Definitions

1.1 Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

"Applicable Procedures" means, with respect to any transfer or transaction involving a Temporary Regulation S Global Note or beneficial interest therein, the rules and procedures of the Depository for such a Temporary Regulation S Global Note, to the extent applicable to such transaction and as in effect from time to time.

"Definitive Note" means a certificated Initial Note or Exchange Note or Private Exchange Note bearing, if required, the appropriate restricted notes legend set forth in Section 2.3(e).

"Depository" means The Depository Trust Company, its nominees and their respective successors.

"Distribution Compliance Period", with respect to any Notes, means the period of 40 consecutive days beginning on and including the later of (i) the day on which such Notes are first offered to Persons other than distributors (as defined in Regulation S under the Securities Act) in reliance on Regulation S and (ii) the issue date with respect to such Notes.

"Exchange Notes" means (1) the 7.625% Senior Notes Due 2019 issued pursuant to the Indenture in connection with a Registered Exchange Offer pursuant to a Registration Rights Agreement and (2) Additional Notes, if any, issued pursuant to a registration statement filed with the SEC under the Securities Act.

"IAI" means an institutional "accredited investor", as defined in Rule 501(a)(1), (2), (3) and (7) of Regulation D under the Securities Act.

"Initial Notes" means (1) $1,300,000,000 aggregate principal amount of 7.625% Senior Notes Due 2019 issued on the Issue Date and (2) Additional Notes, if any.

"Initial Purchasers" means (1) with respect to the Initial Notes issued on the Issue Date, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. Incorporated, Barclays Capital Inc., J.P. Morgan Securities LLC, KKR Capital Markets LLC, Deutsche Bank Securities Inc., Goldman, Sachs & Co., and Mizuho Securities USA Inc., and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related Purchase Agreement.

"Notes" means the Initial Notes, the Exchange Notes and the Private Exchange Notes, treated as a single class.
“Notes Custodian” means the custodian with respect to a Global Notes (as appointed by the Depository), or any successor Person thereto and shall initially be the Trustee.

“Private Exchange” means the offer by the Company, pursuant to a Registration Rights Agreement, to the Initial Purchasers to issue and deliver to each Initial Purchaser, in exchange for the Initial Notes held by the Initial Purchaser as part of its initial distribution, a like aggregate principal amount of Private Exchange Notes.

“Private Exchange Notes” means any 7.625% Senior Notes Due 2019 issued in connection with a Private Exchange.

“Purchase Agreement” means (1) with respect to the Initial Notes issued on the Issue Date, the Purchase Agreement dated February 1, 2011, among the Company, the Guarantors and the Representatives on behalf of the Initial Purchasers, and (2) with respect to each issuance of Additional Notes, the purchase agreement or underwriting agreement among the Company, the Guarantors and the Persons purchasing such Additional Notes.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Registered Exchange Offer” means the offer by the Company, pursuant to a Registration Rights Agreement, to certain Holders of Initial Notes, to issue and deliver to such Holders, in exchange for the Initial Notes, a like aggregate principal amount of Exchange Notes registered under the Securities Act.

“Registration Rights Agreement” means (1) with respect to the Initial Notes issued on the Issue Date, the Exchange and Registration Rights Agreement dated February 16, 2011, among the Company, the Guarantors and the Representatives on behalf of the Initial Purchasers and (2) with respect to each issuance of Additional Notes issued in a transaction exempt from the registration requirements of the Securities Act, the registration rights agreement, if any, among the Company and the Persons purchasing such Additional Notes under the related Purchase Agreement.


“Rule 144A Notes” means all Notes offered and sold to QIBs in reliance on Rule 144A.

“Securities Act” means the Securities Act of 1933.

“Shelf Registration Statement” means the registration statement issued by the Company in connection with the offer and sale of Initial Notes or Private Exchange Notes pursuant to a Registration Rights Agreement.

“Transfer Restricted Notes” means Notes that bear or are required to bear the legend relating to restrictions on transfer relating to the Securities Act set forth in Section 2.3(e) hereof.

1.2 Other Definitions.
2. The Notes.

2.1(a) Form and Dating. The Initial Notes will be offered and sold by the Company pursuant to a Purchase Agreement. The Initial Notes will be resold initially only to (i) QIBs in reliance on Rule 144A under the Securities Act ("Rule 144A") and (ii) Persons other than U.S. Persons (as defined in Regulation S) in reliance on Regulation S under the Securities Act ("Regulation S"). Initial Notes may thereafter be transferred to, among others, QIBs, IAIs and purchasers in reliance on Regulation S, subject to the restrictions on transfer set forth herein. Initial Notes initially resold pursuant to Rule 144A shall be issued initially in the form of one or more permanent global Notes in fully registered form (collectively, the "Rule 144A Global Note"); Initial Notes initially resold to IAIs shall be issued initially in the form of one or more permanent global Notes in fully registered form (collectively, the "IAI Global Note"); and Initial Notes initially resold pursuant to Regulation S shall be issued initially in the form of one or more temporary global notes in fully registered form (collectively, the "Temporary Regulation S Global Note"), in each case without interest coupons and with the global notes legend and the applicable restricted notes legend set forth in Exhibit 1 hereto, which shall be deposited on behalf of the purchasers of the Initial Notes represented thereby with the Notes Custodian and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and authenticated by the Trustee as provided in this Indenture. Except as set forth in this Section 2.1(a), beneficial ownership interests in the Temporary Regulation S Global Note will not be exchangeable for interests in the Rule 144A Global Note, the IAI Global Note, a permanent global note (the "Permanent Regulation S Global Note", and together with the Temporary Regulation S Global Note, the "Regulation S Global Note") or any other Note prior to the expiration of the Distribution Compliance Period and then, after the expiration of the Distribution Compliance Period, may be exchanged for interests in a Rule 144A Global Note, an IAI Global Note, the Permanent Regulation S Global Note or a Definitive Note only (i) upon certification in form reasonably satisfactory to the Trustee that beneficial ownership interests in such Temporary Regulation S Global Note are owned either by non-U.S. persons or U.S. persons who purchased such interests in a transaction that did not require registration under the Securities Act, (ii) in the case of an exchange for an IAI Global Note, upon certification that the interest in the Temporary Regulation S Global Note is being transferred to an institutional "accredited investor" under the Securities Act that is an institutional accredited investor acquiring the notes for its own account or for the account of an institutional accredited investor and (iii) in the case of an exchange for a Definitive Note, in compliance with the requirements of Section 2.4(a) hereof.

Beneficial interests in Temporary Regulation S Global Notes or IAI Global Notes may be exchanged for interests in Rule 144A Global Notes if (1) such exchange occurs in connection with a transfer of Notes in compliance with Rule 144A and (2) the transferor of the beneficial interest in the Temporary Regulation S Global Note or the IAI Global Note, as applicable, first delivers to the Trustee a written certificate (in a form satisfactory to the Trustee) to the effect that the beneficial interest in the Temporary Regulation S Global Note or the IAI Global Note, as applicable, is being transferred to a Person (a) who the transferor reasonably believes to be a QIB, (b) purchasing for its own account or the account of a QIB in a transaction meeting the requirements of Rule 144A, and (c) in accordance with all applicable securities laws of the States of the United States and other jurisdictions.
Beneficial interests in Temporary Regulation S Global Notes and Rule 144A Global Notes may be exchanged for an interest in IAI Global Notes if (1) such exchange occurs in connection with a transfer of the notes in compliance with an exemption under the Securities Act and (2) the transferor of the Regulation S Global Note or Rule 144A Global Note, as applicable, first delivers to the trustee a written certificate (substantially in the form of Exhibit 2) to the effect that (A) the Regulation S Global Note or Rule 144A Global Note, as applicable, is being transferred (a) to an "accredited investor" within the meaning of 501(a)(1),(2),(3) and (7) under the Securities Act that is an institutional investor acquiring the notes for its own account or for the account of such an institutional accredited investor, in each case in a minimum principal amount of the notes of $250,000, for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act and (B) in accordance with all applicable securities laws of the States of the United States and other jurisdictions.

Beneficial interests in a Rule 144A Global Note may be transferred to a Person who takes delivery in the form of an interest in a Regulation S Global Note, whether before or after the expiration of the Distribution Compliance Period, only if the transferor first delivers to the Trustee a written certificate (in the form provided in the Indenture) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S or Rule 144 (if applicable).

The Rule 144A Global Note, the IAI Global Note, the Temporary Regulation S Global Note and the Permanent Regulation S Global Note are collectively referred to herein as "Global Notes". The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided.

(b) Book-Entry Provisions. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 2.1(b), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository’s instructions or held by the Trustee as custodian for the Depository.

Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

(c) Definitive Notes. Except as provided in this Section 2.1, 2.3 or 2.4, owners of beneficial interests in Global Notes shall not be entitled to receive physical delivery of Definitive Notes.

2.2 Authentication. The Trustee shall authenticate and deliver: (1) on the Issue Date, an aggregate principal amount of $1,300,000,000 7.625% Senior Notes Due 2019, (2) any Additional Notes for an original issue in an aggregate principal amount specified in the written order of the Company pursuant to Section 202 of the Indenture and (3) Exchange Notes or Private Exchange Notes for issue only in a Registered Exchange Offer or a Private Exchange, respectively, pursuant to a Registration Rights Agreement, for a like principal amount of Initial Notes, in each case upon a written order of the Company.
signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company. Such order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated and, in the case of any issuance of Additional Notes pursuant to Section 312 of the Indenture, shall certify that such issuance is in compliance with Section 1011 of the Indenture.

2.3 Transfer and Exchange.

(a) Transfer and Exchange of Definitive Notes. When Definitive Notes are presented to the Registrar with a request:

(x) to register the transfer of such Definitive Notes; or

(y) to exchange such Definitive Notes for an equal principal amount of Definitive Notes of other authorized denominations,

the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; provided, however, that the Definitive Notes surrendered for transfer or exchange:

(i) shall be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed by the Holder thereof or its attorney duly authorized in writing; and

(ii) if such Definitive Notes are required to bear a restricted notes legend, they are being transferred or exchanged pursuant to an effective registration statement under the Securities Act, pursuant to Section 2.3(b) or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(A) if such Definitive Notes are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(B) if such Definitive Notes are being transferred to the Company, a certification to that effect; or

(C) if such Definitive Notes are being transferred (x) pursuant to an exemption from registration in accordance with Rule 144A, Regulation S or Rule 144 under the Securities Act; or (y) in reliance upon another exemption from the requirements of the Securities Act: (i) a certification to that effect (in the form set forth on the reverse of the Note) and (ii) if the Company so requests, an opinion of counsel or other evidence reasonably satisfactory to it as to the compliance with the restrictions set forth in the legend set forth in Section 2.3(c)(i).

(b) Restrictions on Transfer of a Definitive Note for a Beneficial Interest in a Global Note. A Definitive Note may not be exchanged for a beneficial interest in a Rule 144A Global Note, an IAI Global Note or a Permanent Regulation S Global Note except upon satisfaction of the requirements set forth below. Upon receipt by the Trustee of a Definitive Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:
(i) certification, in the form set forth on the reverse of the Note, that such Definitive Note is either (A) being transferred to a QIB in accordance with Rule 144A, (B) being transferred to an IAI or (C) being transferred after expiration of the Distribution Compliance Period by a Person who initially purchased such Note in reliance on Regulation S to a buyer who elects to hold its interest in such Note in the form of a beneficial interest in the Permanent Regulation S Global Note; and

(ii) written instructions directing the Trustee to make, or to direct the Notes Custodian to make, an adjustment on its books and records with respect to such Rule 144A Global Note (in the case of a transfer pursuant to clause (b)(i)(A)), IAI Global Note (in the case of a transfer pursuant to clause (b)(1)(B)) or Permanent Regulation S Global Note (in the case of a transfer pursuant to clause (b)(i)(B)) to reflect an increase in the aggregate principal amount of the Notes represented by the Rule 144A Global Note, IAI Global Note or Permanent Regulation S Global Note, as applicable, such instructions to contain information regarding the Depository account to be credited with such increase,

then the Trustee shall cancel such Definitive Note and cause, or direct the Notes Custodian to cause, in accordance with the standing instructions and procedures existing between the Depository and the Notes Custodian, the aggregate principal amount of Notes represented by the Rule 144A Global Note, IAI Global Note or Permanent Regulation S Global Note, as applicable, to be increased by the aggregate principal amount of the Definitive Note to be exchanged and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note, IAI Global Note or Permanent Regulation S Global Note, as applicable, equal to the principal amount of the Definitive Note so canceled. If no Rule 144A Global Notes, IAI Global Notes or Permanent Regulation S Global Notes, as applicable, are then outstanding, the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officers' Certificate of the Company, a new Rule 144A Global Note, IAI Global Note or Permanent Regulation S Global Note, as applicable, in the appropriate principal amount.

(c) Transfer and Exchange of Global Notes

(i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with this Indenture (including applicable restrictions on transfer set forth herein, if any) and the procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Registrar shall, in accordance with such instructions instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(ii) If the proposed transfer is a transfer of a beneficial interest in one Global Note to a beneficial interest in another Global Note, the Registrar shall reflect on its books and records the date and an increase in the principal amount of the Global Note to which such interest is being transferred in an amount equal to the principal amount of the interest to be so transferred, and the Registrar shall reflect on its books and records the date and a corresponding decrease in the principal amount of the Global Note from which such interest is being transferred.

(iii) Notwithstanding any other provisions of this Appendix (other than the provisions set forth in Section 2.4), a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the
Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(iv) In the event that Global Note is exchanged for Definitive Notes to Section 2.4 of this Appendix, prior to the consummation of a Registered Exchange Offer or the effectiveness of a Shelf Registration Statement with respect to such Notes, such Notes may be exchanged only in accordance with such procedures as are substantially consistent with the provisions of this Section 2.3 (including the certification requirements set forth on the reverse of the Initial Notes intended to ensure that such transfers comply with Rule 144A, Regulation S or another applicable exemption under the Securities Act, as the case may be) and such other procedures as may from time to time be adopted by the Company.

(d) Restrictions on Transfer of Temporary Regulation S Global Notes. During the Distribution Compliance Period, beneficial ownership interests in Temporary Regulation S Global Notes may only be sold, pledged or transferred in accordance with the Applicable Procedures and only (i) to the Company, (ii) in an offshore transaction in accordance with Regulation S (other than a transaction resulting in an exchange for an interest in a Permanent Regulation S Global Note), (iii) pursuant to an effective registration statement under the Securities Act, in each case in accordance with any applicable securities laws of any State of the United States.

(e) Legend.

(i) Except as permitted by the following paragraphs (ii), (iii) and (iv), each Note certificate evidencing the Global Notes (and all Notes issued in exchange therefor or in substitution thereof), in the case of Notes offered otherwise than in reliance on Regulation S shall bear a legend in substantially the following form:

THE NOTE (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE NOTE EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE NOTE EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE NOTE EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH NOTE MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (i) (a) TO A PERSON WHO IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (c) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 904 UNDER THE SECURITIES ACT, OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), (ii) TO THE COMPANY, OR (iii) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY
ANY PURCHASER FROM IT OF THE NOTE EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE NOTE EVIDENCED HEREBY.

Each certificate evidencing a Note offered in reliance on Regulation S shall, in addition to the foregoing, bear a legend in substantially the following form:

THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.

Each Definitive Note shall also bear the following additional legend:

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

(ii) Upon any sale or transfer of a Transfer Restricted Note (including any Transfer Restricted Note represented by a Global Note) pursuant to Rule 144 under the Securities Act, the Registrar shall permit the transferee thereof to exchange such Transfer Restricted Note for a certificated Note that does not bear the legend set forth above and rescind any restriction on the transfer of such Transfer Restricted Note, if the transferor thereof certifies in writing to the Registrar that such sale or transfer was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note).

(iii) After a transfer of any Initial Notes or Private Exchange Notes pursuant to and during the period of the effectiveness of a Shelf Registration Statement with respect to such Initial Notes or Private Exchange Notes, as the case may be, all requirements pertaining to legends on such Initial Note or such Private Exchange Note will cease to apply, the requirements requiring any such Initial Note or such Private Exchange Note issued to certain Holders be issued in global form will cease to apply, and a certificated Initial Note or Private Exchange Note or an Initial Note or Private Exchange Note in global form, in each case without restrictive transfer legends, will be available to the transferee of the Holder of such Initial Notes or Private Exchange Notes upon exchange of such transferring Holder’s certificated Initial Note or Private Exchange Note or directions to transfer such Holder’s interest in the Global Note, as applicable.

(iv) Upon the consummation of a Registered Exchange Offer with respect to the Initial Notes, all requirements pertaining to such Initial Notes that Initial Notes issued to certain Holders be issued in global form will still apply with respect to Holders of such Initial Notes that do not exchange their Initial Notes, and Exchange Notes in certificated or global form, in each case without the restricted notes legend set forth in Exhibit 1 hereto will be available to Holders that exchange such Initial Notes in such Registered Exchange Offer.
(v) Upon the consummation of a Private Exchange with respect to the Initial Notes, all requirements pertaining to such Initial Notes that Initial Notes issued to certain Holders be issued in global form will still apply with respect to Holders of such Initial Notes that do not exchange their Initial Notes, and Private Exchange Notes in global form with the global notes legend and the applicable restricted notes legend set forth in Exhibit 1 hereto will be available to Holders that exchange such Initial Notes in such Private Exchange.

(f) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Depository for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for certificated Notes, redeemed, purchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

(g) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.4 Definitive Notes.

(a) A Global Note deposited with the Depository or with the Trustee as Notes Custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of Definitive Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 hereof and (i) the Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Note or if at any time such Depository ceases to be a “clearing agency” registered under the Exchange Act and, in each case, a successor depository is not appointed by the Company within 90 days of such notice, or (ii) a Default has occurred and is continuing or (iii) the Company, in its sole discretion, notifies the Trustee in writing that it elects to cause the issuance of Definitive Notes under this Indenture.
(b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section 2.4 shall be surrendered by the Depository to the Trustee located at its principal corporate trust office in the Borough of Manhattan, The City of New York, 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 Definitive Notes of authorized denominations. Any portion of a Global Note transferred pursuant to this Section 2.4 shall be executed, authenticated and delivered only in denominations of $2,000 principal amount and any integral multiple of $1,000 in excess thereof and registered in such names as the Depository shall direct. Any Definitive Note delivered in exchange for an interest in the Transfer Restricted Note shall, except as otherwise provided by Section 2.3(c) hereof, bear the applicable restricted notes legend and definitive notes legend set forth in Exhibit 1 hereeto.

(c) Subject to the provisions of Section 2.4(b) hereof, the registered Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of one of the events specified in Section 2.4(a) hereof, the Company shall promptly make available to the Trustee a reasonable supply of Definitive Notes in definitive, fully registered form without interest coupons. In the event that such Definitive Notes are not issued, the Company expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to this Indenture, including pursuant to Section 507, 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 Definitive Notes had been issued.
[FORM OF FACE OF INITIAL NOTE]

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[[FOR REGULATION S GLOBAL NOTE ONLY] UNTIL 40 DAYS AFTER THE LATER OF COMMENCEMENT OR COMPLETION OF THE OFFERING, AN OFFER OR SALE OF SECURITIES WITHIN THE UNITED STATES BY A DEALER (AS DEFINED IN THE SECURITIES ACT) MAY VIOLATE THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IF SUCH OFFER OR SALE IS MADE OTHERWISE THAN IN ACCORDANCE WITH RULE 144A THEREUNDER.]

[Restricted Notes Legend for Notes offered otherwise than in Reliance on Regulation S]

THE NOTE (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE NOTE EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE NOTE EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE NOTE EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH NOTE MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (i) (a) TO A PERSON WHO IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (b) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (c) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 904 UNDER THE SECURITIES ACT, OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), (ii) TO THE COMPANY, OR (iii) PURSUANT TO
AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY
STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT
HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER FROM IT OF THE NOTE EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET
FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY
RULE 144 FOR RESALE OF THE NOTE EVIDENCED HEREBY.

[Restricted Notes Legend for Notes Offered in Reliance on Regulation S]

THIS NOTE (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM
REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE
TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN
AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE
SECURITIES LAWS. TERMS USED ABOVE HAVE THE MEANINGS GIVEN TO THEM IN REGULATION S UNDER THE SECURITIES ACT.

[Temporary Regulation S Global Note Legend]

EXCEPT AS SET FORTH BELOW, BENEFICIAL OWNERSHIP INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE
WILL NOT BE EXCHANGEABLE FOR INTERESTS IN THE PERMANENT REGULATION S GLOBAL NOTE OR ANY OTHER NOTE
REPRESENTING AN INTEREST IN THE NOTES REPRESENTED HEREBY WHICH DO NOT CONTAIN A LEGEND CONTAINING
RESTRICTIONS ON TRANSFER, UNTIL THE EXPIRATION OF THE “40-DAY DISTRIBUTION COMPLIANCE PERIOD” (WITHIN THE
MEANING OF RULE 903(b)(2) OF REGULATION S UNDER THE SECURITIES ACT) AND THEN ONLY UPON CERTIFICATION IN FORM
REASONABLY SATISFACTORY TO THE TRUSTEE THAT SUCH BENEFICIAL INTERESTS ARE OWNED EITHER BY NON-U.S. PERSONS OR
U.S. PERSONS WHO PURCHASED SUCH INTERESTS IN A TRANSACTION THAT DID NOT REQUIRE REGISTRATION UNDER THE
SECURITIES ACT. DURING SUCH 40-DAY DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL OWNERSHIP INTERESTS IN THIS
TEMPORARY REGULATION S GLOBAL NOTE MAY ONLY BE SOLD, PLEDGED OR TRANSFERRED (I) TO THE COMPANY, (II) OUTSIDE
THE UNITED STATES IN A TRANSACTION IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (III)
PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT. IN EACH OF CASES (I) THROUGH (III) IN
ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. HOLDERS OF INTERESTS IN THIS
TEMPORARY REGULATION S GLOBAL NOTE WILL NOTIFY ANY PURCHASER OF THIS NOTE OF THE RESALE RESTRICTIONS REFERRED
TO ABOVE, IF THEN APPLICABLE.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD BENEFICIAL INTERESTS IN THIS TEMPORARY
REGULATION S GLOBAL NOTE MAY BE EXCHANGED FOR INTERESTS IN A RULE 144A GLOBAL NOTE ONLY IF (1) SUCH EXCHANGE
OCCURS IN CONNECTION WITH A TRANSFER OF THE Notes IN COMPLIANCE WITH RULE 144A AND (2) THE TRANSFEROR OF THE
REGULATION S GLOBAL NOTE FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS
CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL NOTE IS BEING TRANSFERRED (A) TO A PERSON WHO THE
TRANSFEROR REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A, (B) TO A
PERSON WHO IS

-2-
PURCHASING FOR ITS OWN ACCOUNT OR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, AND (C) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

AFTER THE EXPIRATION OF THE DISTRIBUTION COMPLIANCE PERIOD, BENEFICIAL INTERESTS IN THIS TEMPORARY REGULATION S GLOBAL NOTE MAY BE EXCHANGED FOR INTERESTS IN AN IAI GLOBAL NOTE ONLY IF (1) SUCH EXCHANGE OCCURS IN CONNECTION WITH A TRANSFER OF THE NOTES IN COMPLIANCE WITH AN EXEMPTION UNDER THE SECURITIES ACT AND (2) THE TRANSFEROR OF THE REGULATION S GLOBAL NOTE FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT THE REGULATION S GLOBAL NOTE IS BEING TRANSFERRED (A) TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(A)(1), (2), (3) OR (7) UNDER THE SECURITIES ACT THAT, PRIOR TO SUCH TRANSFER, FURNISHES THE TRUSTEE A SIGNED LETTER CONTAINING CERTAIN REPRESENTATIONS AND AGREEMENTS RELATING TO THE TRANSFER OF THIS NOTE (THE FORM OF WHICH CAN BE OBTAINED FROM THE TRUSTEE) AND, IF SUCH TRANSFER IS IN RESPECT OF AN AGGREGATE PRINCIPAL AMOUNT OF NOTES LESS THAN $250,000, AN OPINION OF COUNSEL ACCEPTABLE TO THE COMPANY THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

BENEFICIAL INTERESTS IN A RULE 144A GLOBAL NOTE OR AN IAI GLOBAL NOTE MAY BE TRANSFERRED TO A PERSON WHO TAKES DELIVERY IN THE FORM OF AN INTEREST IN THE REGULATION S GLOBAL NOTE, WHETHER BEFORE OR AFTER THE EXPIRATION OF THE 40-DAY DISTRIBUTION COMPLIANCE PERIOD, ONLY IF THE TRANSFEROR FIRST DELIVERS TO THE TRUSTEE A WRITTEN CERTIFICATE (IN THE FORM ATTACHED TO THIS CERTIFICATE) TO THE EFFECT THAT SUCH TRANSFER IS BEING MADE IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S OR RULE 144 (IF AVAILABLE).

[Definitive Notes Legend]

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.
Blue Merger Sub Inc., a Delaware corporation, promises to pay to _____, or registered assigns, the principal sum of _____ Dollars on February 15, 2019.


Record Dates: February 1 and August 1.

Additional provisions of this Note are set forth on the other side of this Note.

Dated:

BLUE MERGER SUB INC.

By: 

Name: 
Title: 

By: 

Name: 
Title: 

TRUSTEE’S CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee, certified that this is one of the Notes referred to in the Indenture

By:

Authorized Signatory
1. **Principal and Interest.**

   The Company will pay the principal of this Note on February 15, 2019.

   The Company promises to pay interest and Special Interest, if any, on the principal amount of this Note on each Interest Payment Date, as set forth below, at the rate of 7.625% per annum (subject to adjustment as provided below).

   Interest, and Special Interest, if any, will be payable semi-annually (to the Holders of record of the Notes (or any Predecessor Notes) at the close of business on February 1 or August 1 immediately preceding the Interest Payment Date) on each Interest Payment Date, commencing August 15, 2011.

   The Holder of this Note is entitled to the benefits of the Registration Rights Agreement.

   Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from February 16, 2011; provided that, if there is no existing default in the payment of interest and if this Note is authenticated between a Regular Record Date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such Interest Payment Date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

   The Company shall pay interest and Special Interest if any, on overdue principal and premium, if any, and interest on overdue installments of interest, to the extent lawful, at a rate per annum equal to the rate of interest applicable to the Notes.

2. **Method of Payment.**

   The Company will pay interest (except defaulted interest) on the principal amount of the Notes on each February 15 and August 15 (commencing on August 15, 2011) to the Persons who are Holders (as reflected in the Note Register at the close of business on February 1 and August 1 immediately preceding the Interest Payment Date), in each case, even if the Note is cancelled on registration of transfer or registration of exchange after such Regular Record Date; provided that, with respect to the payment of principal, the Company will make payment to the Holder that surrenders this Note to any Paying Agent on or after February 15, 2019.

   The Company will pay principal (and premium, if any) and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal (and premium, if any) and interest by its check payable in such money. The Company may pay interest on the Notes either (a) by mailing a check for such interest to a Holder's registered address (as reflected in the Note Register) or (b) by wire transfer to an account located in the United States maintained by the payee. If a payment date is a date other than a Business Day at a place of payment, payment may be made at that place on the next succeeding day that is a Business Day and no interest shall accrue for the intervening period.

3. **Paying Agent and Note Registrar.**

   Initially, The Bank of New York Mellon Trust Company, N.A. (the “Trustee”) will act as Paying Agent and Note Registrar. The Company may change any Paying Agent or Note Registrar upon
written notice thereto. The Company, any Subsidiary or any Affiliate of any of them may act as Paying Agent, Note Registrar or co-registrar.

4. **Indenture.**

The Company issued the Notes under an Indenture dated as of February 16, 2011 (the "Indenture"), among the Company, the Guarantors and the Trustee. Capitalized terms herein are used as defined in the Indenture unless otherwise indicated. 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. The Notes are subject to all such terms, and Holders are referred to the Indenture and the Trust Indenture Act for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are unsecured senior obligations of the Company. The Indenture does not limit the aggregate principal amount of the Notes.

5. **Redemption.**

**Optional Redemption.** At any time prior to February 15, 2014, the Company may redeem all or a part of the Notes, upon notice as described in Section 1105 of the Indenture, at a Redemption Price equal to 100% of the principal amount of Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest, if any, to the Redemption Date, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date.

On and after February 15, 2014, the Company may redeem the Notes, in whole or in part, upon notice as described in Section 1105 of the Indenture, at the Redemption Prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest thereon and Special Interest, if any, to the applicable Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve month period beginning on February 15 of each of the years indicated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>103.813%</td>
</tr>
<tr>
<td>2015</td>
<td>101.906%</td>
</tr>
<tr>
<td>2016 and thereafter</td>
<td>100.000%</td>
</tr>
</tbody>
</table>

In addition, until February 15, 2014, the Company may, at its option, upon notice as described in Section 1105 of the Indenture, redeem up to 35% of the aggregate principal amount of Notes issued under the Indenture at a Redemption Price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Special Interest, if any, to the applicable Redemption Date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings of the Company or any direct or indirect parent of the Company to the extent such net cash proceeds are contributed to the Company; provided that at least 50% of the sum of the aggregate principal amount of Notes originally issued under the Indenture remains outstanding immediately after the occurrence of each such redemption; provided further that each such redemption occurs within 120 days of the date of closing of each such Equity Offering.

**Special Redemption.** In the event that either (i) the Escrow Release Date has not occurred on or prior to the Outside Date, (ii) the Company delivers an Escrow Termination Notice prior to the Escrow Release Date or (iii) the Trustee delivers an Enforcement Notice, the Trustee, on behalf of the
Company, shall redeem the Notes on the Special Redemption Date (solely from Escrowed Funds actually received by the Trustee in accordance with the Escrow Agreement), at a Redemption Price of 100% of the initial issue price of the Notes, plus all accrued and unpaid interest on the Notes, if any, from and including the Issue Date to, but excluding, the Special Redemption Date.

6. Repurchase upon a Change of Control and Asset Sales.

Upon the occurrence of (a) a Change of Control, the Holders of the Notes will have the right to require that the Company purchase such Holder's outstanding Notes, in whole or in part, at a purchase price of 101% of the principal amount thereof, plus accrued and unpaid interest and Special Interest, if any, to the date of purchase and (b) Asset Sales, the Company may be obligated to make offers to purchase Notes and Senior Indebtedness of the Company with a portion of the Net Proceeds of such Asset Sales at a Redemption Price of 100% of the principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase.

7. Denominations; Transfer; Exchange.

The Notes are in registered form without coupons in denominations of $2,000 principal amount and integral multiples of $1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Note Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Note Registrar need not register the transfer or exchange of any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or any Notes for a period of 15 days before a selection of Notes to be redeemed or 15 days before an interest payment date.


A registered Holder may be treated as the owner of a Note for all purposes.


If money for the payment of principal (premium, if any) or interest remains unclaimed for two years, the Trustee and the Paying Agent will pay the money back to the Company at its written request. After that, Holders entitled to the money must look to the Company for payment, unless an abandoned property law designates another Person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

10. Discharge and Defeasance Prior to Redemption or Maturity.

If the Company irrevocably deposits, or causes to be deposited, with the Trustee money or Government Securities sufficient to pay the then outstanding principal of (premium, if any) and accrued interest on the Notes (a) to the Redemption Date or Maturity Date, the Company will be discharged from its obligations under the Indenture and the Notes, except in certain circumstances for certain covenants thereof, and (b) to the Stated Maturity, the Company will be discharged from certain covenants set forth in the Indenture.

11. Amendment; Supplement; Waiver.

Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the
Outstanding Notes, and any existing Default or compliance with any provision may be waived with the consent of the Holders of a majority in aggregate principal amount of the Outstanding Notes. Without notice to or the consent of any Holder, the parties thereto may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, mistake, defect or inconsistency and make any change that does not adversely affect the rights of any Holder.

12. Restrictive Covenants.

The Indenture contains certain covenants, including covenants with respect to the following matters: (i) Restricted Payments; (ii) Incurrence of Indebtedness and Issuance of Disqualified Stock; (iii) Liens; (iv) transactions with Affiliates; (v) dividend and other payment restrictions affecting Restricted Subsidiaries; (vi) guarantees of Indebtedness by Restricted Subsidiaries; (vii) merger and certain transfers of assets; (viii) purchase of Notes upon a Change in Control; and (ix) disposition of proceeds of Asset Sales. Within 120 days (or the successor time period then in effect under the rules and regulations of the Exchange Act) after the end of each fiscal year, the Company must report to the Trustee on compliance with such limitations.


When a successor Person or other entity assumes all the obligations of its predecessor under the Notes and the Indenture, the predecessor Person will be released from those obligations.


If an Event of Default, as defined in the Indenture, occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the Outstanding Notes may declare all the Notes to be immediately due and payable. If a bankruptcy or insolvency default with respect to the Company or any of its Significant Subsidiaries occurs and is continuing, the Notes automatically become immediately due and payable. Subject to the provisions of the Indenture relating to the duties of the Trustee, in case an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any rights or powers under the Indenture at the request or direction of any of the Holders of the Notes unless such Holders have offered indemnity or security against any loss, liability or expense satisfactory to the Trustee. Subject to certain restrictions, the Holders of a majority in principal amount of the outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

15. Guarantees.

The Company's obligations under the Notes are fully, irrevocably and unconditionally guaranteed on an unsecured senior basis, to the extent set forth in the Indenture, by each of the Guarantors.
16. **Trustee Dealings with Company.**
   
   The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may make loans to, accept deposits from, perform services for, and otherwise deal with, the Company and its Affiliates as if it were not the Trustee.

17. **Authentication.**
   
   This Note shall not be valid until the Trustee signs the certificate of authentication on the other side of this Note.

18. **Abbreviations.**
   
   Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

19. **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 has directed the Trustee to 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.

20. **Holders' Compliance with the Registration Rights Agreement.**
   
   Each Holder of a Note, by acceptance hereof, acknowledges and agrees to the provisions of the Registration Rights Agreement, including the obligations of the Holders with respect to a registration and the indemnification of the Company to the extent provided therein.

21. **Governing Law.**
   
   THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.
   
   The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to Blue Merger Sub Inc., c/o Kohlberg Kravis Roberts & Co. L.P., 9 West 57th Street, Suite 4200, New York, New York 10019.

   Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Indenture.

-9-
ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

(Please print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint ________________ agent 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 other side of this Note.

In connection with any transfer of any of the Notes evidenced by this certificate occurring prior to the date that is one year after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by the Company or any "Affiliate" of the Company within the meaning of the Securities Act of 1933, as amended (the "Securities Act"), the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

☐ to the Company; or

☐ pursuant to an effective registration statement under the Securities Act; or

☐ inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act; or

☐ outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act; or

☐ pursuant to the exemption from registration provided by Rule 144 under the Securities Act; or

☐ to an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) that has furnished to the Trustee a signed letter containing certain representations and agreements relating to the transfer of this Note (the form of which can be obtained from the Trustee) and, if such transfer is in respect of an aggregate principal amount of Notes less than $250,000, an opinion
of counsel acceptable to the Company that such transfer is in compliance with the Securities Act.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered holder thereof; provided, that if box (4) is checked, the Trustee shall be entitled to require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, such as the exemption provided by Rule 144 under such Act.

Signature
Signature Guarantee:

Signature must be guaranteed Signature

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Notes Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Notes Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.
TO BE COMPLETED BY PURCHASER IF (2) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: __________________________

Notice: To be executed by an executive officer

-12-
SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE
The following increases or decreases in this Global Note have been made:

<table>
<thead>
<tr>
<th>Date of Exchange</th>
<th>Amount of decrease in Principal amount of this Global Note</th>
<th>Amount of increase in Principal amount of this Global Note</th>
<th>Principal amount of this Global Note following such decrease or increase</th>
<th>Signature of authorized officer of Trustee or Notes Custodian</th>
</tr>
</thead>
</table>
OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 1016 or 1017 of the Indenture, check the box: □

☐ If you want to elect to have only part of this Note purchased by the Company pursuant to Section 1016 or 1017 of the Indenture, state the amount in principal amount: $

Date: _______________  Your Signature: ____________________________

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

Signature Guarantee: ____________________________

(Signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Notes Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Notes Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.
Form of
Transferee Letter of Representation

Blue Merger Sub Inc.

In care of
Kohlberg Kravis Roberts & Co. L.P.
9 West 57th Street, Suite 4200
New York, New York 10019

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $______ principal amount of the 7.625% Senior Notes Due 2019 (the "Notes") of Blue Merger Sub Inc., a Delaware corporation (the "Company").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: ________________________
Address: ______________________
Taxpayer ID Number: ________

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account or for the account of such an institutional "accredited investor" at least $250,000 principal amount of the Notes, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the date that is two years after the later of the date of original issue and the last date on which the Company or any affiliate of the Company was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (i) to the Company, (ii) in the United States to a person whom the seller reasonably believes is a qualified institutional buyer in a transaction meeting the requirements of Rule 144A, (iii) to an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act that is an institutional accredited investor purchasing for its own account or for the account of an institutional accredited investor, in each case in a
minimum principal amount of the Notes of $250,000, (iv) outside the United States in a transaction complying with the provisions of Rule 904 under the Securities Act, (v) pursuant to an exemption from registration under the Securities Act provided by Rule 144 (if available) or (vi) pursuant to an effective registration statement under the Securities Act, in each of cases (i) through (vi) subject to any requirement of law that the disposition of our property or the property of such investor account or accounts be at all times within our or their control and in compliance with any applicable state securities laws. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made pursuant to clause (iii) above prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Company and the Trustee, which shall provide, among other things, that the transferee is an institutional “accredited investor” within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Company and the Trustee reserve the right prior to the offer, sale or other transfer prior to the Resale Restriction Termination Date of the Notes pursuant to clause (iii), (iv) or (v) above to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Company and the Trustee.

TRANSFEREE:_____________________________,

By:_______________________________.
[FORM OF FACE OF EXCHANGE NOTE OR PRIVATE EXCHANGE NOTE] */**/

*/ [If the Note is to be issued in global form add the Global Notes Legend from Exhibit 1 to Appendix A and the attachment from such Exhibit 1 captioned "[TO BE ATTACHED TO GLOBAL NOTES] SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE].

**/ [If the Note is a Private Exchange Note issued in a Private Exchange to an Initial Purchaser holding an unsold portion of its initial allotment, add the Restricted Notes Legend from Exhibit 1 to Appendix A and replace the Assignment Form included in this Exhibit A with the Assignment Form included in such Exhibit 1.]
7.625% Senior Notes Due 2019

Blue Merger Sub Inc., a Delaware corporation, promises to pay to ______________, or registered assigns, the principal sum of ______________ Dollars on February 15, 2019.


Record Dates: February 1 and August 1.

Additional provisions of this Note are set forth on the other side of this Note.

Dated:

BLUE MERGER SUB INC.,

By:

______________________________
Name:
Title:

By:

______________________________
Name:
Title:

TRUSTEE’S CERTIFICATE OF AUTHENTICATION

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee, certifies that this is one of the Notes referred to in the Indenture

By:

______________________________
Authorized Signatory
1. **Principal and Interest.**

   The Company will pay the principal of this Note on February 15, 2019.

   The Company promises to pay interest and Special Interest, if any, on the principal amount of this Note on each Interest Payment Date, as set forth below, at the rate of 7.625% per annum (subject to adjustment as provided below) except that interest accrued on this Note pursuant to the fourth paragraph of this Section 1 for periods prior to the applicable dates on which the Exchange Offer Registration Statement or Shelf Registration Statement (as such terms are defined in the Registration Rights Agreement referred to below) will accrue at the rate or rates borne by the Notes from time to time during such periods.

   Interest, and Special Interest, if any, will be payable semi-annually (to the Holders of record of the Notes (or any Predecessor Notes) at the close of business on February 1 or August 1 immediately preceding the Interest Payment Date) on each Interest Payment Date, commencing August 15, 2011.

   The Holder of this Note is entitled to the benefits of the Exchange and Registration Rights Agreement, dated February 16, 2011, among the Company, the Guarantors and the Initial Purchasers named therein (the "Registration Rights Agreement").

   Interest on this Note will accrue from the most recent date to which interest has been paid on this Note or the Note surrendered in exchange therefor or, if no interest has been paid, from February 16, 2011; provided that, if there is no existing default in the payment of interest and if this Note is authenticated between a Regular Record Date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such Interest Payment Date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

   The Company shall pay interest and Special Interest if any, on overdue principal and premium, if any, and interest on overdue installments of interest, to the extent lawful, at a rate per annum equal to the rate of interest applicable to the Notes.

2. **Method of Payment.**

   The Company will pay interest (except defaulted interest) on the principal amount of the Notes on each February 15 and August 15 to the Persons who are Holders (as reflected in the Note Register at the close of business on February 1 and August 1 immediately preceding the Interest Payment Date), in each case, even if the Note is cancelled on registration of transfer or registration of exchange after such Regular Record Date; provided that, with respect to the payment of principal, the Company will make payment to the Holder that surrenders this Note to any Paying Agent on or after February 15, 2019.

   The Company will pay principal (and premium, if any) and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts. However, the Company may pay principal (and premium, if any) and interest by its check payable in such money. The Company may pay interest on the Notes either (a) by mailing a check for such interest to a Holder's registered address (as reflected in the Note Register) or (b) by wire transfer to an account located in the

A-3
United States maintained by the payee. If a payment date is a date other than a Business Day at a place of payment, payment may be made at that place on the next succeeding day that is a Business Day and no interest shall accrue for the intervening period.

3. **Paying Agent and Note Registrar.**

Initially, The Bank of New York Mellon Trust Company, N.A. (the "Trustee") will act as Paying Agent and Note Registrar. The Company may change any Paying Agent or Note Registrar upon written notice thereto. The Company, any Subsidiary or any Affiliate of any of them may act as Paying Agent, Note Registrar or co-registrar.

4. **Indenture.**

The Company issued the Notes under an Indenture dated as of February 16, 2011 (the "Indenture"), among the Company, the Guarantors and the Trustee. Capitalized terms herein are used as defined in the Indenture unless otherwise indicated. 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. The Notes are subject to all such terms, and Holders are referred to the Indenture and the Trust Indenture Act for a statement of all such terms. To the extent permitted by applicable law, in the event of any inconsistency between the terms of this Note and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are unsecured senior obligations of the Company. The Indenture does not limit the aggregate principal amount of the Notes.

5. **Redemption.**

Optional Redemption. At any time prior to February 15, 2014, the Company may redeem all or a part of the Notes, upon notice as described in Section 1105 of the Indenture, at a Redemption Price equal to 100% of the principal amount of Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest, if any, to the Redemption Date, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date.

On and after February 15, 2014, the Company may redeem the Notes, in whole or in part, upon notice as described in Section 1105 of the Indenture at the Redemption Prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest thereon and Special Interest, if any, to the applicable Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve month period beginning on October 1 of each of the years indicated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>103.813%</td>
</tr>
<tr>
<td>2015</td>
<td>101.906%</td>
</tr>
<tr>
<td>2016 and thereafter</td>
<td>100.000%</td>
</tr>
</tbody>
</table>

In addition, until February 15, 2014, the Company may, at its option, notice as described in Section 1105 of the Indenture redeem up to 35% of the aggregate principal amount of Notes issued under the Indenture at a Redemption Price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Special Interest, if any, to the applicable Redemption Date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings of the Company or any direct or indirect parent of the Company to the extent such net cash proceeds are contributed to the
6. Repurchase upon a Change of Control and Asset Sales.

Upon the occurrence of (a) a Change of Control, the Holders of the Notes will have the right to require that the Company purchase such Holder's outstanding Notes, in whole or in part, at a purchase price of 101% of the principal amount thereof, plus accrued and unpaid interest and Special Interest, if any, to the date of purchase and (b) Asset Sales, the Company may be obligated to make offers to purchase Notes and Senior Indebtedness of the Company with a portion of the Net Proceeds of such Asset Sales at a Redemption Price of 100% of the principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase.

7. Denominations; Transfer; Exchange.

The Notes are in registered form without coupons in denominations of $2,000 principal amount and integral multiples of $1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Note Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Note Registrar need not register the transfer or exchange of any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or any Notes for a period of 15 days before a selection of Notes to be redeemed or 15 days before an interest payment date.


A registered Holder may be treated as the owner of a Note for all purposes.


If money for the payment of principal (premium, if any) or interest remains unclaimed for two years, the Trustee and the Paying Agent will pay the money back to the Company at its written request. After that, Holders entitled to the money must look to the Company for payment, unless an abandoned property law designates another Person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

10. Discharge and Defeasance Prior to Redemption or Maturity.

If the Company irrevocably deposits, or causes to be deposited, with the Trustee money or Government Securities sufficient to pay the then outstanding principal of (premium, if any) and accrued interest on the Notes (a) to the Redemption Date or Maturity Date, the Company will be discharged from its obligations under the Indenture and the Notes, except in certain circumstances for certain covenants thereof, and (b) to the Stated Maturity, the Company will be discharged from certain covenants set forth in the Indenture.

11. Amendment; Supplement; Waiver.

Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the
Outstanding Notes, and any existing Default or compliance with any provision may be waived with the consent of the Holders of a majority in aggregate principal amount of the Outstanding Notes. Without notice to or the consent of any Holder, the parties thereto may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, mistake, defect or inconsistency and make any change that does not adversely affect the rights of any Holder.

12. **Restrictive Covenants.**

   The Indenture contains certain covenants, including covenants with respect to the following matters: (i) Restricted Payments; (ii) Incurrence of Indebtedness and Issuance of Disqualified Stock; (iii) Liens; (iv) transactions with Affiliates; (v) dividend and other payment restrictions affecting Restricted Subsidiaries; (vi) guarantees of Indebtedness by Restricted Subsidiaries; (vii) mergers and certain transfers of assets; (viii) purchase of Notes upon a Change in Control; and (ix) disposition of proceeds of Asset Sales. Within 120 days (or the successor time period then in effect under the rules and regulations of the Exchange Act) after the end of each fiscal year, the Company must report to the Trustee on compliance with such limitations.

13. **Successor Persons.**

   When a successor Person or other entity assumes all the obligations of its predecessor under the Notes and the Indenture, the predecessor Person will be released from those obligations.

14. **Remedies for Events of Default.**

   If an Event of Default, as defined in the Indenture, occurs and is continuing, the Trustee or the Holders of at least 30% in principal amount of the Outstanding Notes may declare all the Notes to be immediately due and payable. If a bankruptcy or insolvency default with respect to the Company or any of its Significant Subsidiaries occurs and is continuing, the Notes automatically become immediately due and payable. Subject to the provisions of the Indenture relating to the duties of the Trustee, in case an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any rights or powers under the Indenture at the request or direction of any of the Holders of the Notes unless such Holders have offered to the Trustee indemnity or security satisfactory to it against any loss, liability or expense. Subject to certain restrictions, the Holders of a majority in principal amount of the outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder of a Note or that would involve the Trustee in personal liability.

15. **Guarantees.**

   The Company's obligations under the Notes are fully, irrevocably and unconditionally guaranteed on an unsecured senior basis, to the extent set forth in the Indenture, by each of the Guarantors.

A-6
16. **Trustee Dealings with Company.**

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may make loans to, accept deposits from, perform services for, and otherwise deal with, the Company and its Affiliates as if it were not the Trustee.

17. **Authentication.**

This Note shall not be valid until the Trustee signs the certificate of authentication on the other side of this Note.

18. **Abbreviations.**

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

19. **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 has directed the Trustee to 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.

20. **Holders' Compliance with the Registration Rights Agreement.**

Each Holder of a Note, by acceptance hereof, acknowledges and agrees to the provisions of the Registration Rights Agreement, including the obligations of the Holders with respect to a registration and the indemnification of the Company to the extent provided therein.

21. **Governing Law.**

**THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to Blue Merger Sub Inc., c/o Kohlberg Kravis Roberts & Co. L.P., 9 West 57th Street, Suite 4200, New York, New York 10019.

Capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Indenture.
ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint ____________ agent 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 other side of this Note.

A-8
OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 1016 or 1017 of the Indenture, check the box: □

☐ If you want to elect to have only part of this Note purchased by the Company pursuant to Section 1016 or 1017 of the Indenture, state the amount in principal amount: $

Date: ______________  Your Signature: __________________________________________

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

Signature Guarantee: ______________________________________________________

(Signature must be guaranteed)

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Notes Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Notes Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

A-9
[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 February 16, 2011 (the "Indenture") among Blue Merger Sub Inc. (the "Company"), the Guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), (a) the due and punctual payment of the principal of (and premium, if any), and interest and Special Interest, if any, on the Notes, whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal of and interest on the Notes, if any, if lawful, 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 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. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth in Article 12 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, agrees to and shall be bound by such provisions.

Capitalized terms used but not defined herein have the meanings given to them in the Indenture.

[NAME OF GUARANTOR(S)],

By:

Name:
Title:
SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of _______ 20___, among ________________ (the "Guaranteeing Subsidiary"), a subsidiary of the Company (or its permitted successor), a Delaware corporation (the "Company"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and The Bank of New York Mellon Trust Company, N.A., as trustee under the Indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "Indenture"), dated as of February 16, 2011 providing for the issuance of 7.625% Senior Notes due 2019 (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 "Guarantee"); and

WHEREAS, pursuant to Section 901 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 to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Note Guarantee and in the Indenture including but not limited to Article 12 thereof.

3. NO RE COURSE 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 and it is the view of the SEC that such a waiver is against public policy.

4. GOVERNING LAW. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

C-1
5. 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.

6. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

7. THE 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: __________, 20__

[GUARANTEEING SUBSIDIARY],
By:  
   Name:  
   Title:  

[COMPANY]
By:  
   Name:  
   Title:  

[Existing Guarantors]
By:  
   Name:  
   Title:  

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee
By:  
   Name:  
   Title:  

C-3
FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED ON THE EFFECTIVE DATE

THIS SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), entered into as of __________, 2011, among Del Monte Foods Company, a Delaware corporation (the "Company"), each of the Guarantors listed on the signature pages hereto, (each a "Supplemental Guarantor" and, collectively, the "Supplemental Guarantors"), and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). Capitalized terms used herein and not otherwise defined herein are used as defined in the Indenture referred to below.

RECITALS

WHEREAS, Blue Merger Sub Inc., a Delaware corporation ("Merger Sub"), and the Trustee entered into that certain Indenture, dated as of February 16, 2011 (the "Indenture"), relating to the 7.625% Senior Notes due 2019 in original principal amount of $1,300,000,000 (the "Notes").

WHEREAS, each Supplemental Guarantor is to become a Guarantor under the Indenture; and

WHEREAS, on the date hereof, Merger Sub is merging with and into the Company, with the Company being the surviving Person of such merger (the "Merger").

AGREEMENT

NOW, THEREFORE, the parties to this Supplemental Indenture hereby agree as follows:

Section 1. Effective upon consummation of the Merger, the Company, pursuant to Article VIII of the Indenture, expressly assumes all of the obligations of Merger Sub under the Indenture and the Notes.

Section 2. Effective upon consummation of the Merger, each Supplemental Guarantor shall be a Guarantor under the Indenture and be bound by the terms thereof applicable to Guarantors.

Section 3. This Supplemental Indenture is an amendment supplemental to the Indenture, and the Indenture and this Supplemental Indenture will henceforth be read together.

Section 4. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

Section 5. This Supplemental Indenture may be signed in various counterparts which together will constitute one and the same instrument.

[Signature pages follow]

D-1
DEL MONTE FOODS COMPANY
By: 
   Name: 
   Title: 

DEL MONTE CORPORATION, as a Supplemental Guarantor
By: 
   Name: 
   Title: 

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee
By: 
   Name: 
   Title: 

D-2
INCUMBENCY CERTIFICATE

The undersigned, __________, being the ______________ of ______________ (the "Company") does hereby certify that the individuals listed below are qualified and acting officers of the Company as set forth in the right column opposite their respective names and the signatures appearing in the extreme right column opposite the name of each such officer is a true specimen of the genuine signature of such officer and such individuals have the authority to execute documents to be delivered to, or upon the request of, The Bank of New York Mellon Trust Company, N.A., as Trustee under the Indenture dated as of February 16, 2011, by and among the Company, the Guarantors party thereto and The Bank of New York Mellon Trust Company, N.A.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Signature</th>
</tr>
</thead>
</table>

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Certificate as of the ____ day of ______, 20__.  

Name: 
Title: 

E-1
FIRST SUPPLEMENTAL INDENTURE
dated as of March 8, 2011

with respect to the:

INDENTURE

Dated as of February 16, 2011

among

BLUE MERGER SUB INC.

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee
THIS FIRST SUPPLEMENTAL INDENTURE (this “First Supplemental Indenture”), entered into as of March 8, 2011, among Del Monte Foods Company, a Delaware corporation (the “Company”), Del Monte Corporation, a Delaware corporation (the “Supplemental Guarantor”), and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”). Capitalized terms used herein and not otherwise defined herein are used as defined in the Indenture referred to below.

RECITALS

WHEREAS, Blue Merger Sub Inc., a Delaware corporation (“Merger Sub”), and the Trustee entered into that certain Indenture, dated as of February 16, 2011 (the “Indenture”), relating to the 7.625% Senior Notes due 2019 in original principal amount of $1,300,000,000 (the “Notes”).

WHEREAS, the Supplemental Guarantor is to become a Guarantor under the Indenture;

WHEREAS, on the date hereof, Merger Sub is merging with and into the Company, with the Company being the surviving Person of such merger (the “Merger”); and

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Company to make the Indenture, as supplemented by this First Supplemental Indenture, a valid and binding obligation for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

AGREEMENT

NOW, THEREFORE, the parties to this First Supplemental Indenture hereby agree as follows:

Section 1. Effective upon consummation of the Merger, the Company, pursuant to Article VIII of the Indenture, expressly assumes all of the obligations of Merger Sub under the Indenture and the Notes.

Section 2. Effective upon consummation of the Merger, the Supplemental Guarantor shall be a Guarantor under the Indenture and be bound by the terms thereof applicable to Guarantors.

Section 3. This First Supplemental Indenture is an amendment supplemental to the Indenture, and the Indenture and this First Supplemental Indenture will henceforth be read together.

Section 4. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.

Section 5. This First Supplemental Indenture may be signed in various counterparts which together will constitute one and the same instrument.

[Signature pages follow]
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer,
          Chief Accounting Officer and Controller

DEL MONTE CORPORATION,
as a Supplemental Guarantor
By: /s/ Richard L. French
   Name: Richard L. French
   Title: Senior Vice President, Treasurer,
          Chief Accounting Officer and Controller

THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee
By: /s/ Alex Briffett
   Name: John A. (Alex) Briffett
   Title: Authorized Signatory
REGISTRATION RIGHTS AGREEMENT

Dated as of February 16, 2011

Among

BLUE MERGER SUB INC.

and

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
BARCLAYS CAPITAL INC.
J.P. MORGAN SECURITIES LLC
KKR CAPITAL MARKETS LLC
DEUTSCHE BANK SECURITIES INC.
GOLDMAN, SACHS & CO.
MIZUHO SECURITIES USA INC.

7.625% Senior Notes due 2019
# TABLE OF CONTENTS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Definitions</td>
</tr>
<tr>
<td>2.</td>
<td>Exchange Offer</td>
</tr>
<tr>
<td>3.</td>
<td>Shelf Registration</td>
</tr>
<tr>
<td>4.</td>
<td>Additional Interest</td>
</tr>
<tr>
<td>5.</td>
<td>Registration Procedures</td>
</tr>
<tr>
<td>6.</td>
<td>Registration Expenses</td>
</tr>
<tr>
<td>7.</td>
<td>Indemnification and Contribution</td>
</tr>
<tr>
<td>8.</td>
<td>Rule 144A</td>
</tr>
<tr>
<td>9.</td>
<td>Underwritten Registrations</td>
</tr>
<tr>
<td>10.</td>
<td>Miscellaneous</td>
</tr>
</tbody>
</table>
REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of February 16, 2011, by and among Blue Merger Sub Inc., a Delaware corporation ("Merger Sub"), on the one hand, and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Morgan Stanley & Co. Incorporated ("Morgan Stanley"), Barclays Capital Inc., J.P. Morgan Securities LLC, KKR Capital Markets LLC, Deutsche Bank Securities Inc., Goldman, Sachs & Co. and Mizuho Securities USA Inc. (the "Initial Purchasers"), on the other hand. Upon consummation of the Acquisition (as defined in the Purchase Agreement (as defined below)) of Del Monte Foods Company, a Delaware corporation ("DMFC"), by Merger Sub, DMFC and Del Monte Corporation ("DMC") will execute and deliver a Joinder Agreement hereto substantially in the form attached as Exhibit A hereto (the "Joinder Agreement") and shall thereby join this Agreement.

References herein to the "Issuer" refer (i) prior to consummation of the Acquisition, solely to Merger Sub and (ii) following consummation of the Acquisition and upon execution of the Joinder Agreement, to DMFC.

This Agreement is made pursuant to the Purchase Agreement, dated February 1, 2011 (the "Purchase Agreement"), by and among Merger Sub, Merrill Lynch and Morgan Stanley, as representatives of the several Initial Purchasers (the "Representatives"), and, after giving effect to the Joinder Agreement referred to therein, DMFC and the Guarantors, which provides for the sale by Merger Sub to the Initial Purchasers of $1,300,000,000 in aggregate principal amount of its 7.625% Senior Notes due 2019 (the "Notes"). Following consummation of the Acquisition, the Notes will be jointly and severally guaranteed (the "Guarantees") on a senior unsecured basis by the Guarantors. References to the "Securities" shall mean, collectively, the Notes and, upon the execution of the Joinder Agreement, the Guarantees. In order to induce the Initial Purchasers to enter into the Purchase Agreement, the Issuer has agreed to provide the registration rights set forth in this Agreement to the Initial Purchasers and their direct and indirect transferees. The execution of this Agreement is a condition to the closing under the Purchase Agreement.

The parties hereby agree as follows:

1. Definitions

As used in this Agreement, the following terms shall have the following meanings:

Additional Guarantor: Shall mean any Person that issues a Guarantee under the Indenture after the date of this Agreement.

Additional Interest: See Section 4(a) hereof.

Advice: See the last paragraph of Section 5 hereof.

Agreement: See the introductory paragraphs hereto.

Applicable Period: See Section 2(b) hereof.

Business Day: Shall have the meaning ascribed to such term in Rule 14d-1 under the Exchange Act.
Effectiveness Period: See Section 3(a) hereof.

Event Date: See Section 4(b) hereof.


Exchange Notes: See Section 2(a) hereof.

Exchange Offer: See Section 2(a) hereof.

Exchange Offer Registration Statement: See Section 2(a) hereof.

Exchange Securities: See Section 2(a) hereof.

FINRA: See Section 5(r) hereof.

Guarantees: See the introductory paragraphs hereto.

Guarantors: Shall mean DMC and any Additional Guarantors, and shall also include any of the Guarantors' successors.

Holder: Any holder of a Registrable Security.

Indenture: The indenture relating to the Notes dated as of February 16, 2011 by and between Merger Sub and The Bank of New York Mellon Trust Company, N.A., as trustee, as supplemented by the Supplemental Indenture to be entered into by and among DMFC, DMC and the Trustee, upon consummation of the Acquisition, for the purpose of DMFC assuming the Issuer's obligations under the Indenture and DMC providing a guarantee of the Notes, as the same may be further amended or supplemented from time to time in accordance with the terms thereof.

Information: See Section 5(n) hereof.

Initial Purchasers: See the introductory paragraphs hereto.

Initial Shelf Registration: See Section 3(a) hereof.

Inspectors: See Section 5(n) hereof.

Issue Date: February 16, 2011, the date of original issuance of the Notes.

Issuer: See the introductory paragraphs hereto.

Joinder Agreement: See the introductory paragraphs hereto.

Notes: See the introductory paragraphs hereto.

Participant: See Section 7(a) hereof.

Participating Broker-Dealer: See Section 2(b) hereof.
Person: An individual, trustee, corporation, partnership, limited liability company, joint stock company, trust, unincorporated association, union, business association, firm or other legal entity.

Private Exchange: See Section 2(b) hereof.

Private Exchange Notes: See Section 2(b) hereof.

Prospectus: The prospectus included in any Registration Statement (including, without limitation, any prospectus subject to completion and a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A under the Securities Act and any term sheet filed pursuant to Rule 433 under the Securities Act), as amended or supplemented by any prospectus supplement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all materials incorporated by reference or deemed to be incorporated by reference in such Prospectus.

Purchase Agreement: See the introductory paragraphs hereof.

Records: See Section 5(n) hereof.

Registrable Securities: Each Security upon its original issuance and at all times subsequent thereto, each Exchange Security as to which Section 2(c)(iv) hereof is applicable upon original issuance and at all times subsequent thereto and each Private Exchange Note (and the related Guarantees) upon original issuance thereof and at all times subsequent thereto, until, in each case, the earliest to occur of (i) a Registration Statement (other than, with respect to any Exchange Securities as to which Section 2(c)(iv) hereof is applicable, the Exchange Offer Registration Statement) covering such Security, Exchange Security or Private Exchange Note (and the related Guarantees) has been declared effective by the SEC and such Security, Exchange Security or such Private Exchange Note (and the related Guarantees), as the case may be, has been disposed of in accordance with such effective Registration Statement, (ii) such Security has been exchanged pursuant to the Exchange Offer for an Exchange Security or Exchange Securities that may be resold without restriction under state and federal securities laws, (iii) such Security, Exchange Security or Private Exchange Note (and the related Guarantees), as the case may be, ceases to be outstanding for purposes of the Indenture or (iv) two years from the original issue date of the Notes.

Registration Statement: Any registration statement of the Issuer that covers any of the Securities, the Exchange Securities or the Private Exchange Notes (and the related Guarantees) filed with the SEC under the Securities Act, including, in each case, the Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits, and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

Representatives: See the introductory paragraphs hereof.

Rule 144: Rule 144 (as amended or replaced) under the Securities Act.

Rule 144A: Rule 144A (as amended or replaced) under the Securities Act.

Rule 405: Rule 405 (as amended or replaced) under the Securities Act.

Rule 415: Rule 415 (as amended or replaced) under the Securities Act.

Rule 424: Rule 424 (as amended or replaced) under the Securities Act.


Securities: See the introductory paragraphs hereto.

Shelf Notice: See Section 2(c) hereof.

Shelf Registration: See Section 3(b) hereof.

Shelf Registration Statement: Any Registration Statement relating to a Shelf Registration.

Shelf Suspension Period: See Section 3(a) hereof.

Subsequent Shelf Registration: See Section 3(b) hereof.

TIA: The Trust Indenture Act of 1939, as amended.

Trustee: The trustee under the Indenture and the trustee under any indenture (if different) governing the Exchange Securities and Private Exchange Notes (and the related Guarantees).

Underwritten registration or underwritten offering: A registration in which securities of the Issuer are sold to an underwriter for reoffering to the public.

Except as otherwise specifically provided, all references in this Agreement to acts, laws, statutes, rules, regulations, releases, forms, no-action letters and other regulatory requirements (collectively, "Regulatory Requirements") shall be deemed to refer also to any amendments thereto and all subsequent Regulatory Requirements adopted as a replacement thereto having substantially the same effect therewith; provided that Rule 144 shall not be deemed to amend or replace Rule 144A.

2. Exchange Offer

(a) Unless the Exchange Offer would violate applicable law or any applicable interpretation of the staff of the SEC, the Issuer shall use its commercially reasonable efforts to file with the SEC a Registration Statement (the "Exchange Offer Registration Statement") on an appropriate registration form with respect to a registered offer (the "Exchange Offer") to exchange any and all of the Registrable Securities for a like aggregate principal amount of debt securities of the Issuer (the "Exchange Notes"), guaranteed, to the extent applicable, on a senior unsecured basis by the Guarantors (the "New Guarantees" and, together with the Exchange Notes, the "Exchange Securities") that are identical in all material respects to the Notes, except that (i) the Exchange Notes shall contain no restrictive legend thereon, (ii) interest thereon shall accrue from the last date on which interest was paid on such Notes or, if no such interest has been paid, from the Issue Date and (iii) the Exchange Securities shall be entitled to the benefits of the Indenture or a trust indenture which is identical in all material respects to the Indenture (other than such changes to the Indenture or any such identical trust indenture as are necessary to comply with the TIA) and which, in either case, has been qualified under the TIA. The Exchange Offer shall comply with all applicable tender offer rules and regulations under the Exchange Act and other applicable laws. The Issuer shall use its commercially reasonable efforts to (x) prepare and file with the SEC the Exchange Offer Registration Statement with respect to the Exchange Offer; (y) keep the Exchange Offer open for at least 20 Business Days (or longer if required by applicable law) after the date that notice of the
Exchange Offer is mailed to Holders; and (z) consummate the Exchange Offer on or prior to the 365th day following the Issue Date (or if such 365th day is not a Business Day, the next succeeding Business Day).

Each Holder (including, without limitation, each Participating Broker-Dealer) that participates in the Exchange Offer, as a condition to participation in the Exchange Offer, will be required to represent to the Issuer in writing (which may be contained in the applicable letter of transmittal) that: (i) any Exchange Securities acquired in exchange for Registrable Securities tendered are being acquired in the ordinary course of business of the Person receiving such Exchange Securities, whether or not such recipient is such Holder itself; (ii) at the time of the commencement or consummation of the Exchange Offer neither such Holder nor, to the actual knowledge of such Holder, any other Person receiving Exchange Securities from such Holder has an arrangement or understanding with any Person to participate in the distribution (within the meaning of the Securities Act) of the Exchange Securities in violation of the Securities Act; (iii) neither the Holder nor, to the actual knowledge of such Holder, any other Person receiving Exchange Securities from such Holder is an "affiliate" (as defined in Rule 405) of the Issuer or, if it is an affiliate of the Issuer, it will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable and will provide information to be included in the Shelf Registration Statement in accordance with Section 5 hereof in order to have their Securities included in the Shelf Registration Statement and benefit from the provisions regarding Additional Interest in Section 4 hereof; (iv) if such Holder is not a broker-dealer, neither such Holder nor, to the actual knowledge of such Holder, any other Person receiving Exchange Securities from such Holder is engaging or intends to engage in a distribution of the Exchange Securities; and (v) if such Holder is a Participating Broker-Dealer, such Holder has acquired the Registrable Securities for its own account in exchange for Securities that were acquired as a result of market-making activities or other trading activities and that it will comply with the applicable provisions of the Securities Act (including, but not limited to, the prospectus delivery requirements thereunder).

Upon consummation of the Exchange Offer in accordance with this Section 2, the provisions of this Agreement shall continue to apply, mutatis mutandis, solely with respect to Registrable Securities that are Private Exchange Notes (and the related Guarantees), Exchange Securities as to which Section 2(c)(iv) is applicable and Exchange Securities held by the Participating Broker-Dealers, and the Issuer shall have no further obligation to register Registrable Securities (other than Private Exchange Notes (and the related Guarantees) and Exchange Securities as to which clause 2(c)(iv) hereof applies) pursuant to Section 3 hereof.

(b) The Issuer shall include within the Prospectus contained in the Exchange Offer Registration Statement a section entitled "Plan of Distribution," which shall contain a summary statement of the positions taken or policies made by the staff of the SEC with respect to the potential "underwriter" status of any broker-dealer that is the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) of Exchange Notes received by such broker-dealer in the Exchange Offer (a "Participating Broker-Dealer"), whether such positions or policies have been publicly disseminated by the staff of the SEC or such positions or policies represent the prevailing views of the staff of the SEC. Such "Plan of Distribution" section shall also expressly permit, to the extent permitted by applicable policies and regulations of the SEC, the use of the Prospectus by all Participating Broker-Dealers, and include a statement describing the means by which Participating Broker-Dealers may resell the Exchange Securities in compliance with the Securities Act.

The Issuer shall use its commercially reasonable efforts to keep the Exchange Offer Registration Statement effective and to amend and supplement the Prospectus contained therein in order to permit such Prospectus to be lawfully delivered by all Holders (including Participating Broker-Dealers) subject to the prospectus delivery requirements of the Securities Act for such period of time as is
necessary to comply with applicable law in connection with any resale of the Exchange Securities; provided, however, that in no event shall the Issuer be required to keep the Exchange Offer Registration Statement effective and available for more than 180 days after consummation of the Exchange Offer, or such longer period if extended pursuant to the last paragraph of Section 5 hereof (the "Applicable Period").

If, immediately prior to consummation of the Exchange Offer, the Initial Purchasers hold any Notes acquired by them that have the status of an unsold allotment in the initial distribution, the Issuer, upon the written request of the Initial Purchasers, shall simultaneously with the delivery of the Exchange Notes issue and deliver to the Initial Purchasers, in exchange (the "Private Exchange") for such Notes held by any such Initial Purchaser, a like principal amount of notes (including the guarantees with respect thereto, the "Private Exchange Notes") of the Issuer, guaranteed by the Guarantors, that are identical in all material respects to the Exchange Notes except for the placement of a restrictive legend on such Private Exchange Notes. The Private Exchange Notes shall be issued pursuant to the same indenture as the Exchange Notes and bear the same CUSIP number as the Exchange Notes if permitted by the CUSIP Service Bureau.

In connection with the Exchange Offer, the Issuer shall:

(1) mail, or cause to be mailed, to each Holder of record entitled to participate in the Exchange Offer a copy of the Prospectus forming part of the Exchange Offer Registration Statement, together with an appropriate letter of transmittal and related documents;

(2) use commercially reasonable efforts to keep the Exchange Offer open for not less than 20 Business Days from the date that notice of the Exchange Offer is mailed to Holders (or longer if required by applicable law);

(3) utilize the services of a depositary for the Exchange Offer with an address in the Borough of Manhattan, The City of New York;

(4) permit Holders to withdraw tendered Notes at any time prior to the close of business, New York time, on the last Business Day on which the Exchange Offer remains open; and

(5) otherwise comply in all material respects with all laws, rules and regulations applicable to the Exchange Offer.

As soon as practicable after the close of the Exchange Offer and any Private Exchange, the Issuer shall:

(1) accept for exchange all Registrable Securities validly tendered and not validly withdrawn pursuant to the Exchange Offer and any Private Exchange;

(2) deliver to the Trustee for cancellation all Registrable Securities so accepted for exchange; and

(3) cause the Trustee to authenticate and deliver promptly to each Holder of Notes, Exchange Notes or Private Exchange Notes, as the case may be, equal in principal amount to the Notes of such Holder so accepted for exchange; provided that, in the case of any Notes held in global form by a depositary, authentication and delivery to such depositary of one or more replacement Notes in global form in an equivalent principal amount thereto for the account of such Holders in accordance with the Indenture shall satisfy such authentication and delivery requirement.

-6-
The Exchange Offer and the Private Exchange shall not be subject to any conditions, other than that (i) the Exchange Offer or Private Exchange, as the case may be, does not violate applicable law or any applicable interpretation of the staff of the SEC; (ii) no action or proceeding shall have been instituted or threatened in any court or by any governmental agency which might materially impair the ability of the Issuer to proceed with the Exchange Offer or the Private Exchange, and no material adverse development shall have occurred in any existing action or proceeding with respect to the Issuer; and (iii) all governmental approvals shall have been obtained, which approvals the Issuer deems necessary for the consummation of the Exchange Offer or Private Exchange.

The Exchange Securities and the Private Exchange Notes (and related guarantees) shall be issued under (i) the Indenture or (ii) an indenture identical in all material respects to the Indenture and which, in either case, has been qualified under the TIA or is exempt from such qualification and shall provide that the Exchange Securities shall not be subject to the transfer restrictions set forth in the Indenture. The Indenture or such indenture shall provide that the Exchange Notes, the Private Exchange Notes and the Notes shall vote and consent together on all matters as one class and that none of the Exchange Notes, the Private Exchange Notes or the Notes will have the right to vote or consent as a separate class on any matter.

(c) If, (i) because of any change in law or in currently prevailing interpretations of the staff of the SEC, the Issuer is not permitted to effect the Exchange Offer, (ii) the Exchange Offer is not consummated within 365 days of the Issue Date, (iii) any holder of Private Exchange Notes so requests in writing to the Issuer at any time within 30 days after the consummation of the Exchange Offer, or (iv) in the case of any Holder that participates in the Exchange Offer, such Holder does not receive Exchange Securities on the date of the exchange that may be sold without restriction under state and federal securities laws (other than due solely to the status of such Holder as an affiliate of the Issuer within the meaning of the Securities Act) and so notifies the Issuer in writing within 30 days after such Holder first becomes aware of such restrictions, then, in the case of each of clauses (i) through (iv) of this sentence, the Issuer shall promptly deliver to the Trustee with a copy to the registrar (to deliver to the Holders) written notice thereof (the "Shelf Notice") and shall file a Shelf Registration pursuant to Section 3 hereof.

3. Shelf Registration

(a) Shelf Registration. The Issuer shall promptly file with the SEC a Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415 covering the Registrable Securities that are subject to the Shelf Notice (the "Initial Shelf Registration"). The Initial Shelf Registration shall be on Form S-1 or another appropriate form permitting registration of such Registrable Securities for resale by Holders in the manner or manners designated by them (including, without limitation, one or more underwritten offerings).

The Issuer shall use commercially reasonable efforts to cause the Shelf Registration to be declared effective under the Securities Act and to keep the Initial Shelf Registration continuously effective under the Securities Act until the earliest of (i) the date that is two years from the Issue Date or (ii) such shorter period ending when all Registrable Securities covered by the Initial Shelf Registration have been sold in the manner set forth and as contemplated in the Initial Shelf Registration or, if applicable, a Subsequent Shelf Registration (the "Effectiveness Period"); provided, however, that the Effectiveness Period in respect of the Initial Shelf Registration shall be extended to the extent required to permit dealers to comply with the applicable prospectus delivery requirements of Rule 174 under the Securities Act and as otherwise provided herein. Notwithstanding anything to the contrary in this Agreement, at any time, the Issuer may delay the filing of any Initial Shelf Registration Statement or delay or suspend the
effectiveness thereof, for a reasonable period of time, but not in excess of 60 consecutive days or more than three (3) times during any calendar year (each, a "Shelf Suspension Period"); if (i) an event or circumstance occurs and is continuing as a result of which the Initial Shelf Registration Statement or Subsequent Shelf Registration, the related Prospectus or any document incorporated therein by reference as then amended or supplemented or proposed to be filed would, in the good faith judgment of the Issuer, contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (ii) the Issuer determines reasonably and in good faith that the filing of any such Initial Shelf Registration Statement or the continuing effectiveness thereof would require the disclosure of non-public material information that, in the reasonable judgment of the Issuer, would be detrimental to the Issuer if so disclosed or would otherwise materially adversely affect a financing, acquisition, disposition, merger or other material transaction or if such action is required by applicable law.

(b) Withdrawal of Stop Orders; Subsequent Shelf Registrations. If the Initial Shelf Registration or any Subsequent Shelf Registration ceases to be effective for any reason at any time during the Effectiveness Period (other than because of the sale of all of the Securities registered thereunder), the Issuer shall use its commercially reasonable efforts to obtain the prompt withdrawal of any order suspending the effectiveness thereof, and in any event shall file an additional Shelf Registration Statement pursuant to Rule 415 covering all of the Registrable Securities covered by and not sold under the Initial Shelf Registration or an earlier Subsequent Shelf Registration (each, a "Subsequent Shelf Registration"). If a Subsequent Shelf Registration is filed, the Issuer shall use its commercially reasonable efforts to cause the Subsequent Shelf Registration to be declared effective under the Securities Act as soon as practicable after such filing and to keep such subsequent Shelf Registration continuously effective for a period equal to the number of days in the Effectiveness Period less the aggregate number of days during which the Initial Shelf Registration or any Subsequent Shelf Registration was previously continuously effective. As used herein the term "Shelf Registration" means the Initial Shelf Registration and any Subsequent Shelf Registration.

(c) Supplements and Amendments. The Issuer shall promptly supplement and amend the Shelf Registration if required by the rules, regulations or instructions applicable to the registration form used for such Shelf Registration, if required by the Securities Act, or if reasonably requested by the Holders of a majority in aggregate principal amount of the Registrable Securities (or their counsel) covered by such Registration Statement with respect to the information included therein with respect to one or more of such Holders, or, if reasonably requested by any underwriter of such Registrable Securities, with respect to the information included therein with respect to such underwriter.

4. Additional Interest

(a) The Issuer and the Initial Purchasers agree that the Holders will suffer damages if the Issuer fails to fulfill its obligations under Section 2 or Section 3 hereof and that it would not be feasible to ascertain the extent of such damages with precision. Accordingly, the Issuer and the Guarantors agree to pay, jointly and severally, as liquidated damages, additional interest to the Holders of the Notes affected thereby ("Additional Interest") if (A) the Issuer has neither (i) exchanged Exchange Securities for all Securities validly tendered in accordance with the terms of the Exchange Offer nor (ii) had a Shelf Registration Statement declared effective, in either case on or prior to the 365th day after the Issue Date, (B) notwithstanding clause (A), the Issuer is required to file a Shelf Registration Statement and such Shelf Registration Statement is not declared effective on or prior the 365th day after the Issue Date or (C), if applicable, a Shelf Registration has been declared effective and such Shelf Registration ceases to be effective at any time during the Effectiveness Period (other than as a result of a Suspension Period or because of the sale of all of the Securities registered thereunder) (each, a "Registration Default"), then Additional Interest shall accrue on the principal amount of the Notes affected thereby at a rate of 0.25% per annum
(which rate will be increased by an additional 0.25% per annum for each subsequent 90 day period that such Additional Interest continues to accrue, provided that the rate at which such Additional Interest accrues may in no event exceed 1.00% per annum) (such Additional Interest to be calculated by the Issuer) commencing on the (x) 366th day after the Issue Date, in the case of (A) and (B) above; or (y) the day such Shelf Registration ceases to be effective in the case of (C) above; provided, however, that upon the exchange of the Exchange Securities for all Securities tendered (in the case of clause (A) of this Section 4(a)), upon the effectiveness of the applicable Shelf Registration Statement (in the case of clause (B) of this Section 4(a)), or upon the effectiveness of the applicable Shelf Registration Statement which had ceased to remain effective (in the case of clause (C) of this Section 4(a)), Additional Interest on the Notes in respect of which such events relate as a result of such clause (or the relevant subclause thereof), as the case may be, shall cease to accrue. Notwithstanding any other provisions of this Section 4, the Issuer shall in no event be required to pay Additional Interest for more than one Registration Default at any given time.

(b) The Issuer shall notify the Trustee and the paying agent within five Business Days after each and every date on which an event occurs in respect of which Additional Interest is required to be paid (an "Event Date"). Any amounts of Additional Interest due pursuant to Section 4(a) will be payable in cash semiannually on each February 15 and August 15 (to the holders of record on the February 1 and August 1 immediately preceding such dates), commencing with the first such date occurring after any such Additional Interest commences to accrue. The amount of Additional Interest will be determined by the Issuer by multiplying the applicable Additional Interest rate by the principal amount of the Registrable Securities affected by the Registration Default, multiplied by a fraction, the numerator of which is the number of days such Additional Interest rate was applicable during such period (determined on the basis of a 360 day year comprised of twelve 30-day months and, in the case of a partial month, the actual number of days elapsed), and the denominator of which is 360.

5. **Registration Procedures**

In connection with the filing of any Registration Statement pursuant to Section 2 or 3 hereof, the Issuer shall effect such registrations to permit the sale of the securities covered thereby in accordance with the intended method or methods of disposition thereof, and pursuant thereto and in connection with any Registration Statement filed by the Issuer hereunder, the Issuer shall:

(a) Prepare and file with the SEC, a Registration Statement or Registration Statements as prescribed by Section 2 or 3 hereof, and use its commercially reasonable efforts to cause each such Registration Statement to become effective and remain effective as provided herein; provided, however, that if (1) such filing is pursuant to Section 3 hereof or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period relating thereto from whom the Issuer has received prior written notice that it will be a Participating Broker-Dealer in the Exchange Offer, before filing any Registration Statement or Prospectus or any amendments or supplements thereto, the Issuer shall furnish to and afford counsel for the Holders of the Registrable Securities covered by such Registration Statement (with respect to a Registration Statement filed pursuant to Section 3 hereof), which shall be a single firm selected by the Holders holding a majority in principal amount of the Registrable Securities covered by such Registration Statement, or counsel for such Participating Broker-Dealer (with respect to any such Registration Statement), as the case may be, and counsel to the managing underwriters, if any, a reasonable opportunity to review copies of all such documents (including copies of any documents to be incorporated by reference therein and all exhibits thereto) proposed to be filed (in each case, at least three Business Days prior to such filing). The Issuer shall not file any Registration Statement or Prospectus or any amendments or supplements thereto
if the Holders of a majority in aggregate principal amount of the Registrable Securities covered by such Registration Statement, their counsel or the managing underwriters, if any, shall reasonably object.

(b) Prepare and file with the SEC such amendments and post-effective amendments to each Shelf Registration Statement or Exchange Offer Registration Statement, as the case may be, as may be necessary to keep such Registration Statement continuously effective for the Effectiveness Period, the Applicable Period or until consummation of the Exchange Offer, as the case may be; cause the related Prospectus to be supplemented by any Prospectus supplement required by applicable law, and as so supplemented to be filed pursuant to Rule 424; and comply with the provisions of the Securities Act and the Exchange Act applicable to it with respect to the disposition of all securities covered by such Registration Statement as so amended or in such Prospectus as so supplemented and with respect to the subsequent resale of any securities being sold by an Participating Broker-Dealer covered by any such Prospectus in all material respects.

(c) If (1) a Shelf Registration is filed pursuant to Section 3 hereof or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period relating thereto from whom the Issuer has received written notice that it will be a Participating Broker-Dealer in the Exchange Offer, notify the selling Holders of Registrable Securities (with respect to a Registration Statement filed pursuant to Section 3 hereof), or each such Participating Broker-Dealer (with respect to any such Registration Statement), as the case may be, their counsel and the managing underwriters, if any, promptly (but in any event within three Business Days), and confirm such notice in writing, (i) when a Prospectus or any Prospectus supplement or post-effective amendment has been filed, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective under the Securities Act (including in such notice a written statement that any Holder may, upon request, obtain, at the sole expense of the Issuer, one conformed copy of such Registration Statement or post-effective amendment including financial statements and schedules, documents incorporated or deemed to be incorporated by reference and exhibits), (ii) of the issuance by the SEC of any stop order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of any preliminary prospectus or the initiation of any proceedings for that purpose, (iii) if at any time when a Prospectus is required by the Securities Act to be delivered in connection with sales of the Registrable Securities or resales of Exchange Securities by Participating Broker-Dealers the representations and warranties of the Issuer contained in any agreement (including any underwriting agreement) contemplated by Section 5(m) hereof cease to be true and correct, (iv) of the receipt by the Issuer of any notification with respect to the suspension of the qualification or exemption from qualification of a Registration Statement or any of the Registrable Securities or the Exchange Securities to be sold by any Participating Broker-Dealer for offer or sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose, (v) of the happening of any event, the existence of any condition or any information becoming known that makes any statement made in such Registration Statement or related Prospectus or documents incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in or amendments or supplements to such Registration Statement, Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and (vi) of the Issuer's determination that a post-effective amendment to a Registration Statement would be appropriate.

(d) Use its commercially reasonable efforts to prevent the issuance of any order suspending the effectiveness of a Registration Statement or of any order preventing or suspending the use of
a Prospectus or suspending the qualification (or exemption from qualification) of any of the Registrable Securities or the Exchange Securities to be sold by any Participating Broker-Dealer, for sale in any jurisdiction.

(e) If a Shelf Registration is filed pursuant to Section 3 and if requested during the Effectiveness Period by the managing underwriter or underwriters (if any) or the Holders of a majority in aggregate principal amount of the Registrable Securities being sold in connection with an underwritten offering, (i) as promptly as practicable incorporate in a prospectus supplement or post-effective amendment such information as the managing underwriter or underwriters (if any), such Holders or counsel for either of them reasonably request to be included therein, (ii) make all required filings of such prospectus supplement or such post-effective amendment as soon as practicable after the Issuer has received written notification of the matters to be incorporated in such prospectus supplement or post-effective amendment, and (iii) supplement or make amendments to such Registration Statement.

(f) If (1) a Shelf Registration is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period, furnish to each selling Holder of Registrable Securities (with respect to a Registration Statement filed pursuant to Section 3 hereof) and to each such Participating Broker-Dealer who so requests (with respect to any such Registration Statement) and to their respective counsel and each managing underwriter, if any, at the sole expense of the Issuer, one conformed copy of the Registration Statement or Registration Statements and each post-effective amendment thereto, including financial statements and schedules, and, if requested, all documents incorporated or deemed to be incorporated therein by reference and all exhibits.

(g) If (1) a Shelf Registration is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period, deliver to each selling Holder of Registrable Securities (with respect to a Registration Statement filed pursuant to Section 3 hereof), or each such Participating Broker-Dealer (with respect to any such Registration Statement), as the case may be, their respective counsel, and the underwriters, if any, at the sole expense of the Issuer, as many copies of the Prospectus or Prospectuses (including each form of preliminary prospectus) and each amendment or supplement thereto and any documents incorporated by reference therein as such Persons may reasonably request; and, subject to the last paragraph of this Section 5, the Issuer hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders of Registrable Securities or each such Participating Broker-Dealer, as the case may be, and the underwriters or agents, if any, and dealers, if any, in connection with the offering and sale of the Registrable Securities covered by, or the sale by Participating Broker-Dealers of the Exchange Securities pursuant to, such Prospectus and any amendment or supplement thereto.

(h) Prior to any public offering of Registrable Securities or any delivery of a Prospectus contained in the Exchange Offer Registration Statement by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period, use its commercially reasonable efforts to register or qualify, and to cooperate with the selling Holders of Registrable Securities or each such Participating Broker-Dealer, as the case may be, the managing underwriter or underwriters, if any, and their respective counsel in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Securities for offer and sale under the securities or Blue Sky laws of such jurisdictions within the United States as any selling Holder, Participating Broker-Dealer, or the managing underwriter or underwriters reasonably request in writing; provided, however, that where Exchange Securities held by Participating Broker-Dealers or Registrable Securities are offered other than
through an underwritten offering, the Issuer agrees to cause its counsel to perform Blue Sky investigations and file registrations and qualifications required to be filed pursuant to this Section 5(h), keep each such registration or qualification (or exemption therefrom) effective during the period such Registration Statement is required to be kept effective and do any and all other acts or things necessary or advisable to enable the disposition in such jurisdictions of the Exchange Securities held by Participating Broker-Dealers or the Registrable Securities covered by the applicable Registration Statement; provided, however, that the Issuer shall not be required to (A) qualify generally to do business in any jurisdiction where it is not then so qualified, (B) take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject or (C) subject itself to taxation in excess of a nominal dollar amount in any such jurisdiction where it is not then so subject.

(i) If a Shelf Registration is filed pursuant to Section 3 hereof, cooperate with the selling Holders of Registrable Securities and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold, which certificates shall not bear any restrictive legends and shall be in a form eligible for deposit with The Depository Trust Company; and enable such Registrable Securities to be in such denominations (subject to applicable requirements contained in the Indenture) and registered in such names as the managing underwriter or underwriters, if any, or Holders may request.

(j) Use its commercially reasonable efforts to cooperate with a selling Holder to cause the Registrable Securities covered by the Registration Statement to be registered with or approved by such other U.S. governmental agencies or authorities as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Securities as a consequence of the nature of such selling Holder's business.

(k) If (1) a Shelf Registration is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Securities during the Applicable Period, upon the occurrence of any event contemplated by Section 5(c)(v) or 5(c)(vi) hereof, as promptly as practicable prepare and (subject to Section 5(a) hereof) file with the SEC, at the sole expense of the Issuer, a supplement or post-effective amendment to the Registration Statement or a supplement to the related Prospectus or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities being sold thereunder (with respect to a Registration Statement filed pursuant to Section 3 hereof) or to the purchasers of the Exchange Securities to whom such Prospectus will be delivered by a Participating Broker-Dealer (with respect to any such Registration Statement), any such Prospectus will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(l) Prior to the effective date of the first Registration Statement relating to the Registrable Securities, (i) provide the Trustee with certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and (ii) provide a CUSIP number for the Registrable Securities.

(m) In connection with any underwritten offering of Registrable Securities pursuant to a Shelf Registration, enter into an underwriting agreement as is customary in underwritten offerings of debt securities similar to the Notes (including, without limitation, a customary condition to the obligations of the underwriters that the underwriters shall have received "cold comfort" letters and updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters from the independent registered public accountants of the Issuer (and, if necessary, any other independent
registered public accountants of the parent or any subsidiary of the Issuer, or of any business acquired by the Issuer, for which financial statements and financial data are, or are required to be, included or incorporated by reference in the Registration Statement), addressed to each of the underwriters, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with underwritten offerings of debt securities similar to the Securities, and take all such other customary actions as are reasonably requested by the managing underwriter or underwriters in order to expedite or facilitate the registration or the disposition of such Registrable Securities and, in such connection, (i) make such representations and warranties to, and covenants with, the underwriters with respect to the business of the Issuer (including any acquired business, properties or entity, if applicable), and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, as are customarily made by issuers to underwriters in underwritten offerings of debt securities similar to the Securities, and confirm the same in writing if and when requested; (ii) obtain the written opinions of counsel to the Issuer, and written updates thereof in form, scope and substance reasonably satisfactory to the managing underwriter or underwriters, addressed to the underwriters covering the matters customarily covered in opinions reasonably requested in underwritten offerings; and (iii) if an underwriting agreement is entered into, the same shall contain indemnification provisions and procedures no less favorable to the sellers and underwriters, if any, than those set forth in Section 7 hereof (or such other provisions and procedures reasonably acceptable to Holders of a majority in aggregate principal amount of Registrable Securities covered by such Registration Statement and the managing underwriter or underwriters or agents, if any). The above shall be done at each closing under such underwriting agreement, or as and to the extent required thereunder.

(n) If (1) a Shelf Registration is filed pursuant to Section 3 hereof, or (2) a Prospectus contained in the Exchange Offer Registration Statement filed pursuant to Section 2 hereof is required to be delivered under the Securities Act by any Participating Broker-Dealer who seeks to sell Exchange Notes during the Applicable Period, make available for inspection by any Initial Purchaser, any selling Holder of such Registrable Securities being sold (with respect to a Registration Statement filed pursuant to Section 3 hereof), or each such Participating Broker-Dealer, as the case may be, any underwriter participating in any such disposition of Registrable Securities, if any, and any attorney (which shall be a single firm selected by the Holders holding a majority in principal amount of the Registrable Securities covered by such Registration Statement), accountant or other agent retained by any such selling Holder or each such Participating Broker-Dealer (with respect to any such Registration Statement), as the case may be, or underwriter (any such Initial Purchasers, Holders, Participating Broker-Dealers, underwriters, attorneys, accountants or agents, collectively, the "Inspectors"), upon written request, at the offices where normally kept, during reasonable business hours, all pertinent financial and other records, pertinent corporate documents and instruments of the Issuer and its subsidiaries (collectively, the "Records"), as shall be reasonably necessary to enable them to exercise any applicable due diligence responsibilities, and cause the officers, directors and employees of the Issuer and any of its subsidiaries to supply all information ("Information") reasonably requested by any such Inspector in connection with such due diligence responsibilities. Each Inspector shall agree in writing that it will keep the Records and Information confidential, to use the Records and Information only for due diligence purposes, to abstain from using the Records and Information as the basis for any market transactions in securities of the Issuer and that it will not disclose any of the Records or Information that the Issuer determines, in good faith, to be confidential and notifies the Inspectors in writing are confidential unless (i) the disclosure of such Records or Information is necessary to avoid or correct a misstatement or omission in such Registration Statement or Prospectus, (ii) the release of such Records or Information is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, (iii) disclosure of such Records or Information is necessary or advisable, in the opinion of counsel for any Inspector, in connection with any action, claim, suit or proceeding, directly or indirectly, involving or potentially involving such Inspector and arising out of, based upon, relating to, or involving this Agreement or the Purchase Agreement, or any transactions contemplated hereby or thereby or arising hereunder or thereunder, or (iv) the information in such Records or Information has been made

-13-
(o) Provide an indenture trustee for the Registrable Securities or the Exchange Securities, as the case may be, and cause the Indenture or the trust indenture provided for in Section 2(a) hereof, as the case may be, to be qualified under the TIA not later than the effective date of the first Registration Statement relating to the Registrable Securities; and in connection therewith, cooperate with the trustee under any such indenture and the Holders of the Registrable Securities, to effect such changes (if any) to such indenture as may be required for such indenture to be so qualified in accordance with the terms of the TIA; and execute, and use its commercially reasonable efforts to cause such trustee to execute, all documents as may be required to effect such changes, and all other forms and documents required to be filed with the SEC to enable such indenture to be so qualified in a timely manner.

(p) Comply in all material respects with all applicable rules and regulations of the SEC and make generally available to the its security holders with regard to any applicable Registration Statement, a consolidated earning statement satisfying the provisions of Section 10(a) of the Securities Act and Rule 158 thereunder (or any similar rule promulgated under the Securities Act) no later than 45 days after the end of each of the first three fiscal quarters of each fiscal year (or 60 days for the fiscal quarter ended January 30, 2011) or 90 days after the end of each fiscal year (or 120 days for the fiscal year ended May 1, 2011) (i) commencing at the end of any fiscal quarter in which Registrable Securities are sold to underwriters in a firm commitment or best efforts underwritten offering and (ii) if not sold to underwriters in such an offering, commencing on the first day of the first fiscal quarter of the Issuer, after the effective date of a Registration Statement, which statements shall cover said 12-month periods; provided that this requirement shall be deemed satisfied by the Issuer complying with Section 1009 of the Indenture.

(q) Upon consummation of the Exchange Offer or a Private Exchange, obtain an opinion of counsel to the Issuer as required pursuant to the Indenture. If the Exchange Offer or a Private Exchange is to be consummated, upon delivery of the Registrable Securities by Holders to the Issuer (or to such other Person as directed by the Issuer), in exchange for the Exchange Securities or the Private Exchange Notes (and the related Guarantees), as the case may be, the Issuer shall mark, or cause to be marked, on such Registrable Securities that such Registrable Securities are being cancelled in exchange for the Exchange Securities or the Private Exchange Notes (and the related guarantees), as the case may be; in no event shall such Registrable Securities be marked as paid or otherwise satisfied.

(r) Use reasonable efforts to cooperate with each seller of Registrable Securities covered by any Registration Statement and each underwriter, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the Financial Industry Regulatory Authority, Inc. ("FINRA").

(s) Use its commercially reasonable efforts to take all other steps reasonably necessary to effect the registration of the Exchange Securities and/or Registrable Securities covered by a Registration Statement contemplated hereby.

(t) So long as any Registrable Securities remain outstanding, cause each Additional Guarantor upon the creation or acquisition by the Issuer of such Additional Guarantor, to execute a
counterpart to this Agreement in the form attached hereto as Exhibit B and to deliver such counterpart to the Initial Purchasers no later than five Business Days following the execution thereof.

The Issuer may require each seller of Registrable Securities as to which any registration is being effected to furnish to the Issuer such information regarding such seller and the distribution of such Registrable Securities as the Issuer may, from time to time, reasonably request. The Issuer may exclude from such registration the Registrable Securities of any seller so long as such seller fails to furnish such information within a reasonable time after receiving such request. Each seller as to which any Shelf Registration is being effected agrees to furnish promptly to the Issuer all information required to be disclosed in order to make the information previously furnished to the Issuer by such seller not materially misleading.

If any such Registration Statement refers to any Holder by name or otherwise as the holder of any securities of the Issuer, then such Holder shall have the right to require (i) the insertion therein of language, in form and substance reasonably satisfactory to such Holder, to the effect that the holding by such Holder of such securities is not to be construed as a recommendation by such Holder of the investment quality of the securities covered thereby and that such holding does not imply that such Holder will assist in meeting any future financial requirements of the Issuer, or (ii) in the event that such reference to such Holder by name or otherwise is not required by the Securities Act or any similar federal statute then in force, the deletion of the reference to such Holder in any amendment or supplement to the Registration Statement filed or prepared subsequent to the time that such reference ceases to be required.

Each Holder of Registrable Securities and each Participating Broker-Dealer agrees by its acquisition of such Registrable Securities or Exchange Securities to be sold by such Participating Broker-Dealer, as the case may be, that, upon actual receipt of any notice from the Issuer of the happening of any event of the kind described in Section 5(c)(ii), 5(c)(iv), 5(c)(v) or 5(c)(vi) hereof, such Holder will forthwith discontinue disposition of such Registrable Securities covered by such Registration Statement or Prospectus or Exchange Securities to be sold by such Holder or Participating Broker-Dealer, as the case may be, until such Holder's or Participating Broker-Dealer's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 5(k) hereof, or until it is advised in writing (the "Advice") by the Issuer that the use of the applicable Prospectus may be resumed, and has received copies of any amendments or supplements thereto. In the event that the Issuer shall give any such notice, each of the Applicable Period and the Effectiveness Period shall be extended by the number of days during such periods from and including the date of the giving of such notice to and including the date when each seller of Registrable Securities covered by such Registration Statement or Exchange Securities to be sold by such Participating Broker-Dealer, as the case may be, shall have received (x) the copies of the supplemented or amended Prospectus contemplated by Section 5(k) hereof or (y) the Advice, ending when all Registrable Securities covered by such Registration Statement or Exchange Securities to be sold by such Participating Broker-Dealer have been sold in the manner set forth herein and as contemplated hereby.

6. Registration Expenses

All fees and expenses incident to the performance of or compliance with this Agreement by the Issuer of its obligations under Sections 2, 3, 5 and 8 hereof shall be borne by the Issuer, whether or not the Exchange Offer Registration Statement or any Shelf Registration Statement is filed or becomes effective or the Exchange Offer is consummated, including, without limitation, (i) all registration and filing fees (including, without limitation, (A) fees with respect to filings required to be made with FINRA in connection with an underwritten offering and (B) fees and expenses of compliance with state securities or Blue Sky laws (including, without limitation, reasonable fees and disbursements of counsel in connection with Blue Sky qualifications of the Registrable Securities or Exchange Securities and determination of the eligibility of the Registrable Securities or Exchange Securities for investment under the laws of such
jurisdictions in the United States (x) where the holders of Registrable Securities are located, in the case of the Exchange Securities, or (y) as provided in Section 5(h) hereof, in the case of Registrable Securities or Exchange Securities to be sold by a Participating Broker-Dealer during the Applicable Period), (ii) printing expenses, including, without limitation, printing prospectuses if the printing of prospectuses is requested by the managing underwriter or underwriters, if any, by the Holders of a majority in aggregate principal amount of the Registrable Securities included in any Registration Statement or in respect of Registrable Securities or Exchange Securities to be sold by any Participating Broker-Dealer during the Applicable Period, as the case may be, (iii) fees and expenses of the Trustee, any exchange agent and their counsel, (iv) fees and disbursements of counsel for the Issuer and, in the case of a Shelf Registration, reasonable fees and disbursements of one special counsel for all of the sellers of Registrable Securities selected by the Holder of a majority in aggregate principal amount of Registrable Securities covered by such Shelf Registration (which counsel shall be reasonably satisfactory to the Issuer) exclusive of any counsel retained pursuant to Section 7 hereof), (v) fees and disbursements of all independent registered public accountants referred to in Section 5(m) hereof (including, without limitation, the expenses of any "cold comfort" letters required by or incident to such performance), (vi) rating agency fees, if any, and any fees associated with making the Registrable Securities or Exchange Securities eligible for trading through The Depository Trust Company, (vii) Securities Act liability insurance, if the Issuer desires such insurance, (viii) fees and expenses of all other Persons retained by the Issuer, (ix) internal expenses of the Issuer (including, without limitation, all salaries and expenses of officers and employees of the Issuer performing legal or accounting duties), (x) the expense of any annual audit, (xi) any fees and expenses incurred in connection with the listing of the securities to be registered on any securities exchange, and the obtaining of a rating of the securities, in each case, if applicable and (xii) the expenses relating to printing, word processing and distributing all Registration Statements, underwriting agreements, indentures and any other documents necessary in order to comply with this Agreement.

7. **Indemnification and Contribution**

   (a) The Issuer and the Guarantors, jointly and severally, agree to indemnify and hold harmless each Holder of Registrable Securities and each Participating Broker-Dealer selling Exchange Securities during the Applicable Period, and each Person, if any, who controls any such Persons or its affiliates within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each, a "Participant") against any losses, claims, damages or liabilities, joint or several, to which any Participant may become subject under the Securities Act, the Exchange Act or otherwise, insofar as any such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or based upon:

   (i) any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement (or any amendment thereto) or Prospectus (as amended or supplemented if the Issuer shall have furnished any amendments or supplements thereto) or any preliminary prospectus; or

   (ii) the omission or alleged omission to state, in any Registration Statement (or any amendment thereto) or Prospectus (as amended or supplemented if the Issuer shall have furnished any amendments or supplements thereto) or any preliminary prospectus or any other document or any amendment or supplement thereto, a material fact required to be stated therein or necessary to make the statements therein not misleading, except, in each case, insofar as such losses, claims, damages or liabilities are arising out of or based upon any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Initial Purchaser or any Holder furnished to the Issuer in writing through the Initial Purchasers, any selling Holder or any Participating Broker-Dealer expressly for use therein;
and agree (subject to the limitations set forth in this sentence) to reimburse, as incurred, the Participant for any reasonable legal or other expenses incurred by the Participant in connection with investigating, defending against or appearing as a third-party witness in connection with any such loss, claim, damage, liability or action; provided, however, neither the Issuer nor the Guarantors will be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in any Registration Statement (or any amendment thereto) or Prospectus (as amended or supplemented if the Issuer shall have furnished any amendments or supplements thereto) or any preliminary prospectus or any amendment or supplement thereto in reliance upon and in conformity with written information relating to any Participant furnished to the Issuer by such Participant specifically for use therein. The indemnity provided for in this Section 7 will be in addition to any liability that the Issuer and the Guarantors may otherwise have to the indemnified parties. The Issuer and the Guarantors shall not be liable under this Section 7 to any indemnified party regarding any settlement or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent is consented to by the Issuer and the Guarantors, which consent shall not be unreasonably withheld.

(b) Each Participant, severally and not jointly, agrees to indemnify and hold harmless each Issuer, the Guarantors, their respective directors (or equivalent), their respective officers who sign any Registration Statement and each person, if any, who controls such Issuer within the meaning of Section 15 of the Act or Section 20 of the Exchange Act against any losses, claims, damages or liabilities to which such Issuer, the Guarantors or any such director, officer or controlling person may become subject under the Securities Act, the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) any untrue statement or alleged untrue statement of any material fact contained in any Registration Statement or Prospectus, any amendment or supplement thereto, or any preliminary prospectus, or (ii) the omission or the alleged omission to state therein a material fact necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information concerning such Participant, furnished to the Issuer by or on behalf of such Participant, specifically for use therein; and subject to the limitation set forth immediately preceding this clause, will reimburse, as incurred, any reasonable legal or other expenses incurred by such Issuer, the Guarantors or any such director, officer or controlling person in connection with investigating or defending against or appearing as a third party witness in connection with any such loss, claim, damage, liability or action in respect thereof. The indemnity provided for in this Section 7 will be in addition to any liability that the Participants may otherwise have to the indemnified parties. The Participants shall not be liable under this Section 7 to any indemnified party regarding any settlement or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent is consented to by the Participants, which consent shall not be unreasonably withheld. The Issuer and the Guarantors shall not, without the prior written consent of such Participant, effect any settlement or compromise of any pending or threatened proceeding in respect of which such Participant is a party, or indemnity could have been sought hereunder by such Participant, unless such settlement (A) includes an unconditional written release of such Participant, in form and substance reasonably satisfactory to such Participant, from all liability on claims that are the subject matter of such proceeding and (B) does not include any statement as to an admission of fault, culpability or failure to act by or on behalf of such Participant.

(c) Promptly after receipt by an indemnified party under this Section 7 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made
against the indemnifying party under this Section 7, notify the indemnifying party of the commencement thereof in writing; but the omission to so notify the indemnifying party (i) will not relieve it from any liability under paragraph (a) or (b) above unless and to the extent such indemnifying party did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraphs (a) and (b) above. The indemnifying party shall be entitled to appoint counsel (including local counsel) of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel, other than local counsel if not appointed by the indemnifying party, retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel (including local counsel) to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest (based on the advice of counsel to the indemnified person); (ii) such action includes both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded (based on the advice of counsel to the indemnified person) that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party; (iii) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. It is understood and agreed that the indemnifying person shall not, in connection with any proceeding or separate but related or substantially similar proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm (in addition to any local counsel) representing the indemnified parties under paragraph (a) or paragraph (b) of this Section 7, as the case may be, who are parties to such action or actions. Any such separate firm for any Participants shall be designated in writing by Participants who sold a majority in interest of the Registrable Securities and Exchange Securities sold by all such Participants in the case of paragraph (a) of this Section 7 or the Issuer in the case of paragraph (b) of this Section 7. In the event that any Participants are indemnified persons collectively entitled, in connection with a proceeding or separate but related or substantially similar proceedings in a single jurisdiction, to the payment of fees and expenses of a single separate firm under this Section 7(c), and any such Participants cannot agree to a mutually acceptable separate firm to act as counsel thereto, then such separate firm for all such Indemnified Persons shall be designated in writing by Participants who sold a majority in interest of the Registrable Securities and Exchange Securities sold by all such Participants. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and does not include any statement as to, or any admission of, fault, culpability or failure to act by or on behalf of any indemnified party. All fees and expenses that are reimbursable pursuant to this paragraph (c) shall be reimbursed as they are incurred.

(d) After notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof and approval by such indemnified party of counsel appointed to defend such action, the indemnifying party will not be liable to such indemnified party under this Section 7 for any legal or other expenses, other than reasonable costs of investigation, subsequently incurred by such
indemnified party in connection with the defense thereof, unless (i) the indemnified party shall have employed separate counsel in accordance with the third sentence of paragraph (c) of this Section 7 or (ii) the indemnifying party has authorized in writing the employment of counsel for the indemnified party at the expense of the indemnifying party. After such notice from the indemnifying party to such indemnified party, the indemnifying party will not be liable for the costs and expenses of any settlement of such action effected by such indemnified party without the prior written consent of the indemnifying party (which consent shall not be unreasonably withheld), unless such indemnified party waived in writing its rights under this Section 7, in which case the indemnified party may effect such a settlement without such consent.

(e) In circumstances in which the indemnity agreement provided for in the preceding paragraphs of this Section 7 is unavailable to, or insufficient to hold harmless, an indemnified party in respect of any losses, claims, damages or liabilities (or actions in respect thereof) (other than by virtue of the failure of an indemnified party to notify the indemnifying party of its right to indemnification pursuant to paragraph (a) or (b) of this Section 7, where such failure materially prejudices the indemnifying party (through the forfeiture of substantial rights or defenses)), each indemnifying party, in order to provide for just and equitable contribution, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect (i) the relative benefits received by the indemnifying party or parties on the one hand and the indemnified party on the other from the offering of the Notes or (ii) if the allocation provided by the foregoing clause (i) is not permitted by applicable law, not only such relative benefits but also the relative fault of the indemnifying party or parties on the one hand and the indemnified party on the other in connection with the statements or omissions or alleged statements or omissions that resulted in such losses, claims, damages or liabilities (or actions in respect thereof). The relative benefits received by the Issuer and the Guarantors on the one hand and such Participant on the other shall be deemed to be in the same proportion that the total net proceeds from the offering (before deducting expenses) of the Notes received by the Issuer bear to the total discounts and commissions received by such Participant in connection with the sale of the Notes (or if such Participant did not receive discounts or commissions, the value of receiving the Notes sold). The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Issuer on the one hand, or the Participants on the other, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or alleged statement or omission, and any other equitable considerations appropriate in the circumstances. The parties agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the first sentence of this paragraph (e). Notwithstanding any other provision of this paragraph (e), no Participant shall be obligated to make contributions hereunder that in the aggregate exceed the total discounts, commissions and other compensation or net proceeds on the sale of Notes received by such Participant in connection with the sale of the Notes, less the aggregate amount of any damages that such Participant has otherwise been required to pay by reason of the untrue or alleged untrue statements or the omissions or alleged omissions to state a material fact, and no person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this paragraph (e), each person, if any, who controls a Participant within the meaning of Section 15 of the Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Participants, and each director and officer of the Issuer and the Guarantors and each person, if any, who controls the Issuer and the Guarantors within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, shall have the same rights to contribution as the Issuer.
8. **Rule 144A**

The Issuer covenants and agrees that it will use commercially reasonable efforts to file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder in a timely manner in accordance with the requirements of the Securities Act and the Exchange Act and, if at any time the Issuer is not required to file such reports, the Issuer will, upon the request of any Holder or beneficial owner of Registrable Securities, make available such information necessary to permit sales pursuant to Rule 144A. The Issuer covenants and agrees, for so long as any Registrable Securities remain outstanding that it will take such further action as any Holder of Registrable Securities may reasonably request, all to the extent required from time to time to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144A unless the Issuer is then subject to Section 13 or 15(d) of the Exchange Act and reports filed thereunder satisfy the information requirements of Rule 144A then in effect.

9. **Underwritten Registrations**

The Issuer shall not be required to assist in an underwritten offering unless requested by the Holders of a majority in aggregate principal amount of the Registrable Securities. If any of the Registrable Securities covered by any Shelf Registration are to be sold in an underwritten offering, the underwriters and managers that will manage the offering will be selected by the Holders of a majority in aggregate principal amount of such Registrable Securities included in such offering and shall be reasonably acceptable to the Issuer.

No Holder of Registrable Securities may participate in any underwritten registration hereunder unless such Holder (a) agrees to sell such Holder's Registrable Securities on the basis provided in any underwriting arrangements approved by the Persons entitled hereunder to approve such arrangements and (b) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents required under the terms of such underwriting arrangements.

10. **Miscellaneous**

(a) **No Inconsistent Agreements.** The Issuer has not as of the date hereof, and the Issuer shall not, after the date of this Agreement, enter into any agreement with respect to any of its securities that is inconsistent with the rights granted to the Holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of the Issuer's other issued and outstanding securities under any such agreements. The Issuer will not enter into any agreement with respect to any of the Issuer's securities which will grant to any Person "piggy-back" registration rights with respect to any Registration Statement filed pursuant to this Agreement.

(b) **Adjustments Affecting Registrable Securities.** The Issuer shall not, directly or indirectly, take any action with respect to the Registrable Securities as a class that would adversely affect the ability of the Holders of Registrable Securities to include such Registrable Securities in a registration undertaken pursuant to this Agreement.

(c) **Amendments and Waivers.** The provisions of this Agreement may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, otherwise than with the prior written consent of (i) the Issuer, and (ii) (a) the Holders of not less than a majority in aggregate principal amount of the then outstanding Registrable Securities and (b) in circumstances that would adversely affect the Participating Broker-Dealers, the Participating
Broker-Dealers holding not less than a majority in aggregate principal amount of the Exchange Securities held by all Participating Broker-Dealers; provided, however, that Section 7 and this Section 10(c) may not be amended, modified or supplemented without the prior written consent of each Holder and each Participating Broker-Dealer (including any person who was a Holder or Participating Broker-Dealer of Registrable Securities or Exchange Securities, as the case may be, disposed of pursuant to any Registration Statement) affected by any such amendment, modification or supplement. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of Holders of Registrable Securities whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect, impair, limit or compromise the rights of other Holders of Registrable Securities may be given by Holders of at least a majority in aggregate principal amount of the Registrable Securities being sold pursuant to such Registration Statement.

(d) Notices. All notices and other communications (including, without limitation, any notices or other communications to the Trustee and the registrar, paying agent and transfer agent) provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, next-day air courier or facsimile:

(i) if to a Holder of the Registrable Securities or any Participating Broker-Dealer, at the most current address of such Holder or Participating Broker-Dealer, as the case may be, set forth on the records of the registrar under the Indenture;

(ii) if to the Issuer, at the address as follows:

Del Monte Foods Company
P.O. Box 193575
San Francisco, California 94119-3575
Facsimile No.: (412) 222-1632
Attention: Chief Financial Officer

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Ave.
New York, New York 10017
Facsimile No.: (212) 455-2502
Attention: Joseph Kaufman, Esq.

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; one Business Day after being timely delivered to a next-day air courier; and upon written confirmation, if sent by facsimile.

Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee or the registrar, paying agent and/or transfer agent at the respective addresses and in the manner specified in such Indenture.

(e) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, the Holders and the Participating Broker-Dealers; provided, however, that nothing herein shall be deemed to permit any assignment, transfer or other disposition of Registrable Securities in violation of the terms of the Purchase Agreement or the Indenture.
(f) **Counterparts.** This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(g) **Headings.** The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(h) **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED ENTIRELY WITHIN THE STATE OF NEW YORK. EACH OF THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(i) **Severability.** If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(j) **Notes Held by the Issuer or Its Affiliates.** Whenever the consent or approval of Holders of a specified percentage of Registrable Securities is required hereunder, Registrable Securities held by the Issuer or its affiliates (as such term is defined in Rule 405 under the Securities Act) shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(k) **Third-Party Beneficiaries.** Holders of Registrable Securities and Participating Broker-Dealers are intended third-party beneficiaries of this Agreement, and this Agreement may be enforced by such Persons.

(l) **Entire Agreement.** This Agreement, together with the Purchase Agreement and the Indenture, is intended by the parties as a final and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein and any and all prior oral or written agreements, representations, or warranties, contracts, understandings, correspondences and memoranda between the Holders on the one hand and the Issuer on the other, or between or among any agents, representatives, parents, subsidiaries, affiliates, predecessors in interest or successors in interest with respect to the subject matter hereof and thereof are merged herein and replaced hereby.

[Signature Page Follows]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BLUE MERGER SUB INC.
By:  /s/ Simon Brown

Name: Simon Brown
Title: President

Signature Page to Registration Rights Agreement
The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
BARCLAYS CAPITAL INC.
J.P. MORGAN SECURITIES LLC
KKR CAPITAL MARKETS LLC
DEUTSCHE BANK SECURITIES INC.
GOLDMAN, SACHS & CO.
MIZUHO SECURITIES USA INC.

By: MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
By: /s/ Adam Cady
    Name: Adam Cady
    Title: Managing Director

By: MORGAN STANLEY & CO. INCORPORATED
By: /s/ Emily Johnson
    Name: Emily Johnson
    Title: Authorized Signatory

Each for itself and as Representative of the other several Initial Purchasers

Signature Page to Registration Rights Agreement
Reference is hereby made to the Registration Rights Agreement, dated as of February 16, 2011 (the “Registration Rights Agreement”), by and among Blue Merger Sub Inc. (“Merger Sub”) and the Initial Purchasers named therein concerning the sale by Merger Sub to the Initial Purchasers of $1,300.0 million aggregate principal amount of Merger Sub’s 7.625% Senior Notes due 2019 (the “Securities”). Unless otherwise defined herein, terms defined in the Registration Rights Agreement and used herein shall have the meanings given them in the Registration Rights Agreement.

1. Joinder of the Successor Company. Del Monte Foods Company, a Delaware corporation (“DMFC”), hereby agrees to become bound by the terms, conditions and other provisions of the Registration Rights Agreement with all attendant rights, duties and obligations stated therein, with the same force and effect as if originally named as the “Issuer” therein and as if such party executed the Registration Rights Agreement on the date thereof.

2. Joinder of the Guarantor. Del Monte Corporation, a Delaware corporation (the “Guarantor”), hereby agrees to become bound by the terms, conditions and other provisions of the Registration Rights Agreement with all attendant rights, duties and obligations stated therein, with the same force and effect as if originally named as “Guarantor” therein and as if such party executed the Registration Rights Agreement on the date thereof.

3. Governing Law. This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of New York.

4. Counterparts. This agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

5. Amendments. No amendment or waiver of any provision of this Joinder Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

6. Headings. The headings in this Joinder Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

[Signature Page Follows]
IN WITNESS WHEREOF, the undersigned have executed this Joinder Agreement as of the date first written above.

DEL MONTE FOODS COMPANY
By:                                                                                             Name:
                                                                                             Title:

DEL MONTE CORPORATION, as Guarantor
By:                                                                                             Name:
                                                                                             Title:
COUNTERPART TO REGISTRATION RIGHTS AGREEMENT

The undersigned hereby absolutely, unconditionally and irrevocably agrees as a Guarantor (as defined in the Registration Rights Agreement, dated as of February 16, 2011, by and among Blue Merger Sub Inc. and the Initial Purchasers party thereto, as supplemented by the Joinder Agreement, dated as of ______, 2011, by Del Monte Foods Company and Del Monte Corporation) to become bound by the terms, conditions and other provisions of the Registration Rights Agreement with all attendant rights, duties and obligations stated therein, with the same force and effect as if originally named as "Guarantor" therein and as if such party executed the Registration Rights Agreement on the date thereof.

IN WITNESS WHEREOF, the undersigned has executed this counterpart as of ______, 20__.  

By:

Name:
Title:

____________________________________________________
Signature Page to Registration Rights Agreement
Reference is hereby made to the Registration Rights Agreement, dated as of February 16, 2011 (the "Registration Rights Agreement"), by and among Blue Merger Sub Inc. ("Merger Sub") and the Initial Purchasers named therein concerning the sale by Merger Sub to the Initial Purchasers of $1,300.0 million aggregate principal amount of Merger Sub's 7.625% Senior Notes due 2019 (the "Securities"). Unless otherwise defined herein, terms defined in the Registration Rights Agreement and used herein shall have the meanings given them in the Registration Rights Agreement.

1. Joinder of the Successor Company. Del Monte Foods Company, a Delaware corporation ("DMFC"), hereby agrees to become bound by the terms, conditions and other provisions of the Registration Rights Agreement with all attendant rights, duties and obligations stated therein, with the same force and effect as if originally named as the "Issuer" therein and as if such party executed the Registration Rights Agreement on the date thereof.

2. Joinder of the Guarantor. Del Monte Corporation, a Delaware corporation (the "Guarantor"), hereby agrees to become bound by the terms, conditions and other provisions of the Registration Rights Agreement with all attendant rights, duties and obligations stated therein, with the same force and effect as if originally named as "Guarantor" therein and as if such party executed the Registration Rights Agreement on the date thereof.

3. Governing Law. This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of New York.

4. Counterparts. This agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

5. Amendments. No amendment or waiver of any provision of this Joinder Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

6. Headings. The headings in this Joinder Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

[Signature Page Follows]
IN WITNESS WHEREOF, the undersigned have executed this Joinder Agreement as of the date first written above.

DEL MONTE FOODS COMPANY

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer
      Chief Accounting Officer and
      Controller

DEL MONTE CORPORATION, as Guarantor

By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer
      Chief Accounting Officer and
      Controller
SECOND SUPPLEMENTAL INDENTURE
dated as of February 1, 2011

with respect to the:

INDENTURE
Dated as of February 8, 2005
among
DEL MONTE CORPORATION, as Issuer
THE GUARANTOR PARTY HERETO
and
DEUTSCHE BANK TRUST COMPANY AMERICAS
SECOND SUPPLEMENTAL INDENTURE (this “Second Supplemental Indenture”), dated as of February 1, 2011, to the Indenture dated as of February 8, 2005 (as amended and supplemented to the date hereof, including by that certain First Supplemental Indenture dated as of May 19, 2006, the “Indenture”), by and among Del Monte Corporation, a Delaware corporation (the “Company”), the Guarantor party hereto (the “Guarantor”), and Deutsche Bank Trust Company Americas, as trustee (the “Trustee”) for the Company’s 6 3/4% Senior Subordinated Notes due 2015 (the “Notes”).

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee the Indenture and the Company has issued the Notes pursuant to the Indenture and the Guarantor has issued its guarantee thereof;

WHEREAS, Section 9.02 of the Indenture provides that the Company, when authorized by a Board Resolution, the Guarantor and the Trustee may amend or supplement the Indenture with the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes;

WHEREAS, in connection with the merger contemplated by the Agreement and Plan of Merger, dated as of November 24, 2010, among Blue Acquisition Group, Inc., Blue Merger Sub Inc. (“Merger Sub”) and Del Monte Foods Company (the “Merger”), Merger Sub has (i) offered to purchase for cash, any and all of the outstanding Notes upon the terms and subject to the conditions set forth in its Offer to Purchase and Consent Solicitation Statement dated January 19, 2011 (as the same may be amended or supplemented from time to time, the “Statement”), and in the related Letter of Transmittal and Consent (as the same may be amended or supplemented from time to time, and, together with the Statement, with respect to the Notes, the “Offer”), from each Holder of such Notes and (ii) has solicited consents to certain amendments to the Indenture pursuant to the Statement;

WHEREAS, in accordance with Section 9.02 of the Indenture, the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes has been received to effect the proposed amendments set forth herein;

WHEREAS, the Company is authorized to enter into this Second Supplemental Indenture by a Board Resolution, and the Trustee has received an Opinion of Counsel and an Officers’ Certificate stating that the execution of this Second Supplemental Indenture is permitted by the Indenture and all conditions precedent under the Indenture have been satisfied;

WHEREAS, the Company has requested that the Trustee execute and deliver this Second Supplemental Indenture; and

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Company to make the Indenture, as supplemented by this Second Supplemental Indenture, a valid and binding obligation for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, for and in consideration of the foregoing premises, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Company, the Guarantor and the Trustee hereby agree as follows:

A G R E E M E N T S

SECTION 1.01. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

SECTION 2.01. Amendments to Indenture and Notes.

(a) The following Sections of the Indenture, including the Table of Contents and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with “Intentionally Omitted,” and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety:
(b) Subclauses (ii) and (iii) of Section 5.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(c) Subclauses (iii) and (iv) of Section 5.05(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(d) Subclauses (3), (4), (5) and (8) of Section 6.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(e) All references made to a provision in the Indenture or the Notes deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture and the Notes, and any definitions used exclusively in the provisions of the Indenture deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture. The applicable provisions of the Notes, including without limitation Section 7 thereof, shall be deemed amended to reflect the amendments to the corresponding provisions of the Indenture that are amended pursuant to Subsections (a) through (d) hereof.

SECTION 3.01. Effectiveness of Second Supplemental Indenture; Amendments Becoming Operative. This Second Supplemental Indenture shall be effective upon its execution and delivery by the parties hereto; provided that the amendments set forth in Section 2.01 will not become operative until immediately prior to the first acceptance for payment of Notes pursuant to the Offer provided that the Merger shall have occurred or be occurring concurrently with such acceptance.

SECTION 4.01. The Indenture Ratified. Except as hereby otherwise expressly provided, the Indenture is in all respects ratified and confirmed, and all the terms, provisions, and conditions thereof shall be and remain in full force and effect.

SECTION 5.01. Counterparts. This Second Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.
SECTION 6.01. **This Second Supplemental Indenture is a Supplement to The Indenture.** This Second Supplemental Indenture is executed as and shall constitute an indenture supplemental to the Indenture and shall be construed in connection with and as part of the Indenture.

SECTION 7.01. **Governing Law.** THIS SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO AGREES TO SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECOND SUPPLEMENTAL INDENTURE.

SECTION 8.01. **References to This Second Supplemental Indenture.** Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Second Supplemental Indenture may refer to the Indenture without making specific reference to this Second Supplemental Indenture, but nevertheless all such references shall include this Second Supplemental Indenture unless the context otherwise requires.

SECTION 9.01. **Effect of This Second Supplemental Indenture.** The Indenture shall be deemed to be modified as herein provided, but except as modified hereby, the Indenture shall continue in full force and effect. The Indenture as modified hereby shall be read, taken, and construed as one and the same instrument.

SECTION 10.01. **Severability.** In the event that any provisions of this Second 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.

SECTION 11.01. **Trust Indenture Act.** If any provisions hereof limit, qualify, or conflict with any provisions of the TIA required under the TIA to be a part of and govern this Second Supplemental Indenture, the provisions of the TIA shall control. If any provision hereof modifies or excludes any provision of the TIA that pursuant to the TIA may be so modified or excluded, the provisions of the TIA as so modified or excluded hereby shall apply.

SECTION 12.01. **Trustee Not Responsible for Recitals.** The recitals contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Second Supplemental Indenture. The Trustee shall not be liable or responsible for the validity or sufficiency of this Second Supplemental Indenture or the due authorization of this Second Supplemental Indenture by the Company or the Guarantor. In entering into this Second Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct of, affecting the liability of or affording protection to the Trustee, whether or not elsewhere herein so provided.

[Signature page follows]
IN WITNESS WHEREOF, each of the parties hereto have caused this Second Supplemental Indenture to be duly executed on its behalf by its duly authorized officer as of the day and year first above written.

ISSUER:
DEL MONTE CORPORATION
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

GUARANTOR:
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Second Supplement Indenture]
TRUSTEE: DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee
By: /s/ Carol Ng
Name: Carol Ng
Title: Vice President
By: /s/ Wanda Camacho
Name: Wanda Camacho
Title: Vice President

[Signature Page to Second Supplement Indenture]
FIRST SUPPLEMENTAL INDENTURE
dated as of February 1, 2011

with respect to the:

INDENTURE

Dated as of October 1, 2009

among

DEL MONTE CORPORATION, as Issuer

THE GUARANTOR PARTY HERETO

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
FIRST SUPPLEMENTAL INDENTURE (this “First Supplemental Indenture”), dated as of February 1, 2011, to the Indenture dated as of October 1, 2009 (as amended and supplemented to the date hereof, the “Indenture”), by and among Del Monte Corporation, a Delaware corporation (the “Company”), the Guarantor party hereto (the “Guarantor”), and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”) for the Company’s 7 1/2% Senior Subordinated Notes due 2019 (the “Notes”).

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee the Indenture and the Company has issued the Notes pursuant to the Indenture and the Guarantor has issued its guarantee thereof;

WHEREAS, Section 9.02 of the Indenture provides that the Company, when authorized by a Board Resolution, the Guarantor and the Trustee may amend or supplement the Indenture with the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes;

WHEREAS, in connection with the merger contemplated by the Agreement and Plan of Merger, dated as of November 24, 2010, among Blue Acquisition Group, Inc., Blue Merger Sub Inc. (“Merger Sub”) and Del Monte Foods Company (the “Merger”), Merger Sub has (i) offered to purchase for cash, any and all of the outstanding Notes upon the terms and subject to the conditions set forth in its Offer to Purchase and Consent Solicitation Statement dated January 19, 2011 (as the same may be amended or supplemented from time to time, the “Statement”), and in the related Letter of Transmittal and Consent (as the same may be amended or supplemented from time to time, and, together with the Statement, with respect to the Notes, the “Offer”); from each Holder of such Notes and (ii) has solicited consents to certain amendments to the Indenture pursuant to the Statement;

WHEREAS, in accordance with Section 9.02 of the Indenture, the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes has been received to effect the proposed amendments set forth herein;

WHEREAS, the Company is authorized to enter into this First Supplemental Indenture by a Board Resolution, and the Trustee has received an Opinion of Counsel and an Officers’ Certificate stating that the execution of this First Supplemental Indenture is permitted by the Indenture and all conditions precedent under the Indenture have been satisfied;

WHEREAS, the Company has requested that the Trustee execute and deliver this First Supplemental Indenture; and

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Company to make the Indenture, as supplemented by this First Supplemental Indenture, a valid and binding obligation for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, for and in consideration of the foregoing premises, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Company, the Guarantor and the Trustee hereby agree as follows:

AGREEMENTS

SECTION 1.01. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

SECTION 2.01. Amendments to Indenture and Notes.

(a) The following Sections of the Indenture, including the Table of Contents and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with “Intentionally Omitted,” and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety:
(b) Subclauses (ii) and (iii) of Section 5.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with “Intentionally Omitted,” and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(c) Subclauses (iii) and (iv) of Section 5.05(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with “Intentionally Omitted,” and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(d) Subclauses (3), (4), (5) and (8) of Section 6.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with “Intentionally Omitted,” and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(e) All references made to a provision in the Indenture or the Notes deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture and the Notes, and any definitions used exclusively in the provisions of the Indenture deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture. The applicable provisions of the Notes, including without limitation Section 7 thereof, shall be deemed amended to reflect the amendments to the corresponding provisions of the Indenture that are amended pursuant to Subsections (a) through (d) hereof.

SECTION 3.01. Effectiveness of First Supplemental Indenture; Amendments Becoming Operative. This First Supplemental Indenture shall be effective upon its execution and delivery by the parties hereto, provided that the amendments set forth in Section 2.01 shall not become operative until immediately prior to the first acceptance for payment of Notes pursuant to the Offer provided that the Merger shall have occurred or be occurring concurrently with such acceptance.

SECTION 4.01. The Indenture Ratified. Except as hereby otherwise expressly provided, the Indenture is in all respects ratified and confirmed, and all the terms, provisions, and conditions thereof shall be and remain in full force and effect.

SECTION 5.01. Counterparts. This First Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 6.01. This First Supplemental Indenture is a Supplement to The Indenture. This First Supplemental Indenture is executed as and shall constitute an indenture supplemental to the Indenture and shall be construed in connection with and as part of the Indenture.
SECTION 7.01. Governing Law. THIS FIRST SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO AGREES TO SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS FIRST SUPPLEMENTAL INDENTURE.

SECTION 8.01. References to This First Supplemental Indenture. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this First Supplemental Indenture may refer to the Indenture without making specific reference to this First Supplemental Indenture, but nevertheless all such references shall include this First Supplemental Indenture unless the context otherwise requires.

SECTION 9.01. Effect of This First Supplemental Indenture. The Indenture shall be deemed to be modified as herein provided, but except as modified hereby, the Indenture shall continue in full force and effect. The Indenture as modified hereby shall be read, taken, and construed as one and the same instrument.

SECTION 10.01. Severability. In the event that any provisions of this First 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.

SECTION 11.01. Trust Indenture Act. If any provisions hereof limit, qualify, or conflict with any provisions of the TIA required under the TIA to be a part of and govern this First Supplemental Indenture, the provisions of the TIA shall control. If any provision hereof modifies or excludes any provision of the TIA that pursuant to the TIA may be so modified or excluded, the provisions of the TIA as so modified or excluded hereby shall apply.

SECTION 12.01. Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this First Supplemental Indenture.

[Signature page follows]
IN WITNESS WHEREOF, each of the parties hereto have caused this First Supplemental Indenture to be duly executed on its behalf by its duly authorized officer as of the day and year first above written.

ISSUER:
DEL MONTE CORPORATION
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

GUARANTOR:
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to First Supplement Indenture]
TRUSTEE:
THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A., as Trustee

By:       /s/ Alex Briffett
Name:    Alex Briffett
Title:   Authorized Signatory

[Signature Page to First Supplement Indenture]
SECOND SUPPLEMENTAL INDENTURE
dated as of March 8, 2011

with respect to the:

INDENTURE

Dated as of October 1, 2009

among

DEL MONTE CORPORATION, as Issuer

THE GUARANTOR PARTY HERETO

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.
SECOND SUPPLEMENTAL INDENTURE (this "Second Supplemental Indenture"), dated as of March 8, 2011, to the Indenture dated as of October 1, 2009 (as amended and supplemented to the date hereof, the "Indenture"), by and among Del Monte Corporation, a Delaware corporation (the "Company"), the Guarantor party hereto (the "Guarantor"), and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee") for the Company's 7 1/2% Senior Subordinated Notes due 2019 (the "Notes").

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee the Indenture and the Company has issued the Notes pursuant to the Indenture and the Guarantor has issued its guarantee thereof;

WHEREAS, Section 9.02 of the Indenture provides that the Company, when authorized by a Board Resolution, the Guarantor and the Trustee may amend or supplement the Indenture with the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes;

WHEREAS, in connection with the merger contemplated by the Agreement and Plan of Merger, dated as of November 24, 2010, among Blue Acquisition Group, Inc., Blue Merger Sub Inc. ("Merger Sub") and Del Monte Foods Company (the "Merger"), Merger Sub has (i) offered to purchase for cash, any and all of the outstanding Notes upon the terms and subject to the conditions set forth in its Offer to Purchase and Consent Solicitation Statement dated January 19, 2011 (as the same may be amended or supplemented from time to time, the "Statement"), and in the related Letter of Transmittal and Consent (as the same may be amended or supplemented from time to time, and, together with the Statement, with respect to the Notes, the "Offer"), from each Holder of such Notes and (ii) has solicited consents to certain amendments to the Indenture pursuant to the Statement;

WHEREAS, in accordance with Section 9.02 of the Indenture, the written consent of the Holders of at least a majority in aggregate outstanding principal amount of the Notes was received to effect the proposed amendments set forth in the First Supplemental Indenture, dated as of February 1, 2011 (the "First Supplemental Indenture"), among the Company, the Guarantor and the Trustee;

WHEREAS, the Company has heretofore executed and delivered to the Trustee the First Supplemental Indenture;

WHEREAS, the Company is authorized to enter into this Second Supplemental Indenture pursuant to Section 9.01(9) of the Indenture;

WHEREAS, the Company is authorized to enter into this Second Supplemental Indenture by a Board Resolution, and the Trustee has received an Opinion of Counsel and an Officers' Certificate stating that the execution of this Second Supplemental Indenture is permitted by the Indenture and all conditions precedent under the Indenture have been satisfied;

WHEREAS, the Company has requested that the Trustee execute and deliver this Second Supplemental Indenture; and

WHEREAS, all other acts and proceedings required by law, by the Indenture and by the charter documents of the Company to make the Indenture, as supplemented by this Second Supplemental Indenture, a valid and binding obligation for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, for and in consideration of the foregoing premises, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Company, the Guarantor and the Trustee hereby agree as follows:

AGREEMENTS

SECTION 1.01. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
SECTION 2.01. Amendments to Indenture and Notes.

(a) All of the provisions and definitions in the Indenture and the Notes that were deleted or amended by the Amendments set forth in Section 2.01 of the First Supplemental Indenture and attached hereto as Exhibit A shall be reinstated in their entirety as such provisions and definitions existed in the Indenture prior to the execution of the First Supplemental Indenture unless at least a majority in aggregate outstanding principal amount of the Notes have been validly tendered in the Offer for the Notes and not validly withdrawn in accordance with the requirements set forth in the Statement and Letter of Transmittal, as amended, on the expiration date for the Offer.

(b) Attached hereto as Exhibit B is a certificate from Global Bondholder Services Corporation evidencing the valid tenders of a majority in aggregate outstanding principal amount of Notes validly tendered in the Offer.

SECTION 3.01. Effectiveness of Second Supplemental Indenture; Amendments Becoming Operative. This Second Supplemental Indenture shall be effective upon its execution and delivery by the parties hereto; provided that the amendments set forth in Section 2.01 will not become operative until immediately after the First Supplemental Indenture becomes operative.

SECTION 4.01. The Indenture Ratified. Except as hereby otherwise expressly provided, the Indenture is in all respects ratified and confirmed, and all the terms, provisions, and conditions thereof shall be and remain in full force and effect.

SECTION 5.01. Counterparts. This Second Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

SECTION 6.01. This Second Supplemental Indenture is a Supplement to The Indenture. This Second Supplemental Indenture is executed as and shall constitute an indenture supplemental to the Indenture and shall be construed in connection with and as part of the Indenture.

SECTION 7.01. Governing Law. This SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO AGREES TO SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECOND SUPPLEMENTAL INDENTURE.

SECTION 8.01. References to This Second Supplemental Indenture. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Second Supplemental Indenture may refer to the Indenture without making specific reference to this Second Supplemental Indenture, but nevertheless all such references shall include this Second Supplemental Indenture unless the context otherwise requires.

SECTION 9.01. Effect of This Second Supplemental Indenture. The Indenture shall be deemed to be modified as herein provided, but except as modified hereby, the Indenture shall continue in full force and effect. The Indenture as modified hereby shall be read, taken, and construed as one and the same instrument.

SECTION 10.01. Severability. In the event that any provisions of this Second 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.

SECTION 11.01. Trust Indenture Act. If any provisions hereof limit, qualify, or conflict with any provisions of the TIA required under the TIA to be a part of and govern this Second Supplemental Indenture, the provisions of the TIA shall control. If any provision hereof modifies or excludes any provision of the TIA that pursuant to the TIA may be so modified or excluded, the provisions of the TIA as so modified or excluded hereby shall apply.

-3-
SECTION 12.01. Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Second Supplemental Indenture.

[Signature page follows]

-4-
IN WITNESS WHEREOF, each of the parties hereto have caused this Second Supplemental Indenture to be duly executed on its behalf by its duly authorized officer as of the day and year first above written.

ISSUER:
DEL MONTE CORPORATION
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

GUARANTOR:
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President, Treasurer, Chief Accounting Officer and Controller

[Signature Page to Second Supplemental Indenture]
TRUSTEE:
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee
By: /s/ Alex Briffett
Name: John A. (Alex) Briffett
Title: Authorized Signatory
Exhibit A

Section 2.01 of the First Supplemental Indenture, dated as of February 1, 2011, to the Indenture, dated as of October 1, 2009 among Del Monte Corporation, Del Monte Foods Company and The Bank of New York Mellon Trust Company, N.A., as Trustee:

SECTION 2.01. Amendments to Indenture and Notes.

(a) The following Sections of the Indenture, including the Table of Contents and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety:

<table>
<thead>
<tr>
<th>Existing Section or Subsection Number</th>
<th>Caption</th>
</tr>
</thead>
<tbody>
<tr>
<td>SECTION 4.04</td>
<td>Payment of Taxes</td>
</tr>
<tr>
<td>SECTION 4.08</td>
<td>SEC Reports</td>
</tr>
<tr>
<td>SECTION 4.10</td>
<td>Limitation on Restricted Payments</td>
</tr>
<tr>
<td>SECTION 4.11</td>
<td>Limitation on Transactions with Affiliates</td>
</tr>
<tr>
<td>SECTION 4.12</td>
<td>Limitation on Incurrence of Additional Indebtedness</td>
</tr>
<tr>
<td>SECTION 4.13</td>
<td>Limitation on Dividends and Other Payment Restrictions Affecting Subsidiaries</td>
</tr>
<tr>
<td>SECTION 4.17</td>
<td>Limitation on Preferred Stock of Restricted Subsidiaries</td>
</tr>
<tr>
<td>SECTION 4.18</td>
<td>Limitation on Liens</td>
</tr>
<tr>
<td>SECTION 4.19</td>
<td>Limitation on Guarantees by Domestic Restricted Subsidiaries</td>
</tr>
<tr>
<td>SECTION 4.20</td>
<td>Rule 144A Information</td>
</tr>
<tr>
<td>SECTION 4.21</td>
<td>Termination of Certain Covenants</td>
</tr>
</tbody>
</table>

(b) Subclauses (ii) and (iii) of Section 5.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(c) Subclauses (iii) and (iv) of Section 5.05(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(d) Subclauses (3), (4), (5) and (8) of Section 6.01(a) of the Indenture, and any corresponding provisions in the Notes, shall be deleted in their entirety and replaced with "Intentionally Omitted," and all references made thereto throughout the Indenture and the Notes shall be deleted in their entirety.

(e) All references made to a provision in the Indenture or the Notes deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture and the Notes, and any definitions used exclusively in the provisions of the Indenture deleted pursuant to the amendments set forth in Subsections (a) through (d) of this Section 2.01 shall be deleted in their entirety from the Indenture. The applicable provisions of the Notes, including without limitation Section 7 thereof, shall be deemed amended to reflect the amendments to the corresponding provisions of the Indenture that are amended pursuant to Subsections (a) through (d) hereof.
Global Bondholder Services Corporation in its capacity as Depositary Agent for the Blue Merger Sub Inc. Offers to Purchase and Solicitations of Consents Relating to the 7.50% Senior Subordinated Notes due 2019 (the "Offer"), hereby certifies that the Depository Trust Company's ("DTC") Automatic Tender Offer Program (ATOP) reports that custodian banks representing holders of $447,877,000 in aggregate principal amount of the 7.50% Senior Subordinated Notes due 2019 have tendered and consented such notes pursuant to the Offer as of 5:00pm (New York City time) on March 2, 2011 and hereby further certifies that such tenders and consents were not validly withdrawn prior to such time.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the 2nd day of March, 2011.

Global Bondholder Services Corp.
As Depositary Agent

By: ________________________________
Harvey Eng
Managing Director
March 8, 2011

Kohlberg Kravis Roberts & Co L.P.
9 West 57th St., Suite 4200
New York, New York 10019

Vestar Capital Partners
245 Park Avenue, 41st Floor
New York, New York 10167

Centerview Partners Management LLC
16 School Street
Rye, New York 10580

AlpInvest Partners Inc.
630 Fifth Avenue, 28th Floor
New York, NY 10111

Re: Monitoring Agreement

Ladies and Gentlemen:

This letter serves to confirm that Del Monte Corporation (the "Company"), a subsidiary of Del Monte Foods Company, which is a subsidiary of Blue Acquisition Group, Inc. ("Parent") and an indirect subsidiary of Blue Holdings I, L.P. ("Partners LP"), has engaged Kohlberg Kravis Roberts & Co. L.P. (the "KKR Manager"), Vestar Capital Partners (the "Vestar Manager"), Centerview Partners Management LLC (the "Centerview Manager"; and together with the KKR Manager and the Vestar Manager, the "Sponsor Managers") and AlpInvest Partners Inc. (the "AlpInvest Manager" and, together with the Sponsor Managers, the "Managers" and each a "Manager") to provide, and each Manager hereby agrees to provide management, consulting and financial services to the Company and its direct and indirect divisions, subsidiaries, parent entities and controlled affiliates (collectively, the "Company Group"), as follows:

1. The Company has engaged the Managers, and each Manager hereby agrees to accept such engagement, to provide to the Company Group, when and if called upon, such services as mutually agreed by the Managers and the Company, which services may include, without limitation: (i) general executive and management services; (ii) identification, support,
negotiation and analysis of acquisitions and dispositions by the Company Group; (iii) support, negotiation and analysis of financing alternatives, including, without limitation, in connection with acquisitions, capital expenditures and refinancing of existing indebtedness; (iv) finance functions, including assistance in the preparation of financial projections and monitoring of compliance with financing agreements; (v) human resources functions, including searching and recruiting of executives, but excluding formulation or promulgation of personnel policies or involvement in personnel decision making; and (vi) other services for the Company Group upon which the Company and the Managers may agree from time to time. Commencing on the date hereof (the “Effective Date”), the Company agrees to pay the Sponsor Managers (or such affiliate(s) as any such Sponsor Manager may designate) an aggregate annual fee (the “Advisory Fee”) in an amount equal to (a) the greater of (i) $6,500,000 and (ii) 1.00% (the “Advisory Fee Percentage”) of “Adjusted EBITDA” (as defined in the Indenture governing the Del Monte Foods Company Senior Notes due 2019) minus (b) the AlpInvest Advisory Fee, payable in quarterly installments in arrears at the end of each fiscal quarter. The Sponsor Managers shall split the Advisory Fee so that each such Sponsor Manager shall receive a portion of the Advisory Fee equal to its Pro Rata Share (as defined below) of such Advisory Fee. Commencing on the Effective Date, the Company agrees to pay the AlpInvest Manager (or such affiliates as the AlpInvest Manager designates) an aggregate annual fee (the “AlpInvest Advisory Fee”) in an amount equal to $250,000, payable in quarterly installments in arrears at the end of each fiscal quarter; provided, that to the extent that the Advisory Fee in any given year, calculated as set forth above, exceeds $6,250,000 (including as a result of an increase in the amount set forth in clause (a)(i)), the AlpInvest Advisory Fee shall be increased by 3.846% of the amount of such excess over $6,250,000 (the “AlpInvest Additional Fee Amount”); provided, further, if no Advisory Fee is paid or payable to the Sponsor Managers (so long as such Advisory Fee is not replaced by an annual fee to be paid to the Sponsor Managers in lieu thereof), then the AlpInvest Manager shall not receive the AlpInvest Advisory Fee or any similar fee and the AlpInvest Manager shall have no right to receive any such fee. The initial Advisory Fee and AlpInvest Advisory Fee shall be pro rated to reflect the portion of the current fiscal quarter that will elapse after the Effective Date. The final quarterly Advisory Fee and AlpInvest Advisory Fee shall be pro rated to reflect the portion of the final quarter prior to the end of the term of this agreement, as applicable. For purposes of this agreement, the term “Pro Rata Share” of a Sponsor Manager shall mean a fraction, the numerator of which is the aggregate number of Limited Partnership Units (as defined in the Partnership Agreement (as defined below)) held by affiliates (or such affiliates’ Permitted Transferees (as defined in the Partnership Agreement)) of such Sponsor Manager and the denominator of which is the total number of Limited Partnership Units held by affiliates (or such affiliates’ Permitted Transferees) of all of the Sponsor Managers outstanding at the time of payment of the Advisory Fee. Each quarterly fee payment shall be paid assuming, whichever is greater, (i) the Advisory Fee is $6,250,000 and the AlpInvest Advisory Fee is $250,000, or (ii) the Advisory Fee and AlpInvest Advisory Fee calculated based on clause (a)(ii) of the definition of Advisory Fee using the prior year's Adjusted EBITDA. Within ninety days (or such longer period of time reasonably required) after the end of each fiscal year (commencing with the first fiscal year ending after the date of this Agreement), the Company shall certify the Adjusted EBITDA for the preceding fiscal year to the Managers. To the extent that the Adjusted EBITDA as calculated at the end of the fiscal year would result in a greater Advisory Fee for such fiscal year than was paid to the Sponsor Managers in such fiscal year (the excess which should have been paid to the Sponsor Managers, "Sponsor Excess Fee Amount")
or a greater AlpInvest Advisory Fee than was paid to the AlpInvest Manager in such fiscal year (the excess which should have been paid to the AlpInvest Manager, "AlpInvest Excess Fee Amount"), within ten days (or such longer period of time reasonably required) following the determination of the Adjusted EBITDA for such fiscal year the Company shall pay each Sponsor Manager its Pro Rata Share of the Sponsor Excess Fee Amount and shall pay to the AlpInvest Manager the AlpInvest Additional Excess Fee Amount. To the extent that the Adjusted EBITDA as calculated at the end of the fiscal year would result in a lower Advisory Fee for such fiscal year than was paid to the Sponsor Managers in such fiscal year (the deficiency which should not have been paid to the Sponsor Managers, "Sponsor Deficiency Amount") or a lower AlpInvest Advisory Fee than was paid to the AlpInvest Manager in such fiscal year (the deficiency which should not have been paid to the AlpInvest Manager, "AlpInvest Deficiency Amount"), then the Company may set off against its obligation to pay the next installment of the Advisory Fee (and subsequent installments if needed to recover such Sponsor Deficiency Amount in full) each Sponsor Manager's Pro Rata Share of the Sponsor Deficiency Amount and may set off against its obligation to pay the next installment of the AlpInvest Advisory Fee (and subsequent installments if needed to recover such AlpInvest Deficiency Amount in full) the AlpInvest Manager's AlpInvest Deficiency Amount.

2. From time to time the Sponsor Managers may charge the Company a customary fee (a "Transaction Fee") for services rendered in connection with securing, structuring and negotiating equity and debt financing, including with respect to any acquisition, divestiture or other transaction, initial public offering, or a debt or equity financing, in each case, by or involving the Company Group. For the avoidance of doubt, the Company Group may, from time to time, after the Effective Date, engage one or more Managers or their affiliates to provide additional investment banking or other financial advisory services in connection with any acquisition, divestiture or similar transaction by the Company Group, in respect of which (i) separate agreements may be entered into and (ii) such Managers or their affiliates may be entitled to receive additional compensation in respect thereof pursuant to such separate agreements. In addition to any fees that may be payable to the Managers under this agreement, the Company shall, or shall cause one or more of its affiliates to, on behalf of itself and the other members of the Company Group (subject to paragraph 3), reimburse the Managers and their affiliates and their respective employees and agents, from time to time upon request, for all reasonable out-of-pocket expenses incurred, including unreimbursed out-of-pocket expenses incurred to the date hereof, in connection with this retention, including travel expenses and other disbursements and expenses of any legal, accounting or other professional advisors to the Sponsor Managers or their affiliates. The Sponsor Managers may submit monthly expense statements to the Company or any other member of the Company Group for such out-of-pocket expenses, which statements shall be payable within thirty days. Nothing in this paragraph 2 shall limit any obligations of Partners LP to reimburse any costs and expenses to the Sponsor Managers, their subsidiaries or affiliates as provided in the Amended and Restated Limited Partnership Agreement of Partners LP, dated as of the date hereof, among the parties thereto, as the same may be amended from time to time (the "Partnership Agreement"), or in the Amended and Restated Limited Liability Company Agreement of Blue Holdings GP, LLC, dated as of the date hereof, among the parties thereto.

3. Partners LP, Parent and the Company (on behalf of itself and the other members of the Company Group) hereby acknowledge and agree that the obligations of the
Company under paragraphs 1 and 2 shall be borne jointly and severally by each member of the Company Group.

4. The Company will, and will cause each member of the Company Group to, use its reasonable best efforts to furnish, or to cause their respective subsidiaries and agents to furnish, the Managers with such information (the "Information") as such Managers reasonably believe appropriate to their engagement hereunder. The Managers will keep the Information confidential in accordance with the confidentiality provisions of the Partnership Agreement. The Company acknowledges and agrees that (i) the Managers will rely on the Information and on information available from generally recognized public sources in performing the services contemplated hereunder and (ii) the Managers do not assume responsibility for the accuracy or completeness of the Information or such other information.

5. Partners LP, Parent and the Company (on behalf of itself and the other members of the Company Group) hereby acknowledge and agree that the services provided by the Managers hereunder are being provided subject to the terms of the Indemnification Agreement, dated as of the date hereof, between Partners LP, Blue Holdings GP, LLC, Parent, the Company and the Managers (as the same may be amended from time to time, the "Indemnification Agreement").

6. Any advice or opinions provided by the Managers may not be disclosed or referred to publicly or to any third party (other than the Company Group's legal, tax, financial or other advisors), except with the prior written consent of the Managers.

7. The Company hereby grants the Managers and their affiliates a non-exclusive license to use the Company's trademarks and logos, solely in connection with describing the Managers' relationship with the Company and the other members of the Company Group.

8. Each Manager shall act as an independent contractor, with duties solely to the Company Group. The provisions hereof shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns; provided that (i) neither this agreement nor any right, interest or obligation hereunder may be assigned by any party, whether by operation of law or otherwise, without the express written consent of the other parties hereto and (ii) any assignment by a Manager of its rights but not the obligations under this agreement to any entity directly or indirectly controlling, controlled by or under common control with such Manager shall be expressly permitted hereunder and shall not require the prior written consent of the other parties hereto. Nothing in this agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns, any rights or remedies under or by reason of this agreement. Without limiting the generality of the foregoing, the parties acknowledge that nothing in this agreement, expressed or implied, is intended to confer on any present or future holders of any securities of the Company or its subsidiaries or affiliates, or any present or future creditor of the Company or its subsidiaries or affiliates, any rights or remedies under or by reason of this agreement or any performance hereunder.

9. This agreement shall be governed by and construed in accordance with the internal laws of the State of New York. Each of the parties hereby agrees that any action or
proceeding arising out of this agreement or the transactions contemplated hereby shall be brought in the federal or state courts sitting in the County of New York, in the City of New York, New York, and each of the parties hereby consents to submit itself to the personal jurisdiction of such courts in any such action or proceeding, and hereby waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto.

10. All notices and other communications provided for hereunder shall be in writing and shall be sent by first class mail, telex, telecopier or hand delivery:

If to Partners LP:  
c/o Kohlberg Kravis Roberts & Co. L.P.  
9 West 57th St., Suite 4200  
New York, New York 10019  
Attention: Simon Brown  
Facsimile: (212) 750-0003

and

c/o Vestar Capital Partners V, L.P.  
c/o Vestar Capital Partners  
245 Park Avenue  
41st Floor  
New York, New York 10167  
Attention: Brian K. Ratzan and Steven Della Rocca  
Facsimile: 212-808-4922

and

c/o Centerview Partners, L.P.  
c/o Centerview Partners  
16 School Street  
Rye, New York 10580  
Attention: David Hooper  
Facsimile: (914) 921-4816

with copies to: (which shall not constitute notice)

Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
Attention: Marni Lerner, Esq.  
Facsimile: (212) 455-2502

If to Parent or the Company:  
Del Monte Foods Company  
P.O. Box 193575  
San Francisco, CA 94119-3575  
Attention: General Counsel  
Facsimile: 415-247-3263

5
with copies to: (which shall not constitute notice) Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Marni Lerner, Esq.
Facsimile: (212) 455-2502

If to the KKR Manager: Kohlberg Kravis Roberts & Co. L.P.
9 West 57th St., Suite 4200
New York, New York 10019
Attention: Simon Brown
Facsimile: (212) 750-0003

with a copy to: (which shall not constitute notice) Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Marni Lerner, Esq.
Facsimile: (212) 455-2502

If to the Vestar Manager: Vestar Capital Partners
245 Park Avenue, 41st Floor
New York, New York 10167

with a copy to: (which shall not constitute notice) Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Michael Movsovich
Facsimile: (212) 446-6460

If to the Centerview Manager: Centerview Partners Management LLC
16 School Street
Rye, New York 10580
Attention: David Hooper
Facsimile: (914) 921-4816

with a copy to: (which shall not constitute notice) Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Attention: Marilyn Sobel
Facsimile: (212) 757-3990
If to the AlpInvest Manager:
AlpInvest Partners Inc.
630 Fifth Avenue, 28th Floor
New York, NY 10111
Attention: Iain Leigh
Dennis Ever
Evert Vink
Facsimile: (212) 332 6241

with a copy to: (which shall not constitute notice)
Ropes & Gray LLP
3 Embarcadero Center
San Francisco, CA 94111-4006
Facsimile number: (415) 315-4873
Attention: Howard S. Glazer

or to such other address as any of the above shall have designated in writing to the other above. All such notices and communications shall be deemed to have been given or made (i) when delivered by hand, (ii) five business days after being deposited in the mail, postage prepaid or (iii) when telecopied, receipt acknowledged.

11. This agreement shall continue in effect from year to year unless amended or terminated by the consent of all of the parties hereto. In addition, the Company may terminate this agreement with respect to any Manager by delivery of a written notice of termination to such Manager at any time after such Manager and its affiliates no longer hold any partnership interests in the Partnership LP; provided that in the event of such a termination the Company shall pay in cash to each such Manager all unpaid Advisory Fees (or AlpInvest Advisory Fees, as the case may be) payable to such Manager hereunder and all expenses due under this agreement to such Manager with respect to periods prior to the termination date. In addition, (i) in connection with the consummation of a Change of Control (as defined in the Partnership Agreement), the Company may terminate this agreement by delivery of a written notice of termination to the Managers and (ii) immediately following the consummation of an Initial Public Offering (as defined in the Partnership Agreement), this agreement shall automatically terminate unless the Company, by delivery of a written notice to the Managers prior to such consummation, otherwise elects to continue this agreement in full force and effect. In the event of a termination of this agreement pursuant to the immediately preceding sentence, the Company shall upon such termination pay in cash (A) to each Sponsor Manager (i) all unpaid Advisory Fees payable to such Sponsor Manager hereunder and all expenses due under this agreement to such Manager with respect to periods prior to the termination date, plus (ii) the net present value (using a discount rate equal to the yield as of such termination date on U.S. Treasury securities of like maturity based on the times such payments would have been due) of the Advisory Fees that would have been payable with respect to the period from the termination date through the twelfth anniversary of the Effective Date, or, if terminated following the twelfth anniversary of the Effective Date, through the first anniversary of the Effective Date occurring after the termination date (assuming for such purposes an annual growth in Adjusted EBITDA from the date of termination through such twelfth anniversary consistent with the then prevailing inflationary outlook), any such fees payable pursuant to this clause (ii) to be apportioned so that each Sponsor Manager shall receive a portion of such fees equal to its Pro Rata Share of the aggregate amount of such fees and (B) to the AlpInvest Manager (i) all unpaid AlpInvest Advisory Fees
payable to the AlpInvest Manager hereunder with respect to periods prior to the termination date, plus (ii) the net present value (using a discount rate equal to the yield as of such termination date on U.S. Treasury securities of like maturity based on the times such payments would have been due) of the AlpInvest Advisory Fees that would have been payable with respect to the period from the termination date through the twelfth anniversary of the Effective Date, or, if terminated following the twelfth anniversary of the Effective Date, through the first anniversary of the Effective Date occurring after the termination date (assuming for such purposes that the AlpInvest Advisory Fee for such periods is in the same amount as the AlpInvest Advisory Fee as in effect at the date of termination).

12. Each party hereto represents and warrants that the execution and delivery of this agreement by such party has been duly authorized by all necessary action of such party.

13. If any term or provision of this agreement or the application thereof shall, in any jurisdiction and to any extent, be invalid and unenforceable, such term or provision shall be ineffective, as to such jurisdiction, solely to the extent of such invalidity or unenforceability without rendering invalid or unenforceable any remaining terms or provisions hereof or affecting the validity or enforceability of such term or provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto waive any provision of law that renders any term or provision of this agreement invalid or unenforceable in any respect.

14. Each party hereto waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to or arising out of the retention of the Managers pursuant to, or the performance by the Managers of the services contemplated by, this agreement.

15. It is expressly understood that the foregoing paragraphs 2, 3, 5, 6, 9 - 11, and paragraphs 13 - 17, in their entirety, survive any termination of this agreement.

16. Except in cases of fraud, gross negligence or willful misconduct, none of the Managers, their respective affiliates or any of their respective employees, officers, directors, managers, partners, consultants, members, stockholders or their respective affiliates shall have any liability of any kind whatsoever to any member of the Company Group for any damages, losses or expenses (including, without limitation, special, punitive, incidental or consequential damages, lost profits and interest, penalties and fees and disbursements of attorneys, accountants, investment bankers and other professional advisors) with respect to the provision of services hereunder. Each of Partners LP, Parent and the Company (on behalf of itself and the other members of the Company Group), by its acceptance of the benefits hereof, covenants, agrees and acknowledges that no person other than the Managers shall have any obligation hereunder and that it has no rights of recovery against, and no recourse hereunder or under any documents or instruments delivered in connection herewith shall be had against, any former, current or future director, officer, manager, agent, consultants, affiliate or employee of the Managers (or any of their successors or permitted assignees), against any former, current or future general or limited partner, member or stockholder of the Manager (or any of its successors or permitted assignees) or any affiliate thereof or against any former, current or future director, officer, agent, consultants, employee, affiliate, general or limited partner, stockholder, manager or member of any of the foregoing (collectively, the "Manager Affiliates"), whether by or through attempted
piercing of the corporate veil, by or through a claim by or on behalf of Partners LP or Parent against the Manager Affiliates, by the enforcement of any judgment or assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, or otherwise.

17. This letter agreement, the Partnership Agreement and the Indemnification Agreement contain the complete and entire understanding and agreement between the Managers and the Company with respect to the subject matter hereof and supersede all prior and contemporaneous understandings, conditions and agreements, whether written or oral, express or implied, in respect of the subject matter hereof. The Company acknowledges and agrees that neither Manager makes any representations or warranties in connection with this letter agreement or its provision of services pursuant hereto. The Company agrees that any acknowledgment or agreement made by the Company in this letter agreement is made on behalf of the Company and the other members of the Company Group.

18. This agreement may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]
If the foregoing sets forth the understanding between us, please so indicate on the enclosed signed copy of this letter in the space provided therefor and return it to us, whereupon this letter shall constitute a binding agreement among us.

Very truly yours,
DEL MONTE CORPORATION

By: /s/ Richard L. French
Name: Richard L. French
Title: Senior Vice President,
Treasurer, Chief Accounting Officer
and Controller

BLUE ACQUISITION GROUP,
INC.
By: /s/ Simon Brown
Name: Simon Brown
Title: President and Chief
Executive Officer

BLUE HOLDINGS I, L.P.
By: BLUE HOLDINGS GP, LLC,
its general partner
By: /s/ Simon Brown
Name: Simon Brown
Title: President and Chief
Executive Officer
AGREED TO AND ACCEPTED BY:
KOHLBERG KRAVIS ROBERTS & CO. L.P.
By: /s/ William J. Janetschek
Name: William J. Janetschek
Title: Member

VESTAR CAPITAL PARTNERS
By: /s/ Brian Ratzan
Name: Brian Ratzan
Title: Managing Director

CENTERVIEW PARTNERS MANAGEMENT LLC
By: /s/ David Hooper
Name: David Hooper
Title: Partner

ALPINVEST PARTNERS INC.
By: /s/ Iain Leigh
Name: Iain Leigh
Title: Managing Partner
By: /s/ Evert Vink
Name: Evert Vink
Title: Chief Legal Officer

Monitoring Agreement – Signature Page
INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT, dated as of March 8, 2011 (the "Agreement"), is among Blue Holdings I, L.P., a Delaware limited partnership ("Blue LP"), Blue Holdings GP, LLC, a Delaware limited liability company ("Blue GP"), Blue Acquisition Group, Inc., a Delaware corporation ("Parent"), Del Monte Foods Company, a Delaware corporation and wholly-owned subsidiary of Parent (the "Company" and, together with Blue LP, Blue GP and Parent, the "Company Entities"), and Kohlberg Kravis Roberts & Co. L.P., Vestar Managers V Ltd., Centerview Partners Management LLC and AlpInvest Partners Inc. (collectively, the "Managers" and each, a "Manager"). Capitalized terms used herein without definition have the meanings set forth in Section 1 of this Agreement.

RECITALS

A. The Company, Parent, and Blue Merger Sub Inc., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), entered into an Agreement and Plan of Merger, dated as of November 24, 2010 (as the same may be amended from time to time in accordance with its terms, the "Merger Agreement"), pursuant to which Merger Sub will be merged with and into the Company with the Company as the surviving corporation (the "Merger").

B. In connection with the Merger, Affiliates of each of the Managers (such Affiliates, the "Investors") have entered into equity commitment letters with Parent, pursuant to which they have agreed to contribute or cause to be contributed cash equity investments in Parent.

C. The Investors or their Affiliates, along with certain co-investors, have entered into an Amended and Restated Limited Partnership Agreement of Blue LP (as the same may be amended from time to time in accordance with the terms thereof, the "Partnership Agreement"), dated as of the date hereof, setting forth certain agreements with respect to, among other things, the management of Blue LP and transfers of its limited partnership units in various circumstances.

D. In order to finance the Merger and related transactions, certain of the Managers and certain of their Affiliates have assisted Blue LP in arranging to sell limited partnership units to the Investors and to certain co-investors including such other limited partners of Blue LP as are listed on the signature pages to the Partnership Agreement (the "Equity Offering").

E. In order to finance the Merger, the Company has (i) entered into senior secured credit facilities and (ii) issued senior notes (the "Notes Offering") (collectively, together with the repayment (via tender or otherwise) of any existing indebtedness of the
F. Members of the Company Group from time to time in the future may (i) offer and sell, or cause to be offered and sold, equity or debt securities (such offerings, collectively, the "Subsequent Offerings"), including (a) offerings of shares of capital stock of a member of the Company Group, and/or options to purchase such shares, to employees, directors and consultants of and to a member of the Company Group (any such offering, a "Management Offering"), and (b) one or more offerings of debt securities for the purpose of refinancing any indebtedness of a member of the Company Group or for other corporate purposes, and (ii) repurchase, redeem or otherwise acquire certain securities of a member of the Company Group or engage in recapitalization or structural reorganization transactions relating thereto (any such repurchase, redemption, acquisition, recapitalization or reorganization, a "Redemption"), in each case subject to the terms and conditions of the Organizational Documents and any other applicable agreement, which offerings and/or Redemptions are expected to be arranged and facilitated through the services of the Managers as provided herein and pursuant to the terms of that certain letter agreement between the Managers and the Company Entities (other than Blue GP), dated as of the date hereof (the "Management Agreement").

G. The parties hereto recognize the possibility that claims might be made against and liabilities incurred by the Investor Parties or their respective related Persons or Affiliates, under applicable securities laws or otherwise in connection with the Transactions or the Securities Offerings, or relating to other actions or omissions of or by members of the Company Group or their Agents, or relating to the provision of financial advisory, investment banking, syndication, monitoring and management consulting services (the "Transaction Services") to the Company Group by the Managers or Affiliates thereof, including under that certain letter agreement between an Affiliate of Kohlberg Kravis Roberts & Co. L.P. and Parent, dated as of the date hereof (the "Syndication Agreement") and under those certain letter agreements between the Managers and the Company, dated as of the date hereof (the "Transaction Fee Agreements") and the parties hereto accordingly wish to provide for the Investor Parties and their respective related Persons and Affiliates to be indemnified in respect of any such claims and liabilities.

H. The parties hereto recognize that claims might be made against and liabilities incurred by directors, officers and managers of any member of the Company Group in connection with their acting in their respective capacities, and accordingly wish to provide for such directors, officers and managers to be indemnified to the fullest extent permitted by law in respect of any such claims and liabilities.

I. The parties hereto recognize that the Company Group benefits from the portfolio company oversight provided by each Investor Party and the ability of each Investor Party to share internally portfolio company information. The board of directors
of each of Parent and the Company have therefore consented to the Investor Directors sharing any information such Investor Directors receive from any member of the Company Group with officers, directors, members, employees and representatives of the Managers and their respective Affiliates (other than other portfolio companies) and to the internal use by the Managers and such Affiliates of any information received from any member of the Company Group, subject, however, to the Managers maintaining adequate procedures to prevent such information from being used in connection with the purchase or sale of securities of Parent or the Company in violation of applicable law.

NOW, THEREFORE, in consideration of the foregoing premises, and the mutual agreements and covenants and provisions herein set forth, the parties hereto hereby agree as follows:

1. Definitions.

(a) "Affiliate" means, with respect to any Person, (i) any other Person directly or indirectly Controlling, Controlled by or under common Control with, such Person, (ii) any Person directly or indirectly owning or Controlling 10% or more of any class of outstanding voting securities of such Person or (iii) any officer, director, general partner, limited partner or trustee of any such Person described in clause (i) or (ii). "Control", including the correlative terms "Controlling", "Controlled by" and "under common Control with", of any Person shall consist of the power to direct the management and policies of such Person (whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise).

(b) "Agent" means present or past representatives, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, engineers, advisors or other agents.

(c) "Change in Control" means (i) the sale of all or substantially all (i.e., at least 80%) of the assets (in one transaction or a series of transactions) of Blue LP, Parent, the Company or Del Monte Corporation, as applicable, to any Person (or group of Persons acting in concert), other than to (x) the Investors or their Affiliates or (y) any employee benefit plan (or trust forming a part thereof) maintained by Blue LP, Parent, the Company or their respective Affiliates or other Person of which a majority of its voting power or other equity securities is owned, directly or indirectly, by Blue LP or Parent; (ii) a merger, recapitalization or other sale (in one transaction or a series of transactions) by Blue LP, or the Investors or any of their respective Affiliates (which includes for the avoidance of doubt the Company and Del Monte Corporation), to a Person (or group of Persons acting in concert) of equity interests or voting power that results in any Person (or group of Persons acting in concert) (other than (x) the Investors or their Affiliates or (y) any employee benefit plan (or trust forming a part thereof) maintained by Blue LP, Parent, the Company or their respective Affiliates or other Person of which a majority of its voting power or other equity securities is owned, directly or indirectly, by Blue LP or Parent) owning more than 50% of the equity interests or voting power of Blue LP (or any
resulting company after the merger), Parent, the Company or Del Monte Corporation, as applicable; or (iii) any event which results in the Investors or their Affiliates ceasing to hold the ability to elect a majority of the managers of the general partner of Blue LP or a majority of the members of the board of directors of Parent, or a majority of members of the board of directors of the Company, as applicable.

(d) "Claim" means, with respect to any Indemnitee, any claim by or against such Indemnitee involving any Obligation with respect to which such Indemnitee may be entitled to be indemnified by any member of the Company Group under this Agreement.

(e) "Commission" means the United States Securities and Exchange Commission or any successor entity thereto.

(f) "Company Director Indemnity" means any monitoring, stockholder, indemnification or other agreement the Investor Directors have entered into with any member of the Company Group providing for indemnification and for advancement of expenses for the Investor Directors in connection with their service as a director, manager or member of any member of the Company Group, and the Investor Directors may, in their capacities as directors, managers or members of any member of the Company Group, be indemnified and/or entitled to advancement of expenses under the certificate or articles of incorporation, by-laws, limited liability company operating agreement, limited partnership agreement, any other organizational documents of, or any policies of insurance procured by, the applicable member of the Company Group.

(g) "Company Group" means Blue LP, Blue GP, Parent, the Company and any of their respective Subsidiaries or Affiliates (other than the Managers and their respective Affiliates to the extent such entities are Affiliates of Blue LP, Blue GP, Parent, the Company or any of their respective Subsidiaries or Affiliates as a result of an investment in Blue LP, Blue GP, Parent or the Company or any of their respective Subsidiaries).


(i) "Expenses" means all attorneys' fees, disbursements and expenses, retainers, court, arbitration and mediation costs, transcript costs, fees of experts, bonds, witness fees, costs of collecting and producing documents, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, appealing or otherwise participating in a Proceeding.

(j) "Indemnitee" means each of the Investor Parties and their respective Affiliates (other than the Company Entities), their respective successors and assigns, and each of the Investor Parties and their respective Affiliates' (including the Company
Entities, directors, officers, managers, partners, members, employees, agents, advisors, consultants, representatives and Controlling Persons of each of them, or of their partners, members and Controlling Persons, and each other Person who is or becomes a director, officer or manager of any member of the Company Group, in each case irrespective of the capacity in which such Person acts.

(k) "Investor Directors" means executives of the Managers or their respective Affiliates who serve as directors, managers or members of any member of the Company Group, and other Persons (who are not executives of the Managers or their respective Affiliates) who serve as directors, managers or members of any member of the Company Group as an appointee or designee of any Investor Party.

(l) "Investor Indemnification Agreements" means one or more certificate or articles of incorporation, by-laws, limited liability company operating agreement, limited partnership agreement and any other organizational document, and insurance policies maintained by each of the Investor Parties providing for, among other things, indemnification of and advancement of expenses for the Investor Directors for, among other things, the same matters that are subject to indemnification and advancement of expenses under this Agreement, any Related Document and the Company Director Indemnity.

(m) "Investor Indemnitors" means the Investor Parties and/or their respective Affiliates and Controlling Persons, in their capacity as indemnitors to the Investor Directors under the Investor Indemnification Agreements.

(n) "Investor Parties" means the Managers and their respective Affiliates (excluding, for purposes of this Agreement, any portfolio companies of the Managers unrelated to the operations of the Company).

(o) "Obligations" means, collectively, any and all claims, obligations, liabilities, causes of actions, Proceedings, investigations, judgments, decrees, losses, damages (including punitive and exemplary damages), fees, fines, penalties, amounts paid in settlement, costs and Expenses (including interest, assessments and other charges in connection therewith and disbursements of attorneys, accountants, investment bankers and other professional advisors), in each case whether incurred, arising or existing with respect to third parties or otherwise at any time or from time to time.

(p) "Organizational Documents" means the certificate of incorporation and bylaws (or other organizational documents of similar substance and purpose), as may be amended from time to time in accordance with the terms thereof, of any member of the Company Group.

(q) "Person" means an individual, corporation, limited liability company, limited or general partnership, trust or other entity, including a governmental or political subdivision or an agency or instrumentality thereof.
(r) “Proceeding” means a threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including a claim, demand, discovery request, formal or informal investigation, inquiry, administrative hearing, arbitration or other form of alternative dispute resolution, including an appeal from any of the foregoing.

(s) “Related Document” means any agreement, certificate, instrument or other document to which any member of the Company Group may be a party or by which it or any of its properties or assets may be bound or affected from time to time relating in any way to the Transactions or any Securities Offering or any of the transactions contemplated thereby, including, in each case as the same may be amended from time to time, (i) any registration statement filed by or on behalf of any member of the Company Group with the Commission in connection with the Transactions or any Securities Offering, including all exhibits, financial statements and schedules appended thereto, and any submissions to the Commission in connection therewith, (ii) any prospectus, preliminary, free-writing or otherwise, included in such registration statements or otherwise filed by or on behalf of any member of the Company Group in connection with the Transactions or any Securities Offering or used to offer or confirm sales of their respective securities in any Securities Offering, (iii) any private placement or offering memorandum or circular, information statement or other information or materials distributed by or on behalf of any member of the Company Group or any placement agent or underwriter in connection with the Transactions or any Securities Offering, (iv) any federal, state or foreign securities law or other governmental or regulatory filings or applications made in connection with any Securities Offering, the Transactions or any of the transactions contemplated thereby, (v) any dealer-manager, underwriting, subscription, purchase, stockholders, option or registration rights agreement or plan entered into or adopted by any member of the Company Group in connection with any Securities Offering, (vi) any purchase, repurchase, redemption, recapitalization or reorganization or other agreement entered into by any member of the Company Group in connection with any Redemption, or (vii) any quarterly, annual or current reports or other filing filed, furnished or supplementally provided by any member of the Company Group with or to the Commission or any securities exchange, including all exhibits, financial statements and schedules appended thereto, and any submission to the Commission or any securities exchange in connection therewith.

(t) "Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(u) "Securities Offerings” means the Equity Offering, the Notes Offering, any Management Offering, and any Subsequent Offering.

(v) "Subsidiary” means each corporation or other Person in which a Person owns or Controls, directly or indirectly, capital stock or other equity interests representing more than 50% of the outstanding voting stock or other equity interests.
(w) "Transactions" means the Merger, the Equity Offering, the Financings and transactions for which Transaction Services are provided.

(x) "Unpaid Director Indemnity Amounts" means the amount that the Indemnifying Party fails to indemnify or advance to an Investor Director as required or contemplated by this Agreement, any Related Document or any Company Director Indemnity.

2. Indemnification.

(a) Each of the Company Entities (each an "Indemnifying Party" and collectively the "Indemnifying Parties"), jointly and severally, agrees to indemnify, defend and hold harmless each Indemnitee:

(i) from and against any and all Obligations, whether incurred by such Indemnitee with respect to third parties or otherwise, in any way resulting from, arising out of or in connection with, based upon or relating to (A) the Securities Act, the Exchange Act or any other applicable securities or other laws, in connection with any Securities Offering, the Financings, any Related Document or any of the transactions contemplated thereby, (B) any other action or failure to act by any member of the Company Group (or any of their Agents) or any of their predecessors, whether such action or failure has occurred or is yet to occur or any obligation of any member of the Company Group or any of their predecessors or any such Agent, or (C) the performance by the Managers or any of their respective Affiliates of Transaction Services for any member of the Company Group (whether performed prior to the date hereof, hereafter, pursuant to the Management Agreement, the Syndication Agreement, the Transaction Fee Agreements or otherwise);

(ii) to the fullest extent permitted by the law specified herein as governing this Agreement, by the law of the place of organization of an Indemnifying Party, or by any other applicable law in effect as of the date hereof or as amended to increase the scope of permitted indemnification, whichever is greater (except, with respect to any Indemnifying Party, to the extent that such indemnification may be prohibited by the law of the place of organization of such Indemnifying Party), from and against any and all Obligations whether incurred with respect to third parties or otherwise, in any way resulting from, arising out of or in connection with, based upon or relating to (A) the fact that such Indemnitee is or was a director, officer or manager of any member of the Company Group or is or was serving at the request of such entity as a director, officer, manager, member, employee or agent of or advisor or consultant to another corporation, partnership, joint venture, trust or other enterprise or (B) any breach or alleged breach by such Indemnitee of his or her fiduciary duty as a director, officer or manager of any member of the Company Group; and
(iii) to the fullest extent permitted by the law specified herein as governing this Agreement, by the law of the place of organization of an Indemnifying Party, or by any other applicable law in effect as of the date hereof or as amended to increase the scope of permitted indemnification, whichever is greater (except, with respect to any Indemnifying Party, to the extent that such indemnification may be prohibited by the law of the place of organization of such Indemnifying Party), who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including (i) any action by or in the right of, or relating to, the Company Group and (ii) any past, current or future litigation relating to the Transactions or its equity ownership in the Company Group), by reason of any actions or omissions or alleged acts or omissions arising out of such Indemnitee's activities either on behalf of the Company Group or in furtherance of the interests of the Company Group or arising out of or in connection with its purchase and/or ownership of equity interests in the Company Group or its involvement in the Transactions, from and against any and all Obligations; provided, that such Indemnitee was not guilty of fraud, a willful breach of this Agreement or a willful illegal act;

in each case including any and all fees, costs and Expenses (including fees and disbursements of attorneys and other professional advisers) incurred by or on behalf of any Indemnitee in asserting, exercising or enforcing any of its rights, powers, privileges or remedies in respect of this Agreement, the Management Agreement, the Syndication Agreement, the Transaction Fee Agreements or any Related Document.

(b) Without in any way limiting the foregoing Section 2(a), each of the Indemnifying Parties agrees, jointly and severally, to indemnify, defend and hold harmless each Indemnitee from and against any and all Obligations resulting from, arising out of or in connection with, based upon or relating to liabilities under the Securities Act, the Exchange Act or any other applicable securities or other laws, rules or regulations in connection with (i) the inaccuracy or breach of or default under any representation, warranty, covenant or agreement in any Related Document, (ii) any untrue statement or alleged untrue statement of a material fact contained in any Related Document or (iii) any omission or alleged omission to state in any Related Document a material fact required to be stated therein or necessary to make the statements therein not misleading. Notwithstanding the foregoing, the Indemnifying Parties shall not be obligated to indemnify such Indemnitee from and against any such Obligation to the extent that such Obligation arises out of or is based upon an untrue statement or omission made in such Related Document in reliance upon and in conformity with written information furnished to the Indemnifying Parties, as the case may be, in an instrument duly executed by such Indemnitee and specifically stating that it is for use in the preparation of such Related Document.
(c) Without limiting the foregoing, in the event that any Proceeding is initiated by an Indemnitee or any member of the Company Group to enforce or interpret this Agreement or any rights of such Indemnitee to indemnification or advancement of expenses (or related Obligations of such Indemnitee) under any member of the Company Group's certificate of incorporation or bylaws (or similar organizational documents), any other agreement to which such Indemnitee and any member of the Company Group are party, any vote of directors of any member of the Company Group, the law of incorporation or formation of any member of the Company Group or any other applicable law or any liability insurance policy, the Indemnifying Parties shall indemnify such Indemnitee against all costs and Expenses incurred by such Indemnitee or on such Indemnitee's behalf in connection with such Proceeding, whether or not such Indemnitee is successful in such Proceeding, except to the extent that the court presiding over such Proceeding determines that material assertions made by such Indemnitee in such proceeding were in bad faith.

(d)(i) Each of the Company Entities acknowledges and agrees that the obligations of the Indemnifying Parties under this Agreement, any Related Document or any Company Director Indemnity to indemnify or advance expenses to any Investor Director for the matters covered thereby shall be the primary source of indemnification and advancement of such Investor Director in connection therewith, and any obligation on the part of any Investor Indemnitor under any Investor Indemnification Agreement to indemnify or advance expenses to such Investor Director shall be secondary to the Indemnifying Party's obligation and shall be reduced by any amount that the Investor Director may collect as indemnification or advancement from the Indemnifying Party. In the event that the Indemnifying Party fails to indemnify or advance expenses to an Investor Director as required or contemplated by this Agreement, any Related Document or any Company Director Indemnity, and any Investor Indemnitor makes any payment to such Investor Director in respect of indemnification or advancement of expenses under any Investor Indemnification Agreement on account of such Unpaid Director Indemnity Amounts, such Investor Indemnitor shall be subrogated to the rights of such Investor Director under this Agreement, any Related Document or any Company Director Indemnity, as the case may be, in respect of such Unpaid Director Indemnity Amounts.

(ii) Each of the Company Entities, each as an Indemnifying Party from time to time, agrees that, to the fullest extent permitted by applicable law (A) its obligation to indemnify any Indemnitee under this Agreement, any Related Documents or any Company Director Indemnity shall include any amounts expended by any Investor Indemnitor under the Investor Indemnification Agreements in respect of indemnification or advancement of expenses to any Investor Director in connection with litigation or other proceedings involving his or her service as a director of any member of the Company Group to the extent such amounts expended by such Investor Indemnitor are on account of any Unpaid Director Indemnity Amounts and (B) it shall not be entitled to contribution or indemnification from, or subrogation against, any Investor Indemnitor in respect of amounts expended by it to indemnify or advance expenses to any Investor
Director under this Agreement, any Related Documents or any Company Director Indemnity.

(e) The rights, indemnities and remedies herein provided are cumulative and are not exclusive of any rights, indemnities or remedies that any party or other Indemnitee may otherwise have by contract, at law or in equity or otherwise, provided that (i) to the extent that any Indemnitee is entitled to be indemnified by any Company Entity and by any other Indemnitee or any insurer under a policy procured by any Indemnitee, the obligations of the Company Entity hereunder shall be primary and the obligations of such other Indemnitee or insurer secondary, and (ii) none of the Company Entities shall be entitled to contribution or indemnification from or subrogation against such other Indemnitee or insurer.

3. Contribution.

(a) If for any reason the indemnity provided for in Section 2(a) is unavailable or is insufficient to hold harmless any Indemnitee from any of the Obligations covered by such indemnity, then the Indemnifying Parties, jointly and severally, shall contribute to the amount paid or payable by such Indemnitee as a result of such Obligation in such proportion as is appropriate to reflect (i) the relative fault of each member of the Company Group and their Agents, on the one hand, and such Indemnitee, on the other, in connection with the state of facts giving rise to such Obligation, (ii) if such Obligation results from, arises out of, is based upon or relates to any Transaction or any Securities Offering, the relative benefits received by each member of the Company Group and their Agents, on the one hand, and such Indemnitee, on the other, from such Transaction or Securities Offering and (iii) if required by applicable law, any other relevant equitable considerations.

(b) If for any reason the indemnity specifically provided for in Section 2(b) is unavailable or is insufficient to hold harmless any Indemnitee from any of the Obligations covered by such indemnity, then the Indemnifying Parties, jointly and severally, shall contribute to the amount paid or payable by such Indemnitee as a result of such Obligation in such proportion as is appropriate to reflect (i) the relative fault of each of the members of the Company Group and their Agents, on the one hand, and such Indemnitee, on the other, in connection with the information contained in or omitted from any Related Document, which inclusion or omission resulted in the inaccuracy or breach of or default under any representation, warranty, covenant or agreement therein, or which information is or is alleged to be untrue, required to be stated therein or necessary to make the statements therein not misleading, (ii) the relative benefits received by the members of the Company Group and their Agents, on the one hand, and such Indemnitee, on the other, from such Transaction or Securities Offering and (iii) if required by applicable law, any other relevant equitable considerations.

(c) For purposes of Section 3(a), the relative fault of each member of the Company Group and their Agents, on the one hand, and of an Indemnitee, on the other,
shall be determined by reference to, among other things, their respective relative intent, knowledge, access to information and opportunity to correct the state of facts giving rise to such Obligation. For purposes of Section 3(b), the relative fault of each of the members of the Company Group and their Agents, on the one hand, and of an Indemnitee, on the other, shall be determined by reference to, among other things, (i) whether the included or omitted information relates to information supplied by the members of the Company Group and their Agents, on the one hand, or by such Indemnitee, on the other, (ii) their respective relative intent, knowledge, access to information and opportunity to correct such inaccuracy, breach, default, untrue or alleged untrue statement, or omission or alleged omission, and (iii) applicable law. For purposes of Section 3(a) or 3(b), the relative benefits received by each member of the Company Group and their Agents, on the one hand, and an Indemnitee, on the other, shall be determined by weighing the direct monetary proceeds to the Company Group, on the one hand, and such Indemnitee, on the other, from such Transaction or Securities Offering.

(d) The parties hereto acknowledge and agree that it would not be just and equitable if contributions pursuant to Section 3(a) or 3(b) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in such respective Section. No Indemnifying Party shall be liable under Section 3(a) or 3(b), as applicable, for contribution to the amount paid or payable by any Indemnitee except to the extent and under such circumstances such Indemnifying Party would have been liable to indemnify, defend and hold harmless such Indemnitee under the corresponding Section 2(a) or 2(b), as applicable, if such indemnity were enforceable under applicable law. No Indemnitee shall be entitled to contribution from any Indemnifying Party with respect to any Obligation covered by the indemnity specifically provided for in Section 2(b) in the event that such Indemnitee is finally determined to be guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such Obligation and the Indemnifying Parties are not guilty of such fraudulent misrepresentation.

4. Indemnification Procedures.

(a) Whenever any Indemnitee shall have actual knowledge of the assertion of a Claim against it, such Indemnitee shall notify the appropriate member of the Company Group in writing of the Claim (the "Notice of Claim") with reasonable promptness after such Indemnitee has such knowledge relating to such Claim; provided the failure or delay of such Indemnitee to give such Notice of Claim shall not relieve any Indemnifying Party of its indemnification obligations under this Agreement except to the extent that such omission results in a failure of actual notice to it and it is materially injured as a result of the failure to give such Notice of Claim. The Notice of Claim shall specify all material facts known to such Indemnitee relating to such Claim and the monetary amount or an estimate of the monetary amount of the Obligation involved if such Indemnitee has knowledge of such amount or a reasonable basis for making such an estimate. The Indemnifying Parties shall, at their expense, undertake the defense of such Claim with
attorneys of their own choosing reasonably satisfactory to such Indemnitee, subject to the right of such Indemnitee to undertake such defense as hereinafter provided. An Indemnitee may participate in such defense with counsel of such Indemnitee's choosing at the expense of the Indemnifying Parties. In the event that the Indemnifying Parties do not undertake the defense of the Claim within a reasonable time after such Indemnitee has given the Notice of Claim, or in the event that such Indemnitee shall in good faith determine that the defense of any claim by the Indemnifying Parties is inadequate or may conflict with the interest of any Indemnitee (including Claims brought by or on behalf of any member of the Company Group), such Indemnitee may, at the expense of the Indemnifying Parties and after giving notice to the Indemnifying Parties of such action, undertake the defense of the Claim and compromise or settle the Claim, all for the account of and at the risk of the Indemnifying Parties. In the defense of any Claim against an Indemnitee, no Indemnifying Party shall, except with the prior written consent of such Indemnitee, consent to entry of any judgment or enter into any settlement that includes any injunctive or other non-monetary relief or any payment of money by such Indemnitee, or that does not include as an unconditional term thereof the giving by the Person or Persons asserting such Claim to such Indemnitee of an unconditional release from all liability on any of the matters that are the subject of such Claim and an acknowledgement that such Indemnitee denies all wrongdoing in connection with such matters. The Indemnifying Parties shall not be obligated to indemnify an Indemnitee against amounts paid in settlement of a Claim if such settlement is effected by such Indemnitee without the prior written consent of Parent (on behalf of all Indemnifying Parties), which shall not be unreasonably withheld. In each case, each Indemnitee seeking indemnification hereunder will cooperate with the Indemnifying Parties, so long as an Indemnifying Party is conducting the defense of the Claim, in the preparation for and the prosecution of the defense of such Claim, including making available evidence within the control of such Indemnitee, as the case may be, and persons needed as witnesses who are employed by such Indemnitee, as the case may be, in each case as reasonably needed for such defense and at cost, which cost, to the extent reasonably incurred, shall be paid by the Indemnifying Parties.

(b) An Indemnitee shall notify the Indemnifying Parties in writing of the amount requested for advances ("Notice of Advances"). The Indemnifying Parties hereby agree to advance reasonable costs and Expenses incurred by any Indemnitee in connection with any Claim (but not for any Claim initiated or brought voluntarily by an Indemnitee other than a Proceeding pursuant to Section 2(c)) in advance of the final disposition of such Claim without regard to whether such Indemnitee will ultimately be entitled to be indemnified for such costs and expenses upon receipt of an undertaking by or on behalf of such Indemnitee to repay amounts so advanced if it shall ultimately be determined in a decision of a court of competent jurisdiction from which no appeal can be taken that such Indemnitee is not entitled to be indemnified by the Indemnifying Parties as authorized by this Agreement. The Indemnifying Parties shall make payment of such advances no later than 10 days after the receipt of the Notice of Advances.
(c) An Indemnitee shall notify the Indemnifying Parties in writing of the amount of any Claim actually paid by such Indemnitee (the “Notice of Payment”). The amount of any Claim actually paid by such Indemnitee shall bear simple interest at the rate equal to the JPMorgan Chase Bank, N.A. prime rate as of the date of such payment plus 2% per annum, from the date the Indemnifying Parties receive the Notice of Payment to the date on which any Indemnifying Party shall repay the amount of such Claim plus interest thereon to such Indemnitee. The Indemnifying Parties shall make indemnification payments to such Indemnitee no later than 30 days after receipt of the Notice of Payment.

(d) Independent Legal Counsel. If there has not been a Change in Control, independent legal counsel shall be selected by the board of directors of Parent and approved by such Indemnitee (which approval shall not be unreasonably withheld or delayed). If there has been a Change in Control, independent legal counsel shall be selected by such Indemnitee and approved by Parent (which approval shall not be unreasonably withheld or delayed). The Indemnifying Parties shall pay the fees and expenses of such independent legal counsel and indemnify such independent legal counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to its engagement.

5. Certain Covenants.

(a) The rights of each Indemnitee to be indemnified under any other agreement, document, certificate or instrument or applicable law are independent of and in addition to any rights of such Indemnitee to be indemnified under this Agreement and, to the extent applicable, subject to Section 2(d). The rights of each Indemnitee and the obligations of the Indemnifying Parties hereunder shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnitee. Following the Transactions, each of the Company Entities, and each of their corporate successors, shall implement and maintain in full force and effect any and all corporate charter and by-law (or similar organizational document) provisions that may be necessary or appropriate to enable it to carry out its obligations hereunder to the fullest extent permitted by applicable law, including a provision of its certificate of incorporation (or similar organizational document) eliminating liability of a director for breach of fiduciary duty to the fullest extent permitted by applicable law, as amended from time to time. So long as Parent or any other member of the Company Group maintains liability insurance for any directors, officers, employees or agents of any such Person, the Indemnifying Parties shall ensure that each Indemnitee serving in such capacity is covered by such insurance in such a manner as to provide such Indemnitee the same rights and benefits as are accorded to the most favorably insured of Parent’s and the Company Group’s then current directors and officers.

(b) Each of Parent and the Company hereby agrees that it will not amend any Company Director Indemnity as in effect on the date hereof to alter the rights of any
Investor Director in any manner that would alter any Investor Director’s rights with respect to conduct pre-dating the date of any such amendment without the consent of the Managers.

6. Notices. All notices and other communications hereunder shall be in writing and shall be delivered by certified or registered mail (first class postage prepaid and return receipt requested), telecopier, overnight courier or hand delivery, as follows:

(a) If to Blue LP and/or Blue GP, to:

c/o: Kohlberg Kravis Roberts & Co. L.P.
9 West 57th St., Suite 4200
New York, New York 10019
Attention: Simon Brown
Facsimile: (212) 750-0003

c/o: Vestar Capital Partners V, L.P.
c/o Vestar Capital Partners
245 Park Avenue
41st Floor
New York, New York 10167
Attention: Brian K. Ratzan and Steven Della Rocca
Facsimile: 212-808-4922

with copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Michael Movsovich, Esq.
Kester Spindler, Esq.
c/o:
Centerview Partners, L.P.
c/o Centerview Partners
16 School Street
Rye, New York 10580
Attention: David Hooper
Facsimile: (914) 921-4816

with copies (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Marni Lerner, Esq.
Fax: (212) 455-2502

(b) If to any other member of the Company Group:

Del Monte Foods Company
One Market @ The Landmark
San Francisco, CA 94105
Attention: General Counsel
Facsimile: 415-247-3263

with copies (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Marni Lerner, Esq.
Fax: (212) 455-2502
(c) If to the Managers, as applicable, to:

Kohlberg Kravis Roberts & Co. L.P.
9 West 57th St., Suite 4200
New York, New York 10019
Attention: Simon Brown
Facsimile: (212) 750-0003

or

Vestar Capital Partners
245 Park Avenue
41st Floor
New York, New York 10167
Attention: Brian K. Ratzan and Steven Della Rocca
Facsimile: 212-808-4922

c/o:

Centerview Partners
16 School Street
Rye, New York 10580
Attention: David Hooper
Facsimile: (914) 921-4816

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

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Marni Lerner, Esq.
Fax: (212) 455-2502

or to such other address or such other person as the Company Entities or the applicable Manager shall have designated by notice to the other parties hereto. All communications hereunder shall be effective upon receipt by the party to which they are addressed.

7. Governing Law; Jurisdiction, Waiver of Jury Trial. This Agreement shall be governed in all respects, including validity, interpretation and effect, by the law of the State of New York, regardless of the law that might be applied under principles of
conflict of laws to the extent such principles would require or permit the application of the laws of another jurisdiction. Each of the parties hereto irrevocably and unconditionally (a) agrees that any legal suit, action or proceeding brought by any party hereto arising out of or based upon this Agreement or the transactions contemplated hereby may be brought in any court of the State of New York or Federal District Court for the Southern District of New York located in the City, County and State of New York (each, a “New York Court”), (b) waives, to the fullest extent that it may effectively do so, any objection that it may now or hereafter have to the laying of venue of any such proceeding brought in a New York Court, and any claim that any such action or proceeding brought in a New York Court has been brought in an inconvenient forum, (c) submits to the non-exclusive jurisdiction of any New York Court in any suit, action or proceeding and (d) ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE HEREBY WAIVES ANY RIGHT THAT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION OR VALIDITY OF THIS AGREEMENT. With respect to clause (d) of the immediately preceding sentence, each of the parties hereto acknowledges and certifies that (i) 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 waiver contained therein, (ii) it understands and has considered the implications of such waiver, (iii) it makes such waiver voluntarily and (iv) it has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications contained in this Section 7. No Indemnifying Party shall seek any order of a court or other governmental authority that would prohibit or otherwise interfere with the performance of any of the Indemnifying Parties’ advancement, indemnification and other obligations under this Agreement.

8. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

9. Successors; Binding Effect. Each Indemnifying Party will require any successor (whether direct or indirect, by purchase, merger, consolidation, reorganization or otherwise) to all or substantially all of the business and assets of such Indemnifying Party, by agreement in form and substance satisfactory to the Managers and their respective counsel, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that such Indemnifying Party would be required to perform if no such succession had taken place. This Agreement shall be binding upon and inure to the benefit of each party hereto and its successors and permitted assigns, and each other Indemnitee, but neither this Agreement nor any right, interest or obligation hereunder shall be assigned, whether by operation of law or otherwise, by Parent or the Company without the prior written consent of the Managers.
10. **Miscellaneous.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement is not intended to confer any right or remedy hereunder upon any Person other than (i) each of the parties hereto and their respective successors and permitted assigns and (ii) each other Indemnitee and, with respect to the provisions of Section 5(b), the Investor Directors, all of whom are intended to be third party beneficiaries thereof. No amendment, modification, supplement or discharge of this Agreement, and no waiver hereunder shall be valid and binding unless set forth in writing and duly executed by the party or other Indemnitee against whom enforcement of the amendment, modification, supplement or discharge is sought. Neither the waiver by any of the parties hereto or any other Indemnitee of a breach of or a default under any of the provisions of this Agreement, nor the failure by any party hereto or any other Indemnitee on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right, powers or privilege hereunder, shall be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any provisions hereof, or any rights, powers or privileges hereunder. Subject to Section 2(d) hereof, the rights, indemnities and remedies herein provided are cumulative and are not exclusive of any rights, indemnities or remedies that any party or other Indemnitee may otherwise have by contract, at law or in equity or otherwise. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Whenever the words "include", "includes" or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation."

11. **Information.** Each of Parent and the Company hereby consents to the Investor Directors sharing any information such Investor Directors receive from any member of the Company Group with officers, directors, members, employees and representatives of the Managers and their respective Affiliates (other than other portfolio companies) and to the internal use by the Managers and such Affiliates of any information received from any member of the Company Group, subject, however, to the Managers maintaining adequate procedures to prevent such information from being used in connection with the purchase or sale of securities of Parent or the Company in violation of applicable law.
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement by their authorized representatives as of the date first above written.

KOHLBERG KRAVIS ROBERTS & CO. L.P.
By: /s/ William J. Janetscheck
Name: William J. Janetscheck
Title: Member

Indemnification Agreement – Signature Page
<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iain Leigh</td>
<td>Managing Partner</td>
</tr>
<tr>
<td>Evert Vink</td>
<td>Chief Legal Officer</td>
</tr>
</tbody>
</table>

Indemnification Agreement – Signature Page
BLUE HOLDINGS I, L.P.
By: Blue Holdings GP, LLC, its general partner
By:  /s/ Simon Brown

<table>
<thead>
<tr>
<th>Name</th>
<th>Simon Brown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title</td>
<td>President and Chief Executive Officer</td>
</tr>
</tbody>
</table>

Indemnification Agreement – Signature Page
BLUE HOLDINGS GP, LLC

By:      /s/ Simon Brown

Name:    Simon Brown
Title:    President and Chief Executive Officer

Indemnification Agreement – Signature Page
BLUE ACQUISITION GROUP, INC.

By: /s/ Simon Brown

Name: Simon Brown
Title: President and Chief Executive Officer

Indemnification Agreement – Signature Page
DEL MONTE FOODS COMPANY
By: /s/ Richard L. French

Name: Richard L. French
Title: Senior Vice President, Treasurer,
       Chief Accounting Officer and Controller

Indemnification Agreement – Signature Page
Dear Neil:

We are delighted you have agreed to join the Del Monte Foods Company (the "Company") as its interim Chief Executive Officer ("CEO") immediately following the consummation of the expected acquisition of the Company by Blue Acquisition Group, Inc. ("Parent").

We and you agree that you will serve as the interim CEO of Parent, the Company and Del Monte Corporation for so long as you and the board of directors of Parent mutually agree, but that it is anticipated that you will serve as interim CEO for up to six months. For your services rendered hereunder, the Company will pay you a salary of One-Hundred Thousand Dollars ($100,000) per month, pursuant to the normal payroll practices of the Company. In connection with your performance of services hereunder, the Company shall also directly pay or shall fully reimburse you for all customary and reasonable expenses incurred by you in order to perform your duties as the interim CEO, including expenses for travel, lodging, and other related expenses. As an officer and member of the board of directors of Parent, the Company and Del Monte Corporation (such membership on the board of directors of Parent, the Company and Del Monte Corporation to continue to the extent you remain a designee of the Vestar funds), you shall also be covered by director and officers' insurance to the same extent as other officers of the Company and Del Monte Corporation, and you will be eligible for all other perquisites and benefits that senior executives of the Company and Del Monte Corporation enjoy.

We and you acknowledge that the provisions of this letter agreement shall be null and void and of no further effect if the closing of the acquisition of the Company by Parent does not occur. This Letter Agreement shall be governed by and construed in accordance with the laws of New York without regard to principles of conflicts of law.

Neil, we appreciate your willingness to serve as the interim CEO of Parent, the Company and Del Monte Corporation and look forward to working with you.

Very truly yours,
Blue Acquisition Group, Inc.
By: /s/ Simon Brown
Name: Simon Brown
Title: President and Chief Executive Officer
EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into as of March 8, 2011, by and between DEL MONTE CORPORATION, a Delaware corporation, with its principal place of business in San Francisco, California (the "Corporation") and LARRY E. BODNER, an individual residing in the State of California ("Executive").

RECITALS

WHEREAS, the Corporation desires to employ Executive on the terms and conditions set forth herein, and Executive desires to be employed by the Corporation on such terms and conditions.

NOW, THEREFORE, in consideration of the foregoing recital, the promises, covenants and agreements of the parties, and the mutual benefits they will gain by the performance of the promises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

AGREEMENT

1. Term of Employment; Duties.

(a) Term of Employment. The Corporation agrees to employ Executive as its Executive Vice President and Chief Financial Officer ("CFO"), and Executive hereby accepts such employment, subject to the terms and conditions set forth herein. The term of employment of Executive under this Agreement shall begin as of the date hereof and continue until terminated pursuant to Section 4 hereof. Notwithstanding the foregoing, the provisions of Sections 4(i) (Ongoing Obligations), 5 (Indemnification), 6 (Proprietary Information Obligations), 7 (Noninterference), 8 (Injunctive Relief), and 10 (Miscellaneous) shall survive the termination of this Agreement.

(b) Duties. Executive shall serve in an executive capacity and shall perform such duties as are consistent with Executive’s position as CFO and as may be reasonably required by the Del Monte Foods Company Board of Directors (the "Board"). In such position, Executive shall (i) plan, direct and control the organization's overall financial plans and policies, accounting practices, and relationships with leading institutions, shareholders and the financial community; (ii) direct treasury, budgeting, tax accounting, information systems, audit, risk oversight, real estate and insurance activities; (iii) provide direction and decisions relating to strategic planning of the company; and (iv) plan, direct and control various administration functions as determined by the Chief Executive Officer of the Corporation ("CEO"). Executive shall report only to the CEO, or to the Board as provided above.
(c) **Exclusive Performance of Duties.** While employed by the Corporation, Executive agrees that Executive shall devote substantially all of Executive's business time and best efforts solely and exclusively to the performance of Executive's duties hereunder and to the business and affairs of the Corporation, whether such business is operated directly by the Corporation or through any affiliate of the Corporation. Executive further agrees that while employed by the Corporation, Executive will not, directly or indirectly, provide services on behalf of any competing corporation, company, limited liability company, partnership, joint venture, consortium, or other competing entity or person, whether as an employee, consultant, independent contractor, agent, sole proprietor, partner, joint venturer, creditor, corporate officer or director; nor shall Executive acquire by reason of purchase during the term of Executive's employment with the Corporation the ownership of more than one percent (1%) of the outstanding equity interest in any such competing entity. For purposes of this Agreement, a "competing" entity is one engaged in any of the businesses in which the Corporation is engaged during Executive's employment with the Corporation, which includes without limitation: (i) dry and canned pet food and pet snacks business in the United States and Canada, (ii) specialty pet food business conducted worldwide, (iii) broth business in the United States, and (iv) the manufacture and sale of processed fruits and vegetables, pineapple products and tomato products in the United States and South America (the "Businesses"). Subject to the foregoing, Executive may serve on one (1) board of directors of a non-competing unaffiliated entity, subject to advance approval by the CEO, and may serve on the boards of charitable or civic organizations.

(d) **Corporation Policies.** The employment relationship between the parties shall be governed by the general employment policies and practices of the Corporation, including, without limitation, the Del Monte Foods Standards of Business Conduct; provided, however, that when the terms of this Agreement differ from or are in conflict with the Corporation's general employment policies or practices, this Agreement shall control.

2. **Compensation and Benefits.**

   (a) **Salary.** Executive shall receive for Executive's services rendered hereunder an annual base salary of Five Hundred Five Thousand Dollars ($505,000), as adjusted from time to time by the Compensation Committee of the Board (the "Base Salary"), payable on a semi-monthly basis in twenty-four (24) equal installments, less all applicable federal, state or local taxes and other normal payroll deductions.

   (b) **Annual Bonus.** While a full-time employee of the Corporation, Executive shall be entitled to participate in the Del Monte Foods Company's Annual Incentive Plan or any applicable successor plan (the "AIP") pursuant to the terms and conditions set forth therein. Executive shall be eligible to receive an annual AIP bonus (the "Bonus") targeted at 70% of Executive's Base Salary, as adjusted from time to time in accordance with the AIP or at the discretion of the Compensation Committee of the Board. AIP awards are not guaranteed and actual payment of the Bonus is subject to the performance of the Corporation and Del Monte Foods Company and Executive's individual achievements.
(c) Employee Welfare Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in any group insurance for hospitalization, medical, dental, vision, prescription drug, accident, disability, life or similar plan or program of the Corporation for senior executives now existing or established hereafter to the extent that Executive is eligible under the general provisions thereof. The Corporation may, in its sole discretion and from time to time, establish additional senior management benefit programs as it deems appropriate and Executive shall be eligible for such programs. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

(d) Pension and Retirement Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in any pension, 401(k) and retirement plans of the Corporation now existing or established hereafter to the extent that Executive is eligible under the general provisions thereof. The Corporation may, in its sole discretion and from time to time, establish additional senior management benefit programs as it deems appropriate. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

(e) Vacation. Executive shall be entitled to a period of annual paid vacation time equal to not less than 4 weeks per year as adjusted from time to time in accordance with the Corporation's vacation policy for senior executives. The days selected for Executive's vacation shall be mutually agreeable to the Corporation and Executive. Executive's eligibility to carryover or to be paid for any portion of Executive's accrued, but unused vacation shall be subject to the Corporation policy applicable to employees at a similar level in effect during the term of this Agreement.

(f) Expenses. Subject to compliance with the Corporation's normal and customary policies regarding substantiation and verification of business expenses, the Corporation shall directly pay or shall fully reimburse Executive for all customary and reasonable expenses incurred by Executive for promoting, pursuing or otherwise furthering the business of the Corporation and its affiliates.

(g) Perquisites and Supplemental Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in the Corporation's Executive Perquisite Plan, subject to the terms and conditions thereof, and such other perquisites and supplemental benefits, if any, as may be approved from time to time by the Compensation Committee of the Board for senior executives generally. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

3. Equity Awards.

(a) During Executive's employment with the Corporation, Executive shall be eligible to participate in the applicable equity compensation plans of Del Monte Foods Company or any successor. The terms and conditions of any equity
compensation agreement entered into by Executive and Del Monte Foods Company from time to time are hereby incorporated into this Agreement.

(b) From time to time during Executive's employment with the Corporation, the Board (or a committee thereof) shall evaluate the performance of management of the Corporation and determine whether it is appropriate to grant any additional equity compensation awards to management, including without limitation, Executive.

4. Termination of Employment.

(a) Termination Upon Death. If Executive dies during Executive's employment with the Corporation, the Corporation shall pay to Executive's estate, or other designated beneficiary(ies) as shown in the records of the Corporation, any earned and unpaid Base Salary as of Executive's employment termination date (which, for purposes of this Section 4(a), shall be the date of Executive's death); accrued but unused vacation time as of the end of the month in which Executive dies; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before the date of Executive's death; and benefits, if any, that Executive's estate, or other designated beneficiary(ies), is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. Additionally, the Corporation shall pay to Executive's estate, or other designated beneficiary(ies), at the end of the fiscal year in which Executive's termination of employment occurs, a pro rata portion of Executive's target Bonus for the year in which Executive's termination of employment occurs, prorated for Executive's actual employment period during such year and adjusted for performance. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(a), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(b) Termination Upon Disability. The Corporation may terminate Executive's employment in the event Executive suffers a disability that renders Executive unable, as determined in good faith by the Board, to perform the essential functions of Executive's position, even with reasonable accommodation, for six (6) consecutive months. In the event that Executive's employment is terminated pursuant to this Section 4(b), Executive shall receive payment for any earned and unpaid Base Salary as of Executive's employment termination date (which, for purposes of this Section 4(b), shall be the date specified by the Board); accrued but unused vacation time as of the end of the month in which the termination of employment for disability occurs; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, that Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. In addition, after Executive's termination date, Executive shall receive long term disability benefits under the applicable benefit

4
plans of the Corporation to the extent Executive qualifies for such benefits. In the event that Executive's employment is terminated as a result of a determination pursuant to this Section 4(b), and provided that Executive has executed a release in the form attached hereto as Exhibit A, but with such changes, if any, as counsel to the Corporation reasonably recommends based on changes in the law or Federal or state regulations (the "Release"), the Corporation also shall provide to Executive as severance the payment of an amount equal to Executive's highest Base Salary during the twelve (12) month period prior to the termination date and the target Bonus for the year in which such termination occurs, payable in a lump sum within sixty (60) days following the termination date, provided that, in the event such sixty-(60-) day period spans more than one calendar year, the payment shall be made in the second calendar year. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(b), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(c) Voluntary Termination. Executive may voluntarily terminate Executive's employment with the Corporation at any time. In the event that Executive's employment is terminated under this Section 4(c), Executive shall receive payment for any earned and unpaid Base Salary as of Executive's voluntary employment termination date (which, for purposes of this Section 4(c), shall be the date Executive ceases to perform Executive's duties hereunder as stated in Executive's letter of resignation or as specified by the Board); accrued but unused vacation time as of Executive's voluntary employment termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's voluntary employment termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(c), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(d) Termination for Cause.

(i) Termination; Payment of Accrued Benefits. The Board may terminate Executive's employment with the Corporation at any time for "Cause" (as defined below). In the event that Executive's employment is terminated for Cause under this Section 4(d), Executive shall receive payment for all earned but unpaid Base Salary as of Executive's employment termination date (which, for purposes of this
Section 4(d), shall be the date specified by the Board); accrued but unused vacation time as of Executive's termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions. Except as expressly provided in this Section 4(d), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(ii) **Definition of Cause.** For purposes of this Agreement, the Corporation shall have "Cause" to terminate Executive's employment upon the occurrence of any of the following: (A) a material breach by Executive of the terms of this Agreement; (B) any act of theft or misappropriation of funds or property of similar import involving the Corporation or any affiliate; (C) any act of embezzlement, intentional fraud or similar conduct by Executive involving the Corporation or any affiliate; (D) the conviction or the plea of nolo contendere or the equivalent in respect of a felony involving an act of dishonesty, moral turpitude, deceit or fraud by Executive; (E) any damage of a material nature to the business or property of the Corporation or any affiliate caused by Executive's willful or grossly negligent conduct; or (F) Executive's failure to act in accordance with any specific lawful instructions given to Executive in connection with the performance of Executive's duties for the Corporation or any affiliate. No act or failure to act by Executive shall be deemed to constitute "Cause" if done, or omitted to be done, in good faith and with the reasonable belief that the action or omission was in the best interests of the Corporation or affiliate, as applicable.

(e) **Termination Without Cause.**

(i) **Termination; Payment of Accrued Benefits.** The Corporation at any time without prior written notice may terminate Executive's employment without cause. In the event Executive's employment is terminated without cause, Executive shall receive payment for all earned but unpaid Base Salary as of Executive's termination date (which, for purposes of this Section 4(e), shall be the date specified by the Board); accrued but unused vacation time as of Executive's termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant.

(ii) **Payment of Severance Benefits.** In the event Executive's employment is terminated without cause under this Section 4(e), and provided that Executive has executed the Release, the Corporation also shall provide to Executive as severance:
(A) the payment of an amount equal to one and one-half (1 1/2) times Executive's Base Salary and target Bonus for the year in which such termination of employment occurs;

(B) the payment to Executive, at the end of the fiscal year in which Executive's termination of employment occurs, of a pro rata portion of Executive's target Bonus for the year in which Executive's termination occurs, prorated for Executive's actual employment period during such year and adjusted for performance;

(C) a lump-sum payment, on an after-tax basis, equivalent to the cost of COBRA premiums for Executive's participation in the Corporation's health and welfare benefit plans for eighteen (18) months following Executive's termination of employment. An amount equal to the sum of all Executive contributions for such health and welfare benefits (based on the active employee rates in effect immediately prior to termination) for 18 months will be deducted from the foregoing lump sum payment. In the event Executive is covered by the health and welfare benefit plans or programs of a subsequent employer prior to the expiration of the 18-month period, the Corporation shall reimburse Executive for any health coverage contribution overpayment;

(D) a lump-sum payment equivalent to one and one-half (1 1/2) times Executive's annual allowance pursuant to any executive perquisites arrangements applicable to Executive, determined as of the date of Executive's termination of employment;

(E) Executive shall vest in any equity incentive awards granted to Executive under the Plan in accordance with the terms of such Plan and the applicable award agreement issued thereunder; and

(F) the provision of not less than eighteen (18) months of executive-level outplacement services at the Corporation's expense; provided, however, the expense for such services in any calendar year shall not exceed eighteen percent (18%) of the amount equal to the sum of Executive's highest Base Salary during the twelve (12) month period prior to the termination date and the target Bonus for the year in which such termination occurs.

All of the foregoing payments and benefits in this Paragraph 4(e) shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. The payments set forth in Sections 4(e)(ii)(A) and 4(e)(ii)(D) above shall be payable in a lump sum within sixty (60) days following Executive's terminate date, provided that, in the event such sixty- (60-) day period spans more than one calendar year, the payment shall be made in the second calendar year. Except as expressly provided in this Section 4(e), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.
(f) **Termination for Good Reason.**

(i) **Termination; Payment of Accrued Benefits and Severance.** Notwithstanding anything in this Section 4 to the contrary, Executive may voluntarily terminate Executive's employment with the Corporation for "Good Reason" (as defined below). In the event Executive's employment is terminated for Good Reason under this Section 4(f), Executive shall receive the payments and benefits set forth in Section 4(e), subject to the terms and conditions set forth therein, including, without limitation, Executive's execution of the Release. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(f), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(ii) **Definition of Good Reason.** For purposes of this Agreement, Executive shall have "Good Reason" to terminate Executive's employment upon the occurrence of any of the following: (A) a material adverse change in Executive's position causing it to be of materially less stature, responsibility, or authority without Executive's written consent, and such a materially adverse change shall in all events be deemed to occur if Executive no longer serves as Executive Vice President, Chief Financial Officer, unless Executive consents in writing to such change; (B) a reduction, without Executive's written consent, in Executive's Base Salary or the Bonus Executive is eligible to earn under the AIP (or successor plan thereto), provided, however, that nothing herein shall be construed to guarantee Executive's Bonus for any year if the applicable performance targets are not met; and provided further that it shall not constitute Good Reason hereunder if the Corporation makes an appropriate pro rata adjustment to the applicable Bonus and targets under the AIP or any successor plan in the event of a change in the Corporation's fiscal year; (C) a material reduction without Executive's consent in the aggregate health and welfare benefits provided to Executive pursuant to the health and welfare plans, programs and arrangements in which Executive is eligible to participate; (D) the relocation of the principal place of Executive's employment, without Executive's written consent, beyond 50 miles from its location on the date of this Agreement; provided, however, that for this purpose, required travel on the Corporation's business will not constitute a relocation so long as the extent of such travel is substantially consistent with Executive's customary business travel obligations in periods prior to the date of this Agreement; or (E) the failure of the Corporation to obtain a satisfactory agreement from any successor to assume and agree to perform this Agreement. Unless Executive provides written notification of an event described in sub-clauses (A) through (D) above within ninety (90) days after Executive knows or has reason to know of the occurrence of any such event, Executive shall be deemed to have consented thereto and such event shall no longer constitute Good Reason for purposes of this Agreement. If Executive provides such written notice to the Corporation, the Corporation shall have ten (10) business days from the date of receipt of such notice to affect a cure of the event described therein and, upon cure thereof by
the Corporation to the reasonable satisfaction of Executive, such event shall no longer constitute Good Reason for purposes of this Agreement. Notwithstanding the foregoing, any event described in sub-clauses (A) through (D) above must also be an event which would result in a material negative change in Executive's employment relationship with Corporation and effectively constitute an involuntary termination of employment for purposes of Internal Revenue Code Section 409A (“Section 409A”).

(g) **Termination Upon Change of Control.**

(i) **Termination; Payment of Severance.** In the event of Executive's "Termination Upon Change of Control" (as defined below), Executive shall receive the benefits set forth in Section 4(e), subject to the terms and conditions set forth therein, including without limitation Executive's execution of the Release; provided, however, that the payment set forth in Section 4(e)(ii)(A) shall be an amount equal to two (2) times Executive's Base Salary and target Bonus).

(ii) **Gross-Up Payment.** In the event any payment or benefit arising in connection with Executive's services to the Corporation, whether payable pursuant to this Agreement or otherwise, and including any payment or benefit by reason of the transaction consummated to that certain Agreement and Plan of Merger among Blue Acquisition Group, Inc., Blue Merger Sub Inc. and Del Monte Foods Company, dated as of November 24, 2010 (the “Merger Agreement,” and the consummation of the transactions contemplated thereby, the “Transactions”) (the “Payment”) is an “excess parachute payment” within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), and would be subject to the excise tax imposed by Section 4999 of the Code (the “Excise Tax”), then the Corporation shall pay Executive an additional cash payment (the “Gross-Up Payment”) in an amount such that after payment by Executive of all taxes, including, without limitation, any income and employment taxes and Excise Tax imposed upon the Gross-Up Payment, Executive shall retain an amount equal to the Excise Tax imposed upon the Payment and the Gross-Up Payment. Any Gross-up Payment shall be paid at least 10 days prior to the date Executive must pay the excise tax but, in any event, must be paid to Executive by the end of the calendar year next following the calendar year in which the income taxes and Excise Tax are remitted to the applicable taxing authority.

(iii) **Definition of Termination Upon Change of Control.** For purposes of this Section 4(g) "Termination Upon Change of Control" means (A) the termination of Executive's employment by the Corporation without cause during the period commencing on the date the "Change of Control" (as such term shall be defined in the stock incentive plan established immediately following the consummation of the Transactions, or any successor stock incentive plan) occurs and ending on the date which is two (2) years after the Change of Control; or (B) any resignation by Executive for Good Reason within two (2) years after the occurrence of a Change of Control; but (C) "Termination Upon Change of Control" shall not include any termination of Executive's employment by the Corporation for Cause, as a result of the death or disability of Executive, or as a result of the voluntary termination of Executive's
employment for reasons other than Good Reason. For purposes of this Agreement, and for the avoidance of doubt, the term "Change of Control" shall also be deemed to have occurred upon the consummation of the Transactions (i.e., the provisions of this Section 4(g) shall be applicable following the consummation of the Transactions in accordance with their terms).

(iv) Except as expressly provided in this Section 4(g), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date. Any amounts due Executive under this Section 4(g) are in the nature of severance payments or liquidated damages, which contemplate both direct damages and consequential damages that may be suffered as a result of Executive's termination of employment, and are not in the nature of a penalty.

(h) **At-Will Employment.** Executive understands and agrees that Executive's employment with the Corporation is at-will, which means that either Executive or the Corporation may, subject to the terms of this Agreement, terminate this Agreement at any time with or without cause and with or without notice. Any modification of the at-will nature of this Agreement must be in writing and executed by Executive and the Corporation.

(i) **Ongoing Obligations.** Executive acknowledges that the Corporation and Executive have ongoing rights and obligations relating to intellectual property and confidential information of the Corporation, together with fiduciary rights and obligations, which will survive the termination of Executive's employment.

(j) **Section 409A Compliance.** Notwithstanding anything to the contrary herein, to the extent (i) any payments of benefits hereunder constitute nonqualified deferred compensation subject to Section 409A, and (ii) Executive is a "specified employee" (as such term is defined in the Treasury Regulations under Section 409), then such payments or benefits shall not be made or commence until the earlier of (i) the expiration of the six (6)-month period measured from the date of Executive's separation from service, or (ii) the date of Executive's death. Upon the expiration of the applicable period, any such payments or benefits which would have otherwise been made during that period shall be made or provided. Notwithstanding anything to the contrary herein, (A) the Corporation shall be permitted to accelerate any payment under this Employment Agreement by the Corporation to the federal government for any benefits payable under the Employment Agreement to make payments on behalf of Executive of federal employment taxes under Code Sections 3101, 3121(a) or 3121(v)(2), or to comply with any federal tax withholding provisions or corresponding withholding provisions of applicable state, local or foreign tax laws as a result of the payment of federal employment taxes, and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes; provided, however, that the total payment under this acceleration provision may not exceed the aggregate of the applicable FICA amount, and the income tax withholding
related to such FICA amount, and (B) the Corporation may permit acceleration of the payment of any benefits upon a good faith, reasonable determination by the Corporation, upon advice of counsel, that the Employment Agreement or any arrangement hereunder fails to meet the requirements of Section 409A and the regulations hereunder; provided, however that such payments may not exceed the amount required to be included in income as a result of any such failure; or (C) any acceleration permitted under Treas. Reg. § 1.409A-3(j)(4) may be made with respect to any payment under the Employment Agreement in the Corporation's discretion.

5. **Indemnification.** In the event Executive is made, or threatened to be made, a party to any legal action or proceeding, whether civil or criminal, including any governmental or regulatory proceedings or investigations, by reason of the fact that Executive is or was a director or officer of the Corporation or Del Monte Foods Company or serves or served any other corporation fifty percent (50%) or more owned or controlled by the Corporation in any capacity at the Corporation's request, Executive shall be indemnified by the Corporation, and the Corporation shall pay Executive's related expenses when and as incurred, all to the fullest extent permitted by the laws of the State of Delaware, and the Corporation's Certificate of Incorporation and Bylaws and covered by officers' insurance to the same extent as other officers of the Corporation.

6. **Proprietary Information Obligations.** During Executive's employment by the Corporation, Executive will have access to and become acquainted with the Corporation's confidential and proprietary information, including but not limited to information or plans regarding the Corporation's customer relationships; personnel; technology and intellectual property; sales, marketing and financial operations and methods; and other compilations of information, records and specifications, and may have access to and become acquainted with the confidential and proprietary information of Kohlberg Kravis Roberts & Co. L.P., Vestar Capital Partners L.P. or Centerview Capital, L.P. or their respective affiliates (collectively "Proprietary Information"). Executive shall not disclose any Proprietary Information of the Corporation, or of any affiliate, directly or indirectly, to any person, firm, company, corporation or other entity for any reason or purpose whatsoever, nor shall Executive make use of any such Proprietary Information for Executive's own purposes or for the benefit of any person, firm, company, corporation or other entity (except the Corporation and any affiliate) under any circumstances, during or after the term of this Agreement, except as reasonably necessary in the course of Executive's employment for the Corporation, as authorized in writing by the Corporation or as otherwise required by law or in any judicial or administrative process with subpoena power (in which case, Executive shall give the Corporation prompt notice under the circumstances and reasonably cooperate with the Corporation if it determines to attempt to resist such disclosure). All files, records, documents, computer-recorded or electronic information and similar items relating to the business of the Corporation or any affiliate, whether prepared by Executive or otherwise coming into Executive's possession, shall remain the exclusive property of the Corporation or the affiliate, respectively, and Executive agrees to return all property of the Corporation or the affiliate in Executive's possession and under Executive's control immediately upon any termination of Executive's
employment, and no copies thereof shall be kept by Executive (except that Executive's personal rolodex shall not be deemed property of the Corporation).

7. **Noninterference.** In consideration of the terms hereof, Executive agrees that while employed by the Corporation pursuant to this Agreement and for a period of two (2) years thereafter, Executive agrees not to: (i) directly or indirectly, either on Executive's own account or for any corporation, company, limited liability company, partnership, joint venture or other entity or person (including, without limitation, through any existing or future affiliate), solicit any employee of the Corporation or any existing or future affiliate to leave his or her employment or knowingly induce or knowingly attempt to induce any such employee to terminate or breach his or her employment agreement with the Corporation or any existing or future affiliate, if any; or (ii) directly or indirectly (including, without limitation, through any existing or future affiliate), solicit, cause in any part or knowingly encourage any current or future customer of or supplier to the Corporation or any existing or future affiliate to modify the business relationship, or cease doing business in whole or in part, with the Corporation or any such affiliate.

8. **Injunctive Relief.** The parties hereto agree that damages would be an inadequate remedy for the Corporation in the event of a breach or threatened breach of Sections 6 or 7 of this Agreement by Executive, and in the event of any such breach or threatened breach, the Corporation may, either with or without pursuing any potential damage remedies, obtain and enforce an injunction prohibiting Executive from violating this Agreement and requiring Executive to comply with the terms of this Agreement.

9. **Warranties and Representations.** Executive hereby represents and warrants to the Corporation that:

   (a) Executive acknowledges and agrees that Executive considers the restrictions set forth in Sections 6 and 7 to be reasonable both individually and in the aggregate, and that the duration, geographic scope, extent and application of each of such restrictions are no greater than is necessary for the protection of the Corporation's legitimate interests. It is the desire and intent of Executive and the Corporation that the provisions of Sections 6 and 7 shall be enforced to the fullest extent possible under the laws and public policies applied in each jurisdiction in which enforcement is sought. The Corporation and Executive further agree that if any particular provision or portion of Sections 6 and 7 shall be adjudicated to be invalid or unenforceable, such adjudication shall apply only with respect to the operation of such provision in the particular jurisdiction in which such adjudication is made. The Corporation and Executive further agree that in the event that any restriction herein shall be found to be void or unenforceable but would be valid or enforceable if some part or parts thereof were deleted or the period or area of application reduced, such restriction shall apply with such modification as may be necessary to make it valid, and Executive and the Corporation empower a court of competent jurisdiction to modify, reduce or otherwise reform such provision(s) in such fashion as to carry out the parties' intent to grant the Corporation the maximum allowable protection consistent with the applicable law and facts.
(b) In the event a court of competent jurisdiction or other tribunal or person(s) mutually selected by the parties to resolve any dispute (collectively a "Court") has determined that Executive has violated the provisions of this Agreement, the running of the time period of such provisions so violated shall be automatically suspended as of the date of such violation and shall be extended for the period of time from the date such violation commenced through the date that the Court determines that such violation has permanently ceased.

(c) Executive is not now under any obligation of a contractual or quasi-contractual nature known to Executive that is inconsistent or in conflict with this Agreement or that would prevent, limit or impair the performance by Executive of Executive's obligations hereunder; and

(d) Executive has been or has had the opportunity to be represented by legal counsel in the preparation, negotiation, execution and delivery of this Agreement and understands fully the terms and provisions hereof.

10. Miscellaneous.

(a) Notices. Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and, if delivered personally, when it is delivered or, if delivered in another manner, including without limitation, by facsimile (with confirmation of receipt and a confirmation copy sent by U.S. Mail or overnight delivery), the earlier of when it is actually received by the party to whom it is directed or when the period set forth below expires (whether or not it is actually received): (i) if deposited with the U.S. Postal Service, postage prepaid, and addressed to the party to receive it as set forth below, forty-eight (48) hours after such deposit as registered or certified mail; or (ii) if accepted by Federal Express or a similar delivery service in general usage for delivery to the address of the party to receive it as set forth next below, twenty-four (24) hours after the delivery time promised by the delivery service.

To the Corporation:

Del Monte Corporation
One Market @ The Landmark
P.O. Box 193575
San Francisco, California 94119-3575
Fax: 415/247-3263
Attention: Board of Directors and Secretary

To Executive:

The most recent home address for Executive as set forth in the Corporation's personnel records.
or to such other address or to the attention of such other person as the recipient party will have specified by prior written notice to the sending party.

(b) Severability. If any term or provision (or any portion thereof) of this Agreement is determined by a court to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions (or other portions thereof) of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or provision (or any portion thereof) is invalid, illegal or incapable of being enforced, this Agreement shall be deemed to be modified so as to effect the original intent of the parties as closely as possible to the end that the transactions contemplated hereby and the terms and provisions hereof are fulfilled to the greatest extent possible.

(c) Counterparts. This Agreement may be executed on separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same agreement. Signatures may be exchanged by electronic facsimile with machine evidence of transmission.

(d) Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive and the Corporation, and the Corporation's successors and assigns. Executive may not assign any of Executive's duties or rights under this Agreement without the prior written consent of the Corporation, which consent will not unreasonably be withheld. Except for Executive's estate or designated beneficiary under Section 4(a), nothing in this Agreement, express or implied, is intended to confer upon any third person any rights or remedies under or by reason of this Agreement.

(e) Attorneys' Fees. If any legal proceeding is necessary to enforce or interpret the terms of this Agreement, or to recover damages for breach thereof, in addition to any other relief to which Executive or the Corporation may be entitled, Executive shall be entitled to reimbursement by the Corporation of all reasonable legal fees incurred by Executive in connection with any enforcement of the provisions of this Agreement, so long as Executive prevails on any material issues.

(f) Amendments. No amendments or other modifications to this Agreement may be made except by a writing signed by both parties.

(g) Choice of Law. All questions concerning the construction, validity and interpretation of this Agreement will be governed by the internal law, and not the law of conflicts, of the State of California except as otherwise provided in Section 10(b) above.

(h) Further Assurances. Each of the parties hereto agrees to use all reasonable efforts to take or cause to be taken, all appropriate actions, and to cause to take or to be taken, all things necessary, proper or advisable under applicable laws to effect the transactions contemplated by this Agreement, including without limitation, execution and delivery to the Corporation of such representations in writing as may be
requested by the Corporation in order for it to comply with applicable federal and state securities laws.

(i) **Beneficiaries/References.** Executive shall be entitled, to the extent permitted under any applicable law, to select and change a beneficiary or beneficiaries to receive any compensation or benefit, including severance, payable under this Agreement following Executive's death by giving the Corporation written notice thereof. In the event of Executive's death or a judicial determination of Executive's incompetence, reference in this Agreement to Executive shall be deemed, where appropriate, to refer to Executive's beneficiary, estate or other legal representative.

11. **ENTIRE AGREEMENT.** This Agreement, including any documents incorporated by reference herein, contains the Corporation's entire understanding with Executive related to the subject matter hereof, and supersedes and preempts any prior or contemporaneous understandings, agreements, or representations by or between the parties, or by or between Executive and Del Monte Foods Company, written or oral. Without limiting the generality of the foregoing, except as provided in this Agreement, all understandings and agreements, written or oral, relating to the employment of Executive by the Corporation or Del Monte Foods Company, or the payment of any compensation or the provision of any benefit in connection therewith or otherwise, except to the extent that Executive participated in, and is still due, as of the date hereof, a benefit under, any employee or executive benefit plan or program of the Corporation (excluding for the avoidance of doubt any severance benefits under any Company severance plan or policy), are hereby terminated and shall be of no future force and effect.

[Remainder of page intentionally left blank.
Signatures on following page.]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

EXECUTIVE:

/s/ Larry E. Bodner                                         March 8, 2011
Larry E. Bodner                                          Date

CORPORATION:

DEL MONTE CORPORATION

By: /s/ Richard W. Muto                                        March 8, 2011
Name: Richard W. Muto
Title: Executive Vice President and
       Chief Human Resources Officer

COMPANY (For purposes of Section 11 only):

DEL MONTE FOODS COMPANY

By: /s/ Richard W. Muto                                        March 8, 2011
Name: Richard W. Muto
Title: Executive Vice President and
       Chief Human Resources Officer

Signature Page
RELEASE

To obtain the lump sum severance and other benefits as set forth in the Employment Agreement, dated March 8, 2011, to which this release is attached (the "Agreement"), Larry E. Bodner ("you") must agree to release and waive certain claims against the Company. The following paragraphs are your release and waiver (the "Release").

In consideration for your receipt of the lump sum payment and benefits, you hereby forever waive and release any claims and rights you may have against the Company and its predecessors, affiliates, successors and assigns, as well as each of their respective past and present officers, directors, employees, agents, attorneys and shareholders (collectively, the "Released Parties"), from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known and unknown, suspected or unsuspected, that you had, now have, or hereinafter claim to have against the Released Parties, which arise from or are in connection with your employment or the termination of your employment or which arise from or are in connection with any employment action taken, or not taken, affecting your employment with the Company, and based on any other conduct occurring prior to your signing this Release.

This Release includes, but is not limited to, any claims or actions arising under Title VII of the Federal Civil Rights Act, the Rehabilitation Act, the Age Discrimination in Employment Act ("ADEA"), the Older Workers Benefit Protection Act ("OWBPA"), the Americans With Disabilities Act, the Equal Pay Act, the Family and Medical Leave Act, the Worker Adjustment And Retraining Notification Act, the Employee Retirement Income Security Act, the [Pick the appropriate state statute for the employee: California Fair Employment and Housing Act or Pennsylvania Human Relations Act or Arizona Civil Rights Act or Florida Civil Rights Act or Idaho Human Rights Act or Illinois Human Rights Act or Indiana Civil Rights Law or Kansas Act Against Discrimination or Minnesota Human Rights Act or Texas Commission on Human Rights Act or Washington State Law Against Discrimination or West Virginia Human Rights Act or Wisconsin Fair Employment Act], all State and Federal civil rights laws, all State and Federal wage and hour laws, all as amended, public policy, contract (whether oral or written, express or implied) or tort law, as well as any other federal, state or local constitution, statute or common law right and claims for compensation, wages or benefits, except as set forth below, whether any such right or claim is known or unknown, actual or potential, statutory or non-statutory. Such release and waiver does not include any rights or claims you might have to workers' compensation benefits under the workers' compensation laws or based on conduct which occurs subsequent to your executing this Release. Nothing in this Release shall be construed as prohibiting you from filing a charge or complaint, including a challenge to the validity of this Release, with the Equal Employment Opportunity Commission ("EEOC") or other government agency or participating in any investigation or proceeding conducted by the EEOC or other government agency. This Release shall not be construed in any manner to waive any rights or benefits that may not be waived pursuant to applicable law.
You further agree that you shall not accept any award, damages, recovery or settlement from any proceeding brought by you or on your behalf pertaining to your employment with the Company, or your separation.

(This Paragraph for California Employees Only. By this Release, you hereby expressly waive all rights afforded by Section 1542 of the Civil Code of the State of California (“Section 1542”) with respect to theReleased Parties. Section 1542 states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release, you understand and agree that this Release is intended to include all claims, if any, which you may have and which you do not now know or suspect to exist in your favor against the Released Parties, and this Release extinguishes those claims. This Release does not release claims that cannot be released as a matter of law, including, but not limited to, the right to indemnification under California Labor Code Section 2802, nor your rights to (i) indemnification under the laws of the State of Delaware, and the Corporation’s Certificate of Incorporation and Bylaws and under any insurance maintained by the Company for your benefit, (ii) employee benefits under an plan or program maintained by the Company in which you participated and are vested in and due a benefit (excluding for the avoidance of doubt any severance benefits under any Company severance plan or policy), or (iii) your rights to enforce the terms of the Agreement.

By agreeing to the terms set forth in this Release, you understand and agree that you (1) have had at least twenty-one (21) or forty-five (45) days within which to consider this Release before signing this Release; (2) have carefully read and fully understand all of the provisions of this Release; (3) are, through this Release, releasing the Released Parties, from any and all claims, including but not limited to, any right or claim you may have under the ADEA against one or any of them; (4) are knowingly and voluntarily agreeing to all of the terms set forth in this Release; (5) are knowingly and voluntarily intending to be legally bound by the provisions set forth herein; (6) were advised and hereby are advised in writing to consider the terms of this Release and consult with an attorney of your choice prior to agreeing to the terms set forth herein; (7) have been given a full seven (7) days IN MINNESOTA REPLACE WITH fifteen (15) days following your signing of this Release to revoke it and have been and hereby are advised in writing that this Release shall not become effective or enforceable until the seven (7)-day IN MINNESOTA REPLACE WITH fifteen (15)-day revocation period has expired; (8) understand that rights and claims under the ADEA that may arise after the date this Release is signed by you are not being waived; and (9) acknowledge that the consideration given for this Release is in addition to anything of value to which you are already entitled.

A-2
Intending to be legally bound hereby, this Release has been duly executed by the undersigned on the ___ day of _____. 20__.

Larry E. Bodner

Date

Signature Page
EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is entered into as of March 8, 2011, by and between DEL MONTE CORPORATION, a Delaware corporation, with its principal place of business in San Francisco, California (the "Corporation") and DAVID W. ALLEN, an individual residing in the State of California ("Executive").

RECITALS

WHEREAS, the Corporation desires to employ Executive on the terms and conditions set forth herein, and Executive desires to be employed by the Corporation on such terms and conditions.

NOW, THEREFORE, in consideration of the foregoing recital, the promises, covenants and agreements of the parties, and the mutual benefits they will gain by the performance of the promises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

AGREEMENT

1. Term of Employment; Duties.

   (a) Term of Employment. The Corporation agrees to employ Executive as its Executive Vice President, Operations, and Executive hereby accepts such employment, subject to the terms and conditions set forth herein. The term of employment of Executive under this Agreement shall begin as of the date hereof and continue until terminated pursuant to Section 4 hereof. Notwithstanding the foregoing, the provisions of Sections 4(i) (Ongoing Obligations), 5 (Indemnification), 6 (Proprietary Information Obligations), 7 (Noninterference), 8 (Injunctive Relief), and 10 (Miscellaneous) shall survive the termination of this Agreement.

   (b) Duties. Executive shall serve in an executive capacity and shall perform such duties as are consistent with Executive's position as Executive Vice President, Operations and as otherwise established by the Chief Executive Officer of the Corporation ("CEO") or his designee.

   (c) Exclusive Performance of Duties. While employed by the Corporation, Executive agrees that Executive shall devote substantially all of Executive's business time and best efforts solely and exclusively to the performance of Executive's duties hereunder and to the business and affairs of the Corporation, whether such business is operated directly by the Corporation or through any affiliate of the Corporation. Executive further agrees that while employed by the Corporation, Executive will not, directly or indirectly, provide services on behalf of any competing corporation, company, limited liability company, partnership, joint venture, consortium,
or other competing entity or person, whether as an employee, consultant, independent contractor, agent, sole proprietor, partner, joint venturer, creditor, corporate officer or director; nor shall Executive acquire by reason of purchase during the term of Executive's employment with the Corporation the ownership of more than one percent (1%) of the outstanding equity interest in any such competing entity. For purposes of this Agreement, a "competing" entity is one engaged in any of the businesses in which the Corporation is engaged during Executive's employment with the Corporation, which includes without limitation: (i) dry and canned pet food and pet snacks business in the United States and Canada, (ii) specialty pet food business conducted worldwide, (iii) broth business in the United States, and (iv) the manufacture and sale of processed fruits and vegetables, pineapple products and tomato products in the United States and South America (the "Businesses"). Subject to the foregoing, Executive may serve on one (1) board of directors of a non-competing unaffiliated entity, subject to advance approval by the CEO, and may serve on the boards of charitable or civic organizations.

(d) Corporation Policies. The employment relationship between the parties shall be governed by the general employment policies and practices of the Corporation, including, without limitation, the Del Monte Foods Standards of Business Conduct; provided, however, that when the terms of this Agreement differ from or are in conflict with the Corporation's general employment policies or practices, this Agreement shall control.

2. Compensation and Benefits.

(a) Salary. Executive shall receive for Executive's services rendered hereunder an annual base salary of Four-Hundred and Forty Thousand Dollars ($440,000), as adjusted from time to time by the Compensation Committee of the Board (the "Base Salary"), payable on a semi-monthly basis in twenty-four (24) equal installments, less all applicable federal, state or local taxes and other normal payroll deductions.

(b) Annual Bonus. While a full-time employee of the Corporation, Executive shall be entitled to participate in the Del Monte Foods Company's Annual Incentive Plan or any applicable successor plan (the "AIP") pursuant to the terms and conditions set forth therein. Executive shall be eligible to receive an annual AIP bonus (the "Bonus") targeted at 62.5% of Executive's Base Salary, as adjusted from time to time in accordance with the AIP or at the discretion of the Compensation Committee of the Board. AIP awards are not guaranteed and actual payment of the Bonus is subject to the performance of the Corporation and Del Monte Foods Company and Executive's individual achievements.

(c) Employee Welfare Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in any group insurance for hospitalization, medical, dental, vision, prescription drug, accident, disability, life or similar plan or program of the Corporation for senior executives now existing or established hereafter to the extent that Executive is eligible under the general provisions thereof. The Corporation may, in its sole discretion and from time to time,
establish additional senior management benefit programs as it deems appropriate and Executive shall be eligible for such programs. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

(d) Pension and Retirement Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in any pension, 401(k) and retirement plans of the Corporation now existing or established hereafter to the extent that Executive is eligible under the general provisions thereof. The Corporation may, in its sole discretion and from time to time, establish additional senior management benefit programs as it deems appropriate. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

(e) Vacation. Executive shall be entitled to a period of annual paid vacation time equal to not less than 4 weeks per year as adjusted from time to time in accordance with the Corporation's vacation policy for senior executives. The days selected for Executive's vacation shall be mutually agreeable to the Corporation and Executive. Executive's eligibility to carryover or to be paid for any portion of Executive's accrued, but unused vacation shall be subject to the Corporation policy applicable to employees at a similar level in effect during the term of this Agreement.

(f) Expenses. Subject to compliance with the Corporation's normal and customary policies regarding substantiation and verification of business expenses, the Corporation shall directly pay or shall fully reimburse Executive for all customary and reasonable expenses incurred by Executive for promoting, pursuing or otherwise furthering the business of the Corporation and its affiliates.

(g) Perquisites and Supplemental Benefits. During Executive's employment with the Corporation, Executive shall be entitled to participate in the Corporation's Executive Perquisite Plan, subject to the terms and conditions thereof, and such other perquisites and supplemental benefits, if any, as may be approved from time to time by the Compensation Committee of the Board for senior executives generally. Executive understands that any such plans may be modified or eliminated in the discretion of the Corporation in accordance with applicable law.

3. Equity Awards.

(a) During Executive's employment with the Corporation, Executive shall be eligible to participate in the applicable equity compensation plans of Del Monte Foods Company or any successor. The terms and conditions of any equity compensation agreement entered into by Executive and Del Monte Foods Company from time to time are hereby incorporated into this Agreement.

(b) From time to time during Executive's employment with the Corporation, the Board (or a committee thereof) shall evaluate the performance of management of the Corporation and determine whether it is appropriate to grant any
additional equity compensation awards to management, including without limitation, Executive.

4. Termination of Employment.

(a) Termination Upon Death. If Executive dies during Executive's employment with the Corporation, the Corporation shall pay to Executive's estate, or other designated beneficiary(ies) as shown in the records of the Corporation, any earned and unpaid Base Salary as of Executive's employment termination date (which, for purposes of this Section 4(a), shall be the date of Executive's death); accrued but unused vacation time as of the end of the month in which Executive dies; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before the date of Executive's death; and benefits, if any, that Executive's estate, or other designated beneficiary(ies), is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. Additionally, the Corporation shall pay to Executive's estate, or other designated beneficiary(ies), at the end of the fiscal year in which Executive's termination of employment occurs, a pro rata portion of Executive's target Bonus for the year in which Executive's termination of employment occurs, prorated for Executive's actual employment period during such year and adjusted for performance. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(a), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(b) Termination Upon Disability. The Corporation may terminate Executive's employment in the event Executive suffers a disability that renders Executive unable, as determined in good faith by the Board, to perform the essential functions of Executive's position, even with reasonable accommodation, for six (6) consecutive months. In the event that Executive's employment is terminated pursuant to this Section 4(b), Executive shall receive payment for any earned and unpaid Base Salary as of Executive's employment termination date (which, for purposes of this Section 4(b), shall be the date specified by the Board); accrued but unused vacation time as of the end of the month in which the termination of employment for disability occurs; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, that Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. In addition, after Executive's termination date, Executive shall receive long term disability benefits under the applicable benefit plans of the Corporation to the extent Executive qualifies for such benefits. In the event that Executive's employment is terminated as a result of a determination pursuant to this Section 4(b), and provided that Executive has executed a release in the form attached hereto as Exhibit A, but with such changes, if any, as counsel to the Corporation reasonably recommends based on changes in the law or Federal or state regulations (the "Release"), the Corporation also shall provide to Executive as
severance the payment of an amount equal to Executive's highest Base Salary during the twelve (12) month period prior to the termination date and the target Bonus for the year in which such termination occurs, payable in a lump sum within sixty (60) days following the termination date, provided that, in the event such sixty-(60-) day period spans more than one calendar year, the payment shall be made in the second calendar year. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(b), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(c) Voluntary Termination. Executive may voluntarily terminate Executive's employment with the Corporation at any time. In the event that Executive's employment is terminated under this Section 4(c), Executive shall receive payment for any earned and unpaid Base Salary as of Executive's voluntary employment termination date (which, for purposes of this Section 4(c), shall be the date Executive ceases to perform Executive's duties hereunder as stated in Executive's letter of resignation or as specified by the Board); accrued but unused vacation time as of Executive's voluntary employment termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's voluntary employment termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(c), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(d) Termination for Cause.

(i) Termination; Payment of Accrued Benefits. The Board may terminate Executive's employment with the Corporation at any time for "Cause" (as defined below). In the event that Executive's employment is terminated for Cause under this Section 4(d), Executive shall receive payment for all earned but unpaid Base Salary as of Executive's employment termination date (which, for purposes of this Section 4(d), shall be the date specified by the Board); accrued but unused vacation time as of Executive's termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant. All of the foregoing payments and benefits shall be paid less all applicable federal, state or local taxes and other normal payroll deductions. Except as expressly provided in this Section 4(d), the Corporation shall have no obligation to make any other payment,
including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive’s termination date.

(ii) Definition of Cause. For purposes of this Agreement, the Corporation shall have "Cause" to terminate Executive’s employment upon the occurrence of any of the following: (A) a material breach by Executive of the terms of this Agreement; (B) any act of theft or misappropriation of funds or property of similar import involving the Corporation or any affiliate; (C) any act of embezzlement, intentional fraud or similar conduct by Executive involving the Corporation or any affiliate; (D) the conviction or the plea of nolo contendere or the equivalent in respect of a felony involving an act of dishonesty, moral turpitude, deceit or fraud by Executive; (E) any damage of a material nature to the business or property of the Corporation or any affiliate caused by Executive's willful or grossly negligent conduct; or (F) Executive's failure to act in accordance with any specific lawful instructions given to Executive in connection with the performance of Executive's duties for the Corporation or any affiliate. No act or failure to act by Executive shall be deemed to constitute "Cause" if done, or omitted to be done, in good faith and with the reasonable belief that the action or omission was in the best interests of the Corporation or affiliate, as applicable.

(c) Termination Without Cause.

(i) Termination; Payment of Accrued Benefits. The Corporation at any time without prior written notice may terminate Executive's employment without cause. In the event Executive's employment is terminated without cause, Executive shall receive payment for all earned but unpaid Base Salary as of Executive's termination date (which, for purposes of this Section 4(e), shall be the date specified by the Board); accrued but unused vacation time as of Executive's termination date; the amount of any unreimbursed expenses described in Section 2(f), which were incurred by Executive before Executive's termination date; and benefits, if any, Executive is then entitled to receive under the benefit plans of the Corporation in which Executive was an eligible participant.

(ii) Payment of Severance Benefits. In the event Executive's employment is terminated without cause under this Section 4(e), and provided that Executive has executed the Release, the Corporation also shall provide to Executive as severance:

(A) the payment of an amount equal to one and one-half (1 1/2) times Executive's Base Salary and target Bonus for the year in which such termination of employment occurs;

(B) the payment to Executive, at the end of the fiscal year in which Executive's termination of employment occurs, of a pro rata portion of Executive's target Bonus for the year in which Executive's termination occurs, prorated for Executive's actual employment period during such year and adjusted for performance;
(C) a lump-sum payment, on an after-tax basis, equivalent to the cost of COBRA premiums for Executive's participation in the
Corporation's health and welfare benefit plans for eighteen (18) months following Executive's termination of employment. An amount equal to the sum of all
Executive contributions for such health and welfare benefits (based on the active employee rates in effect immediately prior to termination) for 18 months will
be deducted from the foregoing lump sum payment. In the event Executive is covered by the health and welfare benefit plans or programs of a subsequent
employer prior to the expiration of the 18-month period, the Corporation shall reimburse Executive for any health coverage contribution overpayment;

(D) a lump-sum payment equivalent to one and one-half (1 1/2) times Executive's annual allowance pursuant to any executive
perquisites arrangements applicable to Executive, determined as of the date of Executive's termination of employment;

(E) Executive shall vest in any equity incentive awards granted to Executive under the Plan in accordance with the terms of such
Plan and the applicable award agreement issued thereunder; and

(F) the provision of not less than eighteen (18) months of executive-level outplacement services at the Corporation's expense;
provided, however, the expense for such services in any calendar year shall not exceed eighteen percent (18%) of the amount equal to the sum of Executive's
highest Base Salary during the twelve (12) month period prior to the termination date and the target Bonus for the year in which such termination occurs.

All of the foregoing payments and benefits in this Paragraph 4(e) shall be paid less all applicable federal, state or local taxes and other normal payroll
deductions, if any. The payments set forth in Sections 4(e)(ii)(A) and 4(e)(ii)(D) above shall be payable in a lump sum within sixty (60) days following
Executive's terminate date, provided that, in the event such sixty- (60-) day period spans more than one calendar year, the payment shall be made in the
second calendar year. Except as expressly provided in this Section 4(e), the Corporation shall have no obligation to make any other payment, including
severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this
Agreement or otherwise shall cease as of Executive's termination date.

(f) Termination for Good Reason.

(i) Termination; Payment of Accrued Benefits and Severance. Notwithstanding anything in this Section 4 to the contrary, Executive may
voluntarily terminate Executive's employment with the Corporation for "Good Reason" (as defined below). In the event Executive's employment is terminated
for Good Reason under this Section 4(f), Executive shall receive the payments and benefits set forth in Section 4(e), subject to the terms and conditions set
forth therein, including, without limitation, Executive's execution of the Release. All of the foregoing payments and benefits shall
be paid less all applicable federal, state or local taxes and other normal payroll deductions, if any. Except as expressly provided in this Section 4(f), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date.

(ii) Definition of Good Reason. For purposes of this Agreement, Executive shall have "Good Reason" to terminate Executive's employment upon the occurrence of any of the following: (A) a material adverse change in Executive's position causing it to be of materially less stature, responsibility, or authority without Executive's written consent, and such a materially adverse change shall in all events be deemed to occur if Executive no longer serves as Executive Vice President, Operations, unless Executive consents in writing to such change; (B) a reduction, without Executive's written consent, in Executive's Base Salary or the Bonus Executive is eligible to earn under the AIP (or successor plan thereto), provided, however, that nothing herein shall be construed to guarantee Executive's Bonus for any year if the applicable performance targets are not met; and provided further that it shall not constitute Good Reason hereunder if the Corporation makes an appropriate pro rata adjustment to the applicable Bonus and targets under the AIP or any successor plan in the event of a change in the Corporation's fiscal year; or (C) the failure of the Corporation to obtain a satisfactory agreement from any successor to assume and agree to perform this Agreement. Unless Executive provides written notification of an event described in sub-clauses (A) and (B) above within ninety (90) days after Executive knows or has reason to know of the occurrence of any such event, Executive shall be deemed to have consented thereto and such event shall no longer constitute Good Reason for purposes of this Agreement. If Executive provides such written notice to the Corporation, the Corporation shall have ten (10) business days from the date of receipt of such notice to affect a cure of the event described therein and, upon cure thereof by the Corporation to the reasonable satisfaction of Executive, such event shall no longer constitute Good Reason for purposes of this Agreement. Notwithstanding the foregoing, any event described in sub-clauses (A) and (B) above must also be an event which would result in a material negative change in Executive's employment relationship with Corporation and effectively constitute an involuntary termination of employment for purposes of Internal Revenue Code Section 409A ("Section 409A").

(g) Termination Upon Change of Control.

(i) Termination; Payment of Severance. In the event of Executive’s "Termination Upon Change of Control" (as defined below), Executive shall receive the benefits set forth in Section 4(e), subject to the terms and conditions set forth therein, including without limitation Executive's execution of the Release; provided, however, that the payment set forth in Section 4(e)(ii)(A) shall be an amount equal to two (2) times Executive's Base Salary and target Bonus).
(ii) **Gross-Up Payment.** In the event any payment or benefit arising in connection with Executive's services to the Corporation, whether payable pursuant to this Agreement or otherwise, and including any payment or benefit by reason of the transaction consummated to that certain Agreement and Plan of Merger among Blue Acquisition Group, Inc., Blue Merger Sub Inc. and Del Monte Foods Company, dated as of November 24, 2010 (the "Merger Agreement," and the consummation of the transactions contemplated thereby, the "Transactions") (the "Payment") is an "excess parachute payment" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), and would be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then the Corporation shall pay Executive an additional cash payment (the "Gross-Up Payment") in an amount such that after payment by Executive of all taxes, including, without limitation, any income and employment taxes and Excise Tax imposed upon the Gross-Up Payment, Executive shall retain an amount equal to the Excise Tax imposed upon the Payment and the Gross-Up Payment; provided that, such Gross-Up Payment shall not be paid if the original Payment exceeds the Section 280G excess parachute payment criteria by less than five percent (5%). In the event the Payment exceeds the Section 280G excess parachute payment criteria by less than five percent (5%), then either (i) the Payment shall be reduced to an amount that would result in no portion of the Payment being subject to the Excise Tax, or (ii), the Payment shall be paid in full, whichever of the foregoing (i) or (ii) results in a better after-tax position to Executive. The Gross-Up Payment shall be subject to and paid net of any applicable withholding. The amount of any Gross-Up Payment or Excise Tax shall be reasonably determined by the Company after consultation with its legal and tax advisors. Notwithstanding the foregoing, any Gross-up Payment must be paid to Executive by the end of the calendar year next following the calendar year in which the income taxes and Excise Tax are remitted to the applicable taxing authority.

(iii) **Definition of Termination Upon Change of Control.** For purposes of this Section 4(g) ”Termination Upon Change of Control” means (A) the termination of Executive's employment by the Corporation without cause during the period commencing on the date the "Change of Control" (as such term shall be defined in the stock incentive plan established immediately following the consummation of the Transactions, or any successor stock incentive plan) occurs and ending on the date which is two (2) years after the Change of Control; or (B) any resignation by Executive for Good Reason within two (2) years after the occurrence of a Change of Control; but (C) "Termination Upon Change of Control" shall not include any termination of Executive's employment by the Corporation for Cause, as a result of the death or disability of Executive, or as a result of the voluntary termination of Executive's employment for reasons other than Good Reason. For purposes of this Agreement, and for the avoidance of doubt, the term "Change of Control" shall also be deemed to have occurred upon the consummation of the Transactions (i.e., the provisions of this Section 4(g) shall be applicable following the consummation of the Transactions in accordance with their terms).
(iv) Except as expressly provided in this Section 4(g), the Corporation shall have no obligation to make any other payment, including severance or other compensation of any kind or payment in lieu of notice, and all other benefits provided by the Corporation to Executive under this Agreement or otherwise shall cease as of Executive's termination date. Any amounts due Executive under this Section 4(g) are in the nature of severance payments or liquidated damages, which contemplate both direct damages and consequential damages that may be suffered as a result of Executive's termination of employment, and are not in the nature of a penalty.

(h) **At-Will Employment.** Executive understands and agrees that Executive's employment with the Corporation is at-will, which means that either Executive or the Corporation may, subject to the terms of this Agreement, terminate this Agreement at any time with or without cause and with or without notice. Any modification of the at-will nature of this Agreement must be in writing and executed by Executive and the Corporation.

(i) **Ongoing Obligations.** Executive acknowledges that the Corporation and Executive have ongoing rights and obligations relating to intellectual property and confidential information of the Corporation, together with fiduciary rights and obligations, which will survive the termination of Executive's employment.

(j) **Section 409A Compliance.** Notwithstanding anything to the contrary herein, to the extent (i) any payments of benefits hereunder constitute nonqualified deferred compensation subject to Section 409A, and (ii) Executive is a "specified employee" (as such term is defined in the Treasury Regulations under Section 409), then such payments or benefits shall not be made or commence until the earlier of (i) the expiration of the six (6)-month period measured from the date of Executive's separation from service, or (ii) the date of Executive's death. Upon the expiration of the applicable period, any such payments or benefits which would have otherwise been made during that period shall be made or provided. Notwithstanding anything to the contrary herein, (A) the Corporation shall be permitted to accelerate any payment under this Employment Agreement by the Corporation to the federal government for any benefits payable under the Employment Agreement to make payments on behalf of Executive of federal employment taxes under Code Sections 3101, 3121(a) or 3121(v)(2), or to comply with any federal tax withholding provisions or corresponding withholding provisions of applicable state, local or foreign tax laws as a result of the payment of federal employment taxes, and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes; provided, however, that the total payment under this acceleration provision may not exceed the aggregate of the applicable FICA amount, and the income tax withholding related to such FICA amount, and (B) the Corporation may permit acceleration of the payment of any benefits upon a good faith, reasonable determination by the Corporation, upon advice of counsel, that the Employment Agreement or any arrangement hereunder fails to meet the requirements of Section 409A and the regulations hereunder; provided, however that such payments may not exceed the amount required to be included in income as a result of any such failure; or (C) any
acceleration permitted under Treas. Reg. § 1.409A-3(j)(4) may be made with respect to any payment under the Employment Agreement in the Corporation’s discretion.

5. **Indemnification.** In the event Executive is made, or threatened to be made, a party to any legal action or proceeding, whether civil or criminal, including any governmental or regulatory proceedings or investigations, by reason of the fact that Executive is or was a director or officer of the Corporation or Del Monte Foods Company or serves or served any other corporation fifty percent (50%) or more owned or controlled by the Corporation in any capacity at the Corporation’s request, Executive shall be indemnified by the Corporation, and the Corporation shall pay Executive’s related expenses when and as incurred, all to the fullest extent permitted by the laws of the State of Delaware, and the Corporation’s Certificate of Incorporation and Bylaws and covered by officers’ insurance to the same extent as other officers of the Corporation.

6. **Proprietary Information Obligations.** During Executive’s employment by the Corporation, Executive will have access to and become acquainted with the Corporation’s confidential and proprietary information, including but not limited to information or plans regarding the Corporation’s customer relationships; personnel; technology and intellectual property; sales, marketing and financial operations and methods; and other compilations of information, records and specifications, and may have access to and become acquainted with the confidential and proprietary information of Kohlberg Kravis Roberts & Co. LP, Vestar Capital Partners LP or Centerview Capital, LP or their respective affiliates (collectively “Proprietary Information”). Executive shall not disclose any Proprietary Information of the Corporation, or of any affiliate, directly or indirectly, to any person, firm, company, corporation or other entity for any reason or purpose whatsoever, nor shall Executive make use of any such Proprietary Information for Executive's own purposes or for the benefit of any person, firm, company, corporation or other entity (except the Corporation and any affiliate) under any circumstances, during or after the term of this Agreement, except as reasonably necessary in the course of Executive’s employment for the Corporation, as authorized in writing by the Corporation or as otherwise required by law or in any judicial or administrative process with subpoena power (in which case, Executive shall give the Corporation prompt notice under the circumstances and reasonably cooperate with the Corporation if it determines to attempt to resist such disclosure). All files, records, documents, computer-recorded or electronic information and similar items relating to the business of the Corporation or any affiliate, whether prepared by Executive or otherwise coming into Executive’s possession, shall remain the exclusive property of the Corporation or the affiliate, respectively, and Executive agrees to return all property of the Corporation or the affiliate in Executive’s possession and under Executive’s control immediately upon any termination of Executive’s employment, and no copies thereof shall be kept by Executive (except that Executive's personal rolodex shall not be deemed property of the Corporation).

7. **Noninterference.** In consideration of the terms hereof, Executive agrees that while employed by the Corporation pursuant to this Agreement and for a period of
two (2) years thereafter, Executive agrees not to: (i) directly or indirectly, either on Executive's own account or for any corporation, company, limited liability company, partnership, joint venture or other entity or person (including, without limitation, through any existing or future affiliate), solicit any employee of the Corporation or any existing or future affiliate to leave his or her employment or knowingly induce or knowingly attempt to induce any such employee to terminate or breach his or her employment agreement with the Corporation or any existing or future affiliate, if any; or (ii) directly or indirectly (including, without limitation, through any existing or future affiliate), solicit, cause in any part or knowingly encourage any current or future customer of or supplier to the Corporation or any existing or future affiliate to modify the business relationship, or cease doing business in whole or in part, with the Corporation or any such affiliate.

8. Injunctive Relief. The parties hereto agree that damages would be an inadequate remedy for the Corporation in the event of a breach or threatened breach of Sections 6 or 7 of this Agreement by Executive, and in the event of any such breach or threatened breach, the Corporation may, either with or without pursuing any potential damage remedies, obtain and enforce an injunction prohibiting Executive from violating this Agreement and requiring Executive to comply with the terms of this Agreement.

9. Warranties and Representations. Executive hereby represents and warrants to the Corporation that:

(a) Executive acknowledges and agrees that Executive considers the restrictions set forth in Sections 6 and 7 to be reasonable both individually and in the aggregate, and that the duration, geographic scope, extent and application of each of such restrictions are no greater than is necessary for the protection of the Corporation's legitimate interests. It is the desire and intent of Executive and the Corporation that the provisions of Sections 6 and 7 shall be enforced to the fullest extent possible under the laws and public policies applied in each jurisdiction in which enforcement is sought. The Corporation and Executive further agree that if any particular provision or portion of Sections 6 and 7 shall be adjudicated to be invalid or unenforceable, such adjudication shall apply only with respect to the operation of such provision in the particular jurisdiction in which such adjudication is made. The Corporation and Executive further agree that in the event that any restriction herein shall be found to be void or unenforceable but would be valid or enforceable if some part or parts thereof were deleted or the period or area of application reduced, such restriction shall apply with such modification as may be necessary to make it valid, and Executive and the Corporation empower a court of competent jurisdiction to modify, reduce or otherwise reform such provision(s) in such fashion as to carry out the parties' intent to grant the Corporation the maximum allowable protection consistent with the applicable law and facts.

(b) In the event a court of competent jurisdiction or other tribunal or person(s) mutually selected by the parties to resolve any dispute (collectively a "Court") has determined that Executive has violated the provisions of this Agreement, the running of the time period of such provisions so violated shall be automatically suspended as of the date of such violation and shall be extended for the period of time
from the date such violation commenced through the date that the Court determines that such violation has permanently ceased.

(c) Executive is not now under any obligation of a contractual or quasi-contractual nature known to Executive that is inconsistent or in conflict with this Agreement or that would prevent, limit or impair the performance by Executive of Executive's obligations hereunder; and

(d) Executive has been or has had the opportunity to be represented by legal counsel in the preparation, negotiation, execution and delivery of this Agreement and understands fully the terms and provisions hereof.

10. **Miscellaneous.**

(a) **Notices.** Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and, if delivered personally, when it is delivered or, if delivered in another manner, including without limitation, by facsimile (with confirmation of receipt and a confirmation copy sent by U.S. Mail or overnight delivery), the earlier of when it is actually received by the party to whom it is directed or when the period set forth below expires (whether or not it is actually received): (i) if deposited with the U.S. Postal Service, postage prepaid, and addressed to the party to receive it as set forth below, forty-eight (48) hours after such deposit as registered or certified mail; or (ii) if accepted by Federal Express or a similar delivery service in general usage for delivery to the address of the party to receive it as set forth next below, twenty-four (24) hours after the delivery time promised by the delivery service.

To the Corporation:
Del Monte Corporation
P.O. Box 193575
San Francisco, California 94119-3575
Fax: 415/247-3263
Attention: Chief Executive Officer

To Executive:
The most recent home address for Executive as set forth in the Corporation's personnel records.
or to such other address or to the attention of such other person as the recipient party will have specified by prior written notice to the sending party.

(b) **Severability.** If any term or provision (or any portion thereof) of this Agreement is determined by a court to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions (or other portions thereof) of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or provision (or any portion thereof) is invalid, illegal or incapable of being enforced, this Agreement shall be deemed to be modified so as to
effect the original intent of the parties as closely as possible to the end that the transactions contemplated hereby and the terms and provisions hereof are fulfilled to the greatest extent possible.

(c) Counterparts. This Agreement may be executed on separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same agreement. Signatures may be exchanged by electronic facsimile with machine evidence of transmission.

(d) Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive and the Corporation, and the Corporation's successors and assigns. Executive may not assign any of Executive's duties or rights under this Agreement without the prior written consent of the Corporation, which consent will not unreasonably be withheld. Except for Executive's estate or designated beneficiary under Section 4(a), nothing in this Agreement, express or implied, is intended to confer upon any third person any rights or remedies under or by reason of this Agreement.

(e) Attorneys' Fees. If any legal proceeding is necessary to enforce or interpret the terms of this Agreement, or to recover damages for breach thereof, in addition to any other relief to which Executive or the Corporation may be entitled, Executive shall be entitled to reimbursement by the Corporation of all reasonable legal fees incurred by Executive in connection with any enforcement of the provisions of this Agreement, so long as Executive prevails on any material issues.

(f) Amendments. No amendments or other modifications to this Agreement may be made except by a writing signed by both parties.

(g) Choice of Law. All questions concerning the construction, validity and interpretation of this Agreement will be governed by the internal law, and not the law of conflicts, of the State of California except as otherwise provided in Section 10(b) above.

(h) Further Assurances. Each of the parties hereto agrees to use all reasonable efforts to take or cause to be taken, all appropriate actions, and to cause to take or to be taken, all things necessary, proper or advisable under applicable laws to effect the transactions contemplated by this Agreement, including without limitation, execution and delivery to the Corporation of such representations in writing as may be requested by the Corporation in order for it to comply with applicable federal and state securities laws.

(i) Beneficiaries/References. Executive shall be entitled, to the extent permitted under any applicable law, to select and change a beneficiary or beneficiaries to receive any compensation or benefit, including severance, payable under this Agreement following Executive's death by giving the Corporation written notice thereof. In the event of Executive's death or a judicial determination of Executive's
incompetence, reference in this Agreement to Executive shall be deemed, where appropriate, to refer to Executive's beneficiary, estate or other legal representative.

11. ENTIRE AGREEMENT. This Agreement, including any documents incorporated by reference herein, contains the Corporation's entire understanding with Executive related to the subject matter hereof, and supersedes and preempts any prior or contemporaneous understandings, agreements, or representations by or between the parties, or by or between Executive and Del Monte Foods Company, written or oral. Without limiting the generality of the foregoing, except as provided in this Agreement, all understandings and agreements, written or oral, relating to the employment of Executive by the Corporation or Del Monte Foods Company, or the payment of any compensation or the provision of any benefit in connection therewith or otherwise, except to the extent that Executive participated in, and is still due, as of the date hereof, a benefit under, any employee or executive benefit plan or program of the Corporation (excluding for the avoidance of doubt any severance benefits under any Company severance plan or policy), are hereby terminated and shall be of no future force and effect.

[Remainder of page intentionally left blank.
Signatures on following page.]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

EXECUTIVE:

/s/ David W. Allen  
March 8, 2011

David W. Allen  
Date

CORPORATION:

DEL MONTE CORPORATION

By:  

/s/ Richard W. Muto  
March 8, 2011

Name: Richard W. Muto  
Date

Title: Executive Vice President and  
Chief Human Resources Officer

COMPANY (For purposes of Section 11 only):

DEL MONTE FOODS COMPANY

By:  

/s/ Richard W. Muto  
March 8, 2011

Name: Richard W. Muto  
Date

Title: Executive Vice President and  
Chief Human Resources Officer

Signature Page
RELEASE

To obtain the lump sum severance and other benefits as set forth in the Employment Agreement, dated March 8, 2011, to which this release is attached (the "Agreement"), David W. Allen ("you") must agree to release and waive certain claims against the Company. The following paragraphs are your release and waiver (the "Release").

In consideration for your receipt of the lump sum payment and benefits, you hereby forever waive and release any claims and rights you may have against the Company and its predecessors, affiliates, successors and assigns, as well as each of their respective past and present officers, directors, employees, agents, attorneys and shareholders (collectively, the "Released Parties"), from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known and unknown, suspected or unsuspected, that you had, now have, or hereinafter claim to have against the Released Parties, which arise from or are in connection with your employment or the termination of your employment or which arise from or are in connection with any employment action taken, or not taken, affecting your employment with the Company, and based on any other conduct occurring prior to your signing this Release.

This Release includes, but is not limited to, any claims or actions arising under Title VII of the Federal Civil Rights Act, the Rehabilitation Act, the Age Discrimination in Employment Act ("ADEA"), the Older Workers Benefit Protection Act ("OWBPA"), the Americans With Disabilities Act, the Equal Pay Act, the Family and Medical Leave Act, the Worker Adjustment And Retraining Notification Act, the Employee Retirement Income Security Act, the [Pick the appropriate state statute for the employee: California Fair Employment and Housing Act or Pennsylvania Human Relations Act or Arizona Civil Rights Act or Florida Civil Rights Act or Idaho Human Rights Act or Illinois Human Rights Act or Indiana Civil Rights Law or Kansas Act Against Discrimination or Minnesota Human Rights Act or Texas Commission on Human Rights Act or Washington State Law Against Discrimination or West Virginia Human Rights Act or Wisconsin Fair Employment Act], all State and Federal civil rights laws, all State and Federal wage and hour laws, all as amended, public policy, contract (whether oral or written, express or implied) or tort law, as well as any other federal, state or local constitution, statute or common law right and claims for compensation, wages or benefits, except as set forth below, whether any such right or claim is known or unknown, actual or potential, statutory or non-statutory. Such release and waiver does not include any rights or claims you might have to workers’ compensation benefits under the workers’ compensation laws or based on conduct which occurs subsequent to your executing this Release. Nothing in this Release shall be construed as prohibiting you from filing a charge or complaint, including a challenge to the validity of this Release, with the Equal Employment Opportunity Commission ("EEOC") or other government agency or participating in any investigation or proceeding conducted by the EEOC or other government agency. This Release shall not be construed in any manner to waive any rights or benefits that may not be waived pursuant to applicable law.
You further agree that you shall not accept any award, damages, recovery or settlement from any proceeding brought by you or on your behalf pertaining to your employment with the Company, or your separation.

(This Paragraph for California Employees Only. By this Release, you hereby expressly waive all rights afforded by Section 1542 of the Civil Code of the State of California (“Section 1542”) with respect to the Released Parties. Section 1542 states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release, you understand and agree that this Release is intended to include all claims, if any, which you may have and which you do not now know or suspect to exist in your favor against the Released Parties, and this Release extinguishes those claims. This Release does not release claims that cannot be released as a matter of law, including, but not limited to, the right to indemnification under California Labor Code Section 2802., nor your rights to (i) indemnification under the laws of the State of Delaware, and the Corporation’s Certificate of Incorporation and Bylaws and under any insurance maintained by the Company for your benefit, (ii) employee benefits under an plan or program maintained by the Company in which you participated and are vested in and due a benefit (excluding for the avoidance of doubt any severance benefits under any Company severance plan or policy), or (iii) your rights to enforce the terms of the Agreement.

By agreeing to the terms set forth in this Release, you understand and agree that you (1) have had at least twenty-one (21) or forty-five (45) days within which to consider this Release before signing this Release; (2) have carefully read and fully understand all of the provisions of this Release; (3) are, through this Release, releasing the Released Parties, from any and all claims, including but not limited to, any right or claim you may have under the ADEA against one or any of them; (4) are knowingly and voluntarily agreeing to all of the terms set forth in this Release; (5) are knowingly and voluntarily intending to be legally bound by the provisions set forth herein; (6) were advised and hereby are advised in writing to consider the terms of this Release and consult with an attorney of your choice prior to agreeing to the terms set forth herein; (7) have been given a full seven (7) days IN MINNESOTA REPLACE WITH fifteen (15) days following your signing of this Release to revoke it and have been and hereby are advised in writing that this Release shall not become effective or enforceable until the seven (7)-day IN MINNESOTA REPLACE WITH fifteen (15)-day revocation period has expired; (8) understand that rights and claims under the ADEA that may arise after the date this Release is signed by you are not being waived; and (9) acknowledge that the consideration given for this Release is in addition to anything of value to which you are already entitled.

A-2
Intending to be legally bound hereby, this Release has been duly executed by the undersigned on the __ day of __, 20__.  

_________________________________________  ____________________________  
David W. Allen  Date  

Signature Page
Timothy A. Cole  
c/o Del Monte Foods Company  
P.O. Box 193575  
San Francisco, CA 94119-3575  

Dear Timothy:

This letter (the "Letter Agreement") is to confirm our understanding regarding certain rights we have agreed to provide you in connection with the consummation of the transactions contemplated under the certain Agreement and Plan of Merger, dated as of November 24, 2010, among Blue Acquisition Group, Inc. ("Parent"), Blue Merger Sub Inc. and Del Monte Foods Company (the "Company") (as it may be amended or modified, the "Merger Agreement").

For purposes of this Letter Agreement, reference is made herein to that certain Management Stockholder's Agreement among Parent, Blue Holdings, I, L.P. and you, dated as of February 16, 2011 (the "MSA"), and all capitalized terms used but not otherwise defined in this Letter Agreement shall have the meaning ascribed to them in the MSA.

This Letter Agreement is to confirm that effective as of the Closing (as such term is defined in the Merger Agreement), Parent agrees that if, at any time after the end of the Company's 2013 fiscal year, you resign employment, upon at least 180 days prior written notice to the Company of your intent to so resign (your "Resignation Notice"), under circumstances that constitute a Qualified Retirement (as defined below), then the following provisions shall apply:

(i) for purposes of any Stock Option Agreement, such Qualified Retirement shall be treated as if a termination of your employment without Cause by the Company and its subsidiaries had occurred; and

(ii) in lieu of Section 5(d) of the MSA, generally, Parent shall not exercise any right to repurchase all or a portion of the shares of Stock acquired upon exercise of Rollover Options ("Rollover Option Stock"). Rollover Options or vested New Options then held by you on or after such Qualified Retirement; provided, however, that should you at any time thereafter engage in conduct that that would, if you were still employed with Parent or any of its subsidiaries, constitute a violation of Section 22(a) of the MSA, Parent may elect to purchase all or any portion of the shares of such Stock, Rollover Options or vested New Options then held by you as if a Section 5(b) Call Event had occurred on the date Parent first becomes aware that you are engaging in such prohibited conduct, pursuant to Section 5(b) of the MSA, and all applicable provisions of Section 5(f), (g) and (j) of the MSA shall apply.
Additionally, if you are terminated without Cause by the Company and its subsidiaries or you resign for Good Reason prior to the end of the Company's 2013 fiscal year, then the following provisions shall apply in lieu of Section 5(d) of the MSA:

(i) Rollover Option Stock and Rollover Options will be subject to the same provisions as would apply on and following a Qualified Retirement as provided for above; and

(ii) Parent may elect to purchase all or any portion of vested New Options (and Stock acquired upon your exercise of any vested New Options) then held by you as if a Section 5(b) Call Event had occurred on the date of such termination of employment, pursuant to Section 5(b) of the MSA, and all applicable provisions of Section 5(f), (g) and (j) of the MSA shall apply.

For the avoidance of doubt, Section 5(i) of the MSA shall also apply to all of the foregoing provisions.

This Letter Agreement is also to confirm that as of the Closing, Parent will cause the Company and Del Monte Corporation ("DMC") to continue to maintain the Del Monte Corporation Supplemental Executive Retirement Plan (Fourth Restatement), as amended and restated effective January 1, 2009 (the "SERP") until at least December 31, 2012; provided, however, that nothing in this Letter Agreement will prohibit Parent or DMC from amending the SERP to freeze the amount of your "Gross Benefit" (as such term is defined in the SERP) as earned through the end of Parent's 2012 fiscal year. However, if the SERP is terminated, or if your employment is terminated by Parent or any of its subsidiaries without Cause (as defined in the SERP) or if you resign for Good Reason (as defined in the MSA), in any such case prior to December 31, 2012, Parent will cause DMC to vest you in your accrued benefit under the SERP at the time of any such termination.

For purposes of this Letter Agreement, a "Qualified Retirement" shall mean the termination of your employment with Parent and all of its subsidiaries at or after attainment of age fifty-five (55).

We and you acknowledge that nothing in this Letter Agreement creates an exclusive arrangement between us and no binding agreement shall become effective until the Closing. This Letter Agreement shall be null and void and of no further effect in the event the Merger Agreement is terminated or the Closing does not occur. This Letter Agreement shall be governed by and construed in accordance with the laws of New York without regard to principles of conflicts of law.
Please sign this Letter Agreement confirming your agreement to the above.

Very truly yours,
Blue Acquisition Group, Inc.
By: /s/ Simon Brown
Name: Simon Brown
Title: President & Chief Executive Officer

Agreed to and accepted this 14th day of February, 2011.

/s/ Timothy A. Cole
Timothy A. Cole

Signature Page