

**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): August 10, 2011

OLD DOMINION FREIGHT LINE, INC.

(Exact name of registrant as specified in its charter)

Virginia
**(State or other jurisdiction
of incorporation)**

0-19582
**(Commission
File Number)**

56-0751714
**(I.R.S. Employer
Identification No.)**

500 Old Dominion Way
Thomasville, North Carolina 27360
(Address of principal executive offices)
(Zip Code)

(336) 889-5000
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

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

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Old Dominion Freight Line, Inc. (the “Company”) entered into a five-year, \$200.0 million senior unsecured revolving credit facility pursuant to the terms of a second amended and restated credit agreement (the “Credit Agreement”), dated August 10, 2011, with Wells Fargo Bank, National Association as administrative agent, and the Lenders named therein (collectively, the “Lenders”). This Credit Agreement amends and restates the terms of the Company’s existing five-year \$225.0 million senior unsecured revolving credit facility dated August 10, 2006 with Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as administrative agent, and the lenders party thereto. The following description is a summary of the material terms and conditions of the Credit Agreement. This summary is qualified in its entirety by reference to the Credit Agreement included as Exhibit 4.12 to this Current Report on Form 8-K and incorporated herein by reference. The definition of capitalized terms, if not so defined herein, may be found in the Credit Agreement.

Of the \$200.0 million in line of credit commitments provided by the Lenders, \$150.0 million may be used for letters of credit and \$20.0 million may be used for Swingline Loans under the Wells Fargo Sweep Plus Loan Program. The Wells Fargo Sweep Plus Loan Program is a daily cash management tool that automatically initiates borrowings to cover overnight cash requirements or initiates overnight investments for excess cash balances. In addition, the Company shall have the right, at any time and from time to time after the closing date by written notice to and in consultation with the Administrative Agent, to request an increase in the aggregate Commitments (each such requested increase, a “Commitment Increase”), by having one or more existing Lenders increase their respective Commitments then in effect, by adding one or more Persons that are not already Lenders as a Lender, or a combination thereof; provided however that: (i) any such request for a Commitment Increase shall be in a minimum amount of \$25.0 million; (ii) immediately after giving effect to any Commitment Increase, the aggregate Commitments shall not exceed \$300.0 million and the aggregate of all Commitment Increases effected shall not exceed \$100.0 million; (iii) no Default or Event of Default shall have occurred and be continuing on the applicable Commitment Increase Date or shall result from any Commitment Increase; (iv) immediately after giving effect to any Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Company shall be in compliance with the financial covenants contained in Article VII of the Credit Agreement; and (v) the Company shall give the existing Lenders the right of first refusal for participating in any such Commitment Increase. No Lender shall have an obligation to increase its respective Commitments.

At the Company’s option, loans under the Credit Agreement shall bear interest at (i) the Applicable Margin Percentage for Base Rate Loans in effect at such times as determined in accordance with the pricing grid set forth in the Credit Agreement plus the higher of Wells Fargo Bank’s prime rate, the federal funds rate plus 0.5% per annum, or the one month LIBOR Rate plus 1.0% per annum (the “Base Rate”); (ii) the LIBOR Rate plus the Applicable Margin Percentage for LIBOR Loans in effect at such time as determined in accordance with the pricing grid set forth in the Credit Agreement; or (iii) the LIBOR Market Index Rate plus the Applicable Margin Percentage for LIBOR Market Index Loans in effect at such time, as determined in accordance with the pricing grid set forth in the Credit Agreement. All Swingline Loans will bear interest at the rate equal to the sum of the rate provided for in the Sweep Program plus the Adjusted LIBOR Rate. LIBOR is the rate of interest appearing on the Reuters Screen LIBOR01 Page (or any successor page) that represents an average British Banks Association Interest Settlement Rate for dollar deposits or, if no such rate is available, the rate of interest determined by the administrative agent to be the rate at which corresponding deposits of U.S. Dollars are offered to first tier

banks in the London interbank Eurodollar market for interest periods of one, two, three or six months, subject to availability, as selected by the Company and as quoted to the administrative agent. The LIBOR Market Index Rate is the rate for one-month U.S. dollar deposits as reported on the Reuters Screen LIBOR01 Page as quoted to the administrative agent. The Applicable Margin Percentage for LIBOR Loans and LIBOR Market Index Loans is 1.125% until the first Adjustment Date and thereafter shall range from 1.0% to 1.875% depending upon the Company's Consolidated Debt to Consolidated Total Capitalization ratio. For the sole purpose of calculating Consolidated Debt to Consolidated Total Capitalization to determine the Applicable Margin Percentage, Consolidated Debt is reduced by the aggregate amount of the Company's cash and short-term investments. Interest shall be calculated on an actual/360-day basis for LIBOR Loans and shall be payable at the end of each applicable interest period or at three-month intervals, if such interest period is six months or longer. Interest shall be calculated on an actual/365/366-day basis and shall be payable quarterly in arrears for loans bearing interest at the Base Rate or the LIBOR Market Index Rate.

Commitment fees ranging from 0.175% to 0.30%, as determined in accordance with the pricing grid set forth in the Credit Agreement, shall be charged on the aggregate unutilized portion of the Commitments, payable quarterly in arrears to the administrative agent for the ratable benefit of the Lenders and calculated on an actual/360-day basis and commencing on the execution date of the Credit Agreement. Letter of credit fees equal to the Applicable Margin Percentage for LIBOR Loans in effect on the daily average aggregate Stated Amount of all letters of credit shall be payable quarterly in arrears to the administrative agent for the ratable benefit of the Lenders and calculated on an actual/360-day basis. The commitment fees and letter of credit fees are 0.20% and 1.125%, respectively, until the first Adjustment Date. In addition, the Company will pay to Wells Fargo Bank for its own account as issuer of letters of credit (i) a facing fee with respect to each letter of credit in an amount equal to 0.125% of the daily average aggregate Stated Amount thereof, payable quarterly in arrears and calculated on an actual/360-day basis and (ii) such fees and charges customarily charged in connection with the issuance and administration of such letters of credit. Wells Fargo Bank, as administrative agent, shall also receive an annual administrative fee for providing such services.

The Credit Agreement contains terms and provisions (including representations, covenants and conditions) customary for transactions of this type. Financial covenants include a maximum Consolidated Debt to Consolidated Total Capitalization ratio (not to be more than 0.60 to 1.00) and a minimum Fixed Charge Coverage Ratio (not to be less than 2.00 to 1.00). Other covenants include, but are not limited to, mergers and consolidations, additional indebtedness, limitations on liens, disposition of assets, investments, restricted payments and transactions with affiliates.

The Credit Agreement contains customary events of default, including, but not limited to, nonpayment of principal, any reimbursement obligation or any interest on any Loan or any fees or other Obligations; violation of covenants or other terms of the Credit Agreement; inaccuracy of representations and warranties; cross-defaults to other indebtedness having an aggregate principal amount of at least \$10.0 million; certain bankruptcy events; non-insured judgments in excess of \$10.0 million; certain ERISA-related events; suspension or termination of material licenses or permits; certain environmental claims, certain governmental liens, if the Company ceases to be solvent or materially changes the conduct of its business and certain change of control events. Upon and at any time after the occurrence and during the continuance of any Event of Default, the Administrative Agent shall at the direction or with the consent of the Required Lenders, take any or all of the following actions at the same or different times: (a) declare the Commitments, the Swingline Commitment and the Issuing Lender's obligation to issue Letters of Credit to be terminated, whereupon the same shall terminate (provided, that certain bankruptcy events will automatically cause the Commitments, Swingline Commitments and the Issuing Lender's obligations

to issue Letters of Credit to terminate); (b) declare all or any part of the outstanding principal amount of the Loans to be immediately due and payable, whereupon the principal amount so declared to be immediately due and payable, together with all interest accrued thereon and all other amounts payable under the Credit Agreement, the Notes and the other Credit Documents, shall become immediately due and payable without presentment, demand, protest, notice of intent to accelerate or other notice or legal process of any kind (provided, that upon certain bankruptcy events occurring, all of the outstanding principal amount of the Loans and all other amounts described in (b) shall automatically become immediately due and payable without presentment, demand protest, notice of intent to accelerate or other notice or legal process of any kind); (c) direct the Company to deposit with the Administrative Agent from time to time such additional amount of cash as is equal to the aggregate Stated Amount of all Letters of Credit then outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder), such amount to be held by the Administrative Agent in the Cash Collateral Account as security for the Letter of Credit Exposure as described in Section 3.8 of the Credit Agreement; and (d) exercise all rights and remedies available to it under the Credit Agreement, the other Credit Documents and applicable law.

The Company intends to use the proceeds of the Loans made under the Credit Agreement for working capital, the issuance of Letters of Credit, and general corporate purposes and in accordance with the terms and provisions of the Credit Agreement.

The Company has normal banking relationships with the Lenders.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
4.12	Second Amended and Restated Credit Agreement among Wells Fargo Bank, National Association, as Administrative Agent; the Lenders named therein; and Old Dominion Freight Line, Inc., dated August 10, 2011

SIGNATURE

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.

OLD DOMINION FREIGHT LINE, INC.

By: /s/ John P. Booker, III

John P. Booker, III

Vice President - Controller

(Principal Accounting Officer)

Date: August 16, 2011

EXHIBIT INDEX
TO CURRENT REPORT ON FORM 8-K

<u>Exhibit No.</u>	<u>Description</u>
4.12	Second Amended and Restated Credit Agreement among Wells Fargo Bank, National Association, as Administrative Agent; the Lenders named therein; and Old Dominion Freight Line, Inc., dated August 10, 2011

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

among

OLD DOMINION FREIGHT LINE, INC.,

THE LENDERS NAMED HEREIN,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent

and

BRANCH BANKING AND TRUST COMPANY,
as Syndication Agent

\$200,000,000 Senior Unsecured Revolving Credit Facility

Lead Arrangers:

WELLS FARGO SECURITIES, LLC
BB&T CAPITAL MARKETS

Sole Book-Runner:

WELLS FARGO SECURITIES, LLC

Dated as of August 10, 2011

TABLE OF CONTENTS

	Page
ARTICLE I	
DEFINITIONS	
1.1 Defined Terms	1
1.2 Accounting Terms	24
1.3 Other Terms; Construction	24
ARTICLE II	
AMOUNT AND TERMS OF THE LOANS	
2.1 Commitments	25
2.2 Borrowings	26
2.3 Disbursements; Funding Reliance; Domicile of Loans	29
2.4 Evidence of Debt; Notes	30
2.5 Termination and Reduction of Commitments and Swingline Commitment	31
2.6 Mandatory Payments and Prepayments	31
2.7 Voluntary Prepayments	32
2.8 Interest	32
2.9 Fees	35
2.10 Interest Periods	36
2.11 Conversions and Continuations	36
2.12 Method of Payments; Computations; Apportionment of Payments	37
2.13 Recovery of Payments	40
2.14 Use of Proceeds	40
2.15 Pro Rata Treatment	40
2.16 Increased Costs; Change in Circumstances; Illegality	41
2.17 Taxes	44
2.18 Compensation	46
2.19 Replacement of Lenders; Mitigation of Costs	46
2.20 Increase in Commitments	48
2.21 Defaulting Lenders	50
ARTICLE III	
LETTERS OF CREDIT	
3.1 Issuance; Existing Letters of Credit	53
3.2 Notices	55
3.3 Participations	55
3.4 Reimbursement	55
3.5 Payment by Revolving Loans	56
3.6 Payment to Lenders	57

TABLE OF CONTENTS
(continued)

	Page
3.7 Obligations Absolute	57
3.8 Cash Collateral Account	58
3.9 The Issuing Lender	59
3.10 Effectiveness	59

ARTICLE IV

CONDITIONS OF BORROWING

4.1 Conditions of Initial Borrowing	60
4.2 Conditions of All Borrowings	62

ARTICLE V

REPRESENTATIONS AND WARRANTIES

5.1 Corporate Organization and Power	63
5.2 Authorization; Enforceability	64
5.3 No Violation	64
5.4 Governmental and Third-Party Authorization; Permits	64
5.5 Litigation	65
5.6 Taxes	65
5.7 Subsidiaries	65
5.8 Full Disclosure	65
5.9 Margin Regulations	66
5.10 No Material Adverse Change	66
5.11 Financial Matters	66
5.12 Ownership of Properties	67
5.13 ERISA	67
5.14 Environmental Matters	67
5.15 Compliance with Laws	68
5.16 Regulated Industries	69
5.17 Insurance	69
5.18 Material Contracts	69
5.19 Trade Relations	69
5.20 Labor Relations	69
5.21 Leases	70
5.22 OFAC; Anti-Terrorism Laws	70

ARTICLE VI

AFFIRMATIVE COVENANTS

6.1 Financial Statements	70
--------------------------	----

TABLE OF CONTENTS
(continued)

	Page
6.2 Other Business and Financial Information	71
6.3 Existence; Franchises; Maintenance of Properties	74
6.4 Compliance with Laws	74
6.5 Payment of Obligations	74
6.6 Insurance	74
6.7 Maintenance of Books and Records; Inspection	74
6.8 Permitted Acquisitions	75
6.9 Creation or Acquisition of Subsidiaries	76
6.10 Further Assurances	78
6.11 OFAC, PATRIOT Act Compliance	78
ARTICLE VII	
FINANCIAL COVENANTS	
7.1 Consolidated Debt to Consolidated Total Capitalization	78
7.2 Fixed Charge Coverage Ratio	78
ARTICLE VIII	
NEGATIVE COVENANTS	
8.1 Merger; Consolidation	78
8.2 Indebtedness	79
8.3 Liens	81
8.4 Disposition of Assets	82
8.5 Investments	83
8.6 Restricted Payments	84
8.7 Transactions with Affiliates	85
8.8 Lines of Business	85
8.9 Limitation on Certain Restrictions	85
8.10 Fiscal Year	85
8.11 Accounting Changes	85
8.12 Certain Amendments	86
ARTICLE IX	
EVENTS OF DEFAULT	
9.1 Events of Default	86
9.2 Remedies: Termination of Commitments, Acceleration, etc	88
9.3 Remedies: Set-Off	89

TABLE OF CONTENTS
(continued)

	Page
ARTICLE X	
THE ADMINISTRATIVE AGENT	
10.1 Appointment and Authority	90
10.2 Rights as a Lender	90
10.3 Exculpatory Provisions	90
10.4 Reliance by Administrative Agent	91
10.5 Delegation of Duties	92
10.6 Resignation of Administrative Agent	92
10.7 Non-Reliance on Administrative Agent and Other Lenders	92
10.8 No Other Duties, Etc	93
10.9 Guaranty Matters	93
10.10 Issuing Lender and Swingline Lender	93
ARTICLE XI	
MISCELLANEOUS	
11.1 Expenses; Indemnity; Damage Waiver	93
11.2 Governing Law; Submission to Jurisdiction; Waiver of Venue; Service of Process	95
11.3 Arbitration; Preservation and Limitation of Remedies	96
11.4 Notices; Effectiveness; Electronic Communication	97
11.5 Amendments, Waivers, etc	98
11.6 Successors and Assigns	100
11.7 No Waiver	104
11.8 Survival	105
11.9 Severability	105
11.10 Construction	105
11.11 Confidentiality	106
11.12 Counterparts; Integration; Effectiveness	106
11.13 Disclosure of Information	107
11.14 USA Patriot Act Notice	107

EXHIBITS

Exhibit A-1	Form of Revolving Note
Exhibit A-2	Form of Swingline Note
Exhibit B-1	Form of Notice of Borrowing
Exhibit B-2	Form of Notice of Swingline Borrowing
Exhibit B-3	Form of Notice of Conversion/Continuation
Exhibit B-4	Form of Letter of Credit Notice
Exhibit C	Form of Compliance Certificate
Exhibit D	Form of Assignment and Assumption
Exhibit E	Form of Subsidiary Guaranty

SCHEDULES

Schedule 1.1	Commitments and Notice Addresses
Schedule 3.1	Existing Letters of Credit
Schedule 5.4	Consents and Approvals
Schedule 5.7	Subsidiaries
Schedule 5.17	Insurance
Schedule 5.18	Material Contracts
Schedule 8.2	Indebtedness
Schedule 8.3	Liens
Schedule 8.5A	Existing Investments
Schedule 8.5B	Borrower's Investment Policy
Schedule 8.7	Transactions with Affiliates

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

THIS SECOND AMENDED AND RESTATED CREDIT AGREEMENT, dated as of the 10th day of August, 2011, is made among **OLD DOMINION FREIGHT LINE, INC.**, a Virginia corporation (the "Borrower"), the banks and financial institutions listed on the signature pages hereto or that become parties hereto after the date hereof, and **WELLS FARGO BANK, NATIONAL ASSOCIATION** ("Wells Fargo"), as agent for the Lenders. Capitalized terms used herein shall have the meanings given to such terms in **ARTICLE I**.

RECITALS

A. The Borrower, the Existing Lenders and Wells Fargo, as agent, are parties to an Amended and Restated Credit Agreement, dated as of August 10, 2006 (as the same has been amended, modified or supplemented to, but not including, the Restatement Effective Date, the "Existing Credit Agreement").

B. Subject to and on the terms and conditions set forth herein, (i) the parties hereto wish to amend and restate the Existing Credit Agreement in its entirety in the form of this Agreement, it being the intention of the Borrower, the Lenders and the Administrative Agent that this Agreement and the Credit Documents executed in connection herewith shall not effect a novation of the obligations of the Borrower under the Existing Credit Agreement but be merely a restatement and, where applicable, an amendment of and substitution for the terms governing such obligations hereafter, and (ii) the Lenders are willing to make available to the Borrower a revolving credit facility in the aggregate principal amount of \$200,000,000 as described herein and subject to the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual provisions, covenants and agreements herein contained, the parties hereto hereby agree that, on the Restatement Effective Date, the Existing Credit Agreement shall be and is hereby amended and restated in its entirety as follows:

ARTICLE I

DEFINITIONS

1.1 Defined Terms. For purposes of this Agreement, in addition to the terms defined elsewhere herein, the following terms shall have the meanings set forth below (such meanings to be equally applicable to the singular and plural forms thereof):

"Account Designation Letter" shall mean a letter from the Borrower to the Administrative Agent, duly completed and signed by an Authorized Officer and in form and substance satisfactory to the Administrative Agent, listing any one or more accounts to which the Borrower may from time to time request the Administrative Agent to forward the proceeds of any Loans made hereunder.

“Acquisition” shall mean any transaction or series of related transactions, consummated on or after the date hereof, by which the Borrower directly, or indirectly through one or more Subsidiaries, (i) acquires any going business, or all or substantially all of the assets, of any Person, whether through the purchase of assets, a merger or otherwise, or (ii) acquires securities or other ownership interests of any Person having at least a majority of combined voting power of the then outstanding securities or other ownership interests of such Person.

“Acquisition Amount” shall mean, with respect to any Acquisition, the sum (without duplication) of (i) the amount of cash paid by the Borrower and its Subsidiaries in connection with such Acquisition (net of cash and Cash Equivalents), (ii) the Fair Market Value of all Capital Stock of the Borrower issued or given in connection with such Acquisition, (iii) the amount (determined by using the face amount or the amount payable at maturity, whichever is greater) of all Indebtedness incurred, assumed or acquired by the Borrower and its Subsidiaries in connection with such Acquisition, (iv) all additional purchase price amounts in connection with such Acquisition in the form of earnouts and other contingent obligations that should be recorded as a liability on the balance sheet of the Borrower and its Subsidiaries or expensed, in either event in accordance with GAAP, Regulation S-X under the Securities Act of 1933, as amended, or any other rule or regulation of the Securities and Exchange Commission, (v) all amounts paid in respect of covenants not to compete, consulting agreements and other affiliated contracts in connection with such Acquisition, (vi) the amount of all transaction fees and expenses (including, without limitation, legal, accounting and finders’ fees and expenses) incurred by the Borrower and its Subsidiaries in connection with such Acquisition and (vii) the aggregate fair market value of all other consideration given by the Borrower and its Subsidiaries in connection with such Acquisition. In the event of an Acquisition of more than one Target in which one but not all Targets will be Foreign Subsidiaries, the aggregate Acquisition Amount shall be reasonably allocated by the Borrower in good faith (and approved by the Administrative Agent, which shall not be unreasonably withheld) among the Foreign Subsidiaries and non-Foreign Subsidiaries acquired in such Acquisition.

“Adjusted Base Rate” shall mean, at any time with respect to any Base Rate Loan, a rate per annum equal to the Base Rate as in effect at such time plus the Applicable Margin Percentage for Base Rate Loans as in effect at such time.

“Additional Lender” shall have the meaning given to such term in **Section 2.20(a)**.

“Adjusted LIBOR Market Index Rate” shall mean, at any time with respect to any LIBOR Market Index Loans, a rate per annum equal to the LIBOR Market Index Rate as in effect at such time plus the Applicable Margin Percentage for LIBOR Market Index Loans as in effect at such time.

“Adjusted LIBOR Rate” shall mean, at any time with respect to any LIBOR Loan, a rate per annum equal to the LIBOR Rate as in effect at such time plus the Applicable Margin Percentage for LIBOR Loans as in effect at such time.

“Administrative Agent” shall mean Wells Fargo, in its capacity as Administrative Agent appointed under **ARTICLE X**, and its successors and permitted assigns in such capacity.

“Administrative Questionnaire” shall mean an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” shall mean, as to any Person, each other Person that directly, or indirectly through one or more intermediaries, owns or controls, is controlled by or under common control with, such Person or is a director or officer of such Person. For purposes of this definition, with respect to any Person “control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, neither the Administrative Agent nor any Lender shall be deemed an “Affiliate” of the Borrower or any of its Subsidiaries.

“Agent Parties” shall have the meaning given to such term in **Section 11.4(b)**.

“Agreement” shall mean this Second Amended and Restated Credit Agreement, as amended, restated, modified or supplemented from time to time.

“Applicable Margin Percentage” shall mean, at any time from and after the Restatement Effective Date, the applicable margin percentage (i) to be added to the LIBOR Market Index Rate and the LIBOR Rate pursuant to **Section 2.8** for purposes of determining the Adjusted LIBOR Market Index Rate and the Adjusted LIBOR Rate, as the case may be, (ii) to be added to the Base Rate pursuant to **Section 2.8** for the purpose of determining the Adjusted Base Rate and (iii) to be used in calculating the commitment fee payable pursuant to **Section 2.9(a)**, in each case as determined under the following matrix with reference to the ratio of Consolidated Debt to Consolidated Total Capitalization:

<u>Level</u>	<u>Consolidated Debt to Consolidated Total Capitalization</u>	<u>Applicable Margin Percentage for LIBOR Loans and LIBOR Market Index Loans</u>	<u>Applicable Margin Percentage for Base Rate Loans</u>	<u>Commitment Fee</u>
1	Less than 0.20 to 1.00	1.00%	0.00%	0.175%
2	Greater than or equal to 0.20 to 1.00 but less than 0.375 to 1.00	1.125%	0.125%	0.20%
3	Greater than or equal to 0.375 to 1.00 but less than 0.45 to 1.00	1.375%	0.375%	0.225%

4	Greater than or equal to 0.45 to 1.00 but less than 0.50 to 1.00	1.625%	0.625%	0.25%
5	Greater than or equal to 0.50 to 1.00	1.875%	0.875%	0.30%

On each Adjustment Date (as hereinafter defined), the Applicable Margin Percentage for all Loans and the commitment fee payable pursuant to **Section 2.9(a)** shall be adjusted effective as of such date (based upon the calculation of the Consolidated Debt to Consolidated Total Capitalization as of the last day of the fiscal period to which such Adjustment Date relates) in accordance with the above matrix; provided, however, that, notwithstanding the foregoing or anything else herein to the contrary, if at any time the Borrower shall have failed to deliver the financial statements and a Compliance Certificate as required by **Section 6.1(a)** or **Section 6.1(b)**, as the case may be, and **Section 6.2(a)**, or if at any time an Event of Default shall have occurred and be continuing, then at the election of the Required Lenders, at all times from and including the date on which such statements and Compliance Certificate are required to have been delivered (or the date of occurrence of such Event of Default, as the case may be) to the date on which the same shall have been delivered (or such Event of Default shall have been cured or waived, as the case may be), each Applicable Margin Percentage shall be calculated in accordance with level 5 of the above matrix. For purposes of this definition, "Adjustment Date" shall mean, with respect to any fiscal period of the Borrower beginning with the fiscal quarter ending December 31, 2011, the tenth (10th) day (or, if such day is not a Business Day, the next succeeding Business Day) after delivery by the Borrower in accordance with **Section 6.1(a)** or **Section 6.1(b)**, as the case may be, of (i) financial statements as of the end of and for such fiscal period and (ii) a duly completed Compliance Certificate with respect to such fiscal period. Until the first Adjustment Date, each Applicable Margin Percentage shall be calculated in accordance with Level 2 of the above matrix.

"Applicable Period" shall have the meaning given to such term in **Section 2.8(f)**.

"Approved Fund" shall mean any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) a Person (or an Affiliate of a Person) that administers or manages a Lender.

"Arrangers" shall mean Wells Fargo Securities and BB&T Capital Markets.

"Assignee" shall have the meaning given to such term in **Section 11.6(a)**.

"Assignment and Assumption" shall mean an Assignment and Assumption entered into between a Lender and an Assignee and accepted by the Administrative Agent and the Borrower, in substantially the form of **Exhibit D**.

"Authorized Officer" shall mean, with respect to any action specified herein, any officer of the Borrower duly authorized by resolution of the board of directors of the Borrower to take

such action on its behalf, and whose signature and incumbency shall have been certified to the Administrative Agent by the secretary or an assistant secretary of the Borrower.

“Bankruptcy Code” shall mean 11 U.S.C. §§ 101 et seq., as amended from time to time, and any successor statute.

“Base Rate” shall mean the highest of (i) the per annum interest rate publicly announced from time to time by Wells Fargo in Charlotte, North Carolina, to be its prime rate (which may not necessarily be its best lending rate), as adjusted to conform to changes as of the opening of business on the date of any such change in such prime rate, (ii) the Federal Funds Rate plus 0.5% per annum, as adjusted to conform to changes as of the opening of business on the date of any such change in the Federal Funds Rate and (iii) the LIBOR Rate for an Interest Period of one (1) month plus the difference between the Applicable Margin Percentage for LIBOR Loans and the Applicable Margin Percentage for Base Rate Loans at any level, as adjusted to conform to changes as of the opening of business on the date of any such change of such LIBOR Rate.

“Base Rate Loan” shall mean, at any time, any Loan that bears interest at such time at the Adjusted Base Rate.

“BB&T Fee Letter” shall mean the letter from Branch Banking and Trust Company and BB&T Capital Markets to the Borrower, dated July 2011, relating to certain fees payable by the Borrower in respect of the transactions contemplated by this Agreement, as amended, modified or supplemented from time to time.

“Beneficial Owner” shall mean, with respect to any U.S. federal income tax, the Person who is treated as the taxpayer under Section 871(a) or 881(a) of the Internal Revenue Code, as applicable, or any successor provision, if such Person is not the Recipient.

“Borrower” shall have the meaning given to such term in the introductory paragraph of this Agreement.

“Borrowing” shall mean the incurrence by the Borrower (including as a result of conversions and continuations of outstanding Loans pursuant to **Section 2.11**) on a single date of a group of Loans of a single Type (or a Swingline Loan made by the Swingline Lender) and, in the case of LIBOR Loans, as to which a single Interest Period is in effect.

“Borrowing Date” shall have the meaning given to such term in **Section 2.2(b)**.

“Business Day” shall mean (i) any day other than a Saturday or Sunday, a legal holiday or a day on which commercial banks in Charlotte, North Carolina are required by law to be closed and (ii) in respect of any determination relevant to a LIBOR Loan or a LIBOR Market Index Loan, any such day that is also a day on which tradings are conducted in the London interbank Eurodollar market.

“Capital Stock” shall mean (i) with respect to any Person that is a corporation, any and all shares, interests or equivalents in capital stock (whether voting or nonvoting, and whether common or preferred) of such corporation, and (ii) with respect to any Person that is not a corporation, any and all partnership, membership, limited liability company or other equity

interests of such Person; and in each case, any and all warrants, rights or options to purchase any of the foregoing.

“Capitalized Lease Obligations” shall mean any Indebtedness represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP, and the amount of such Indebtedness shall be the capitalized amount of such obligations determined in accordance with GAAP.

“Cash Collateral Account” shall have the meaning given to such term in **Section 3.8**.

“Cash Collateralize” shall mean to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lender or the Swingline Lender (as applicable) and the Lenders, as collateral for the Letter of Credit Exposure, the Swingline Exposure, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the Issuing Lender or the Swingline Lender benefiting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to (a) the Administrative Agent and (b) the Issuing Lender or the Swingline Lender. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” shall mean (i) securities issued or unconditionally guaranteed by the United States of America or any agency or instrumentality thereof, backed by the full faith and credit of the United States of America and maturing within ninety (90) days from the date of acquisition, (ii) commercial paper issued by any Person organized under the laws of the United States of America, maturing within ninety (90) days from the date of acquisition and, at the time of acquisition, having a rating of at least A-1 or the equivalent thereof by Standard & Poor’s Ratings Services or at least P-1 or the equivalent thereof by Moody’s Investors Service, Inc., (iii) time deposits and certificates of deposit maturing within ninety (90) days from the date of issuance and issued by a bank or trust company organized under the laws of the United States of America or any state thereof that has combined capital and surplus of at least \$500,000,000 and that has (or is a subsidiary of a bank holding company that has) a long-term unsecured debt rating of at least A or the equivalent thereof by Standard & Poor’s Ratings Services or at least A2 or the equivalent thereof by Moody’s Investors Service, Inc., (iv) repurchase obligations with a term not exceeding seven (7) days with respect to underlying securities of the types described in clause (i) above entered into with any bank or trust company meeting the qualifications specified in clause (iii) above, and (v) money market funds at least 95% of the assets of which are continuously invested in securities of the type described in clause (i) above.

“Cash Management Agreement” means any agreement to provide cash management services, including treasury, depository, overdraft, credit, debit or procurement card, electronic funds transfer and other cash management arrangements.

“Cash Management Bank” means (i) any Person that, at the time it enters into a Cash Management Agreement, is a Lender, an Affiliate of a Lender, the Administrative Agent or an Affiliate of the Administrative Agent, in its capacity as a party to such Cash Management Agreement with the Borrower and (ii) any Person that, as of the Restatement Effective Date, is a

Lender or an Affiliate of a Lender and is party to a Cash Management Agreement, in its capacity as party to such Cash Management Agreement with the Borrower.

“Change in Law” shall mean the occurrence, after the date of this Agreement, of any of the following: (i) the adoption or taking effect of any law, rule, regulation or treaty, (ii) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (iii) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Commitment” shall mean, with respect to any Lender at any time, the amount set forth opposite such Lender’s name in **Schedule 1.1**, as such schedule may be revised from time to time pursuant to **Section 2.20**, or, if such Lender has entered into one or more Assignment and Assumptions, the amount set forth for such Lender at such time in the Register maintained by the Administrative Agent pursuant to **Section 11.6(c)** as such Lender’s “Commitment,” as such amount may be reduced at or prior to such time pursuant to the terms hereof.

“Commitment Increase” shall have the meaning given to such term in **Section 2.20(a)**.

“Commitment Increase Date” shall have the meaning given to such term in **Section 2.20(c)**.

“Commitment Letter” shall mean the letter from Wells Fargo, Wells Fargo Securities, Branch Banking and Trust Company and BB&T Capital Markets to the Borrower, dated July 20, 2011 in respect of the commitments to and syndication of the facility evidenced by this Agreement and the other Credit Documents.

“Compliance Certificate” shall mean a fully completed and duly executed certificate in the form of **Exhibit C**, together with a Covenant Compliance Worksheet.

“Consolidated Debt” shall mean, as of any date of determination, the total amount of all Debt of the Borrower and its Subsidiaries determined on a consolidated basis in accordance with GAAP; provided that for purposes of calculating Consolidated Debt to Consolidated Total Capitalization to determine the Applicable Margin Percentage only, the Borrower may subtract from Consolidated Debt the aggregate amount of cash and short term investments reported on its consolidated balance sheet delivered in connection with the Compliance Certificate to which such calculation pertains.

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

“Consolidated Net Interest Expense” shall mean, for any period, the difference between (i) gross interest expense of the Borrower and its Subsidiaries deducted in the calculation of Consolidated Net Income for such period and (ii) the gross interest income of the Borrower and its Subsidiaries included in the calculation of Consolidated Net Income for such period, determined on a consolidated basis in accordance with GAAP.

“Consolidated Net Worth” shall mean the consolidated stockholders’ equity of the Borrower and its Subsidiaries, determined in accordance with GAAP.

“Consolidated Total Capitalization” shall mean, as of any date of determination, the sum of (i) Consolidated Debt as of such date and (ii) Consolidated Net Worth as of such date.

“Contingent Obligation” shall mean, with respect to any Person, any direct or indirect liability of such Person with respect to any Indebtedness, liability or other obligation (the “primary obligation”) of another Person (the “primary obligor”), whether or not contingent, (i) to purchase, repurchase or otherwise acquire such primary obligation or any property constituting direct or indirect security therefore primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor in respect thereof to make payment of such primary obligation, (ii) to advance or provide funds (A) for the payment or discharge 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 or any balance sheet item, level of income or financial condition of the primary obligor (including, without limitation, keep well agreements, maintenance agreements, comfort letters or similar agreements or arrangements), (iii) to lease or purchase property, securities or services from the primary obligor primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor in respect thereof to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner(s) of any such primary obligations against loss or failure or inability of the primary obligor(s) to perform in respect thereof, individually or in the aggregate, in an amount exceeding \$5,000,000; provided, however, that, with respect to the Borrower and its Subsidiaries, the term Contingent Obligation shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation of any Person hereunder shall be deemed to be such Person’s maximum reasonably anticipated liability in respect thereof as determined by such guaranteeing Person in good faith.

“Control Group” shall mean (i) Earl E. Congdon, John R. Congdon, John R. Congdon, Jr., and David S. Congdon, (ii) the spouse of any Person described in clause (i) above, (iii) any direct descendants of any Person described in clauses (i) and (ii) above, and (iv) any charitable trust, foundation, estate planning trust, family limited partnership or family limited liability company controlled by one or more of the Persons described in clauses (i) through (iii) above.

“Covenant Compliance Worksheet” shall mean a fully completed worksheet in the form of Attachment A to **Exhibit C**.

“Credit Documents” shall mean this Agreement, the Notes, the Letters of Credit, the Wells Fargo Fee Letter, the BB&T Fee Letter the Subsidiary Guaranty, and all other agreements, instruments, documents and certificates now or hereafter executed and delivered to the Administrative Agent or any Lender by or on behalf of the Borrower or any of its Subsidiaries

with respect to this Agreement and the transactions contemplated hereby, in each case as amended, modified, supplemented or restated from time to time; but specifically excluding any Hedge Agreement to which the Borrower and any Hedge Party are parties and any Cash Management Agreement to which the Borrower and any Cash Management Bank are parties.

“Debt” shall mean, with respect to any Person, without duplication,

(a) its liabilities for borrowed money;

(b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable and other accrued liabilities arising in the ordinary course of business but including, without limitation, all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property);

(c) its Capitalized Lease Obligations;

(d) its liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities); and

(e) Contingent Obligations by such Person with respect to liabilities of a type described in any of clauses (a) through (d) hereof.

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

“Default” shall mean any event or condition that, with the passage of time or giving of notice, or both, would constitute an Event of Default.

“Defaulting Lender” shall mean, subject to **Section 2.21(b)** any Lender that, as determined by the Administrative Agent (with notice to the Borrower of such determination), (i) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in Letters of Credit or Swingline Loans, within three (3) Business Days of the date required to be funded by it hereunder, unless such obligation is the subject of a good faith dispute, (ii) has notified the Borrower or the Administrative Agent 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 in which it commits to extend credit, (iii) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations, or (iv) has, or has a direct or indirect parent company that has (a) become the subject of a any bankruptcy, insolvency or similar proceeding, or (b) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation or its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided, that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

“Disqualified Capital Stock” shall mean, with respect to any Person, any Capital Stock of such Person that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event or otherwise, (i) matures or is mandatorily redeemable or subject to any mandatory repurchase requirement, pursuant to a sinking fund obligation or otherwise, (ii) is redeemable or subject to any mandatory repurchase requirement at the sole option of the holder thereof, or (iii) is convertible into or exchangeable for (whether at the option of the issuer or the holder thereof) (a) debt securities or (b) any Capital Stock referred to in (i) or (ii) above, in each case under (i), (ii) or (iii) above at any time on or prior to the first anniversary of the Maturity Date; provided, however, that only the portion of Capital Stock that so matures or is mandatorily redeemable, is so redeemable at the option of the holder thereof, or is so convertible or exchangeable on or prior to such date shall be deemed to be Disqualified Capital Stock.

“Dollars” or “\$” shall mean dollars of the United States of America.

“Domestic Subsidiary” shall mean any Subsidiary that is not a Foreign Subsidiary.

“EBIT” shall mean, for any period, Consolidated Net Income for such period plus income tax expense for such period plus Consolidated Net Interest Expense for such period, all to the extent taken into account in the calculation of Consolidated Net Income, and (i) including without limitation (A) earnings of any Subsidiary of the Borrower accrued prior to the date it became a Subsidiary of the Borrower pursuant to a Permitted Acquisition, (B) earnings of any Person, substantially all of the assets of which have been acquired in any manner by the Borrower or any of its Subsidiaries pursuant to a Permitted Acquisition, realized by such Person on account of such assets prior to the date of such acquisition, (C) earnings of any Person prior to any date such Person has merged or consolidated with the Borrower or any Subsidiary pursuant to a Permitted Acquisition and as permitted by **Section 8.1**, and (ii) excluding (A) any gain or loss arising from the sale of non-operating assets, (B) any gain arising from any write-up of assets, (C) any gain arising from the acquisition of any securities of the Borrower or any of its Subsidiaries, and (D) any gain or loss arising from extraordinary or nonrecurring items, all determined in accordance with GAAP for such period.

“Environmental Claims” shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, accusations, allegations, notices of noncompliance or violation, investigations (other than internal reports prepared by any Person in the ordinary course of its business and not in response to any third party action or request of any kind) or proceedings relating in any way to any actual or alleged violation of or liability under any Environmental Law or relating to any permit issued, or any approval given, under any such Environmental Law (collectively, “Claims”), including, without limitation, (i) any and all Claims by Governmental 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 resulting from Hazardous Substances or arising from alleged injury or threat of injury to human health or the environment.

“Environmental Laws” shall mean any and all federal, state and local laws, statutes, ordinances, rules, regulations, permits, licenses, approvals, rules of common law and orders of

courts or Governmental Authorities, relating to the protection of human health or occupational safety or the environment, now or hereafter in effect and in each case as amended from time to time, including, without limitation, requirements pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of Hazardous Substances.

“Equity Issuance” shall mean the issuance, sale or other disposition by the Borrower or any of its Subsidiaries of its Capital Stock, any rights, warrants or options to purchase or acquire any shares of its Capital Stock or any other security or instrument representing, convertible into or exchangeable for an equity interest in the Borrower or any of its Subsidiaries; provided, however, that the term Equity Issuance shall not include (i) the issuance or sale of Capital Stock by any of the Subsidiaries of the Borrower to the Borrower or any other Subsidiary, or (ii) any Capital Stock of the Borrower issued or sold in connection with any Permitted Acquisition and constituting all or a portion of the applicable purchase price.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

“ERISA Affiliate” shall mean any Person (including any trade or business, whether or not incorporated) that would be deemed to be under “common control” with, or a member of the same “controlled group” as, the Borrower or any of its Subsidiaries, within the meaning of Sections 414(b), (c), (m) or (o) of the Internal Revenue Code or Section 4001 of ERISA.

“ERISA Event” shall mean any of the following with respect to a Plan or Multiemployer Plan, as applicable: (i) a Reportable Event with respect to a Plan or a Multiemployer Plan, (ii) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan that results in liability under Section 4201 or 4204 of ERISA, or the receipt by the Borrower or any ERISA Affiliate of notice from a Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A of ERISA, (iii) the distribution by the Borrower or any ERISA Affiliate under Section 4041 or 4041A of ERISA of a notice of intent to terminate any Plan or the taking of any action to terminate any Plan, (iv) the commencement of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Borrower or any ERISA Affiliate of a notice from any Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan, (v) the institution of a proceeding by any fiduciary of any Multiemployer Plan against the Borrower or any ERISA Affiliate to enforce Section 515 of ERISA, which is not dismissed within thirty (30) days, (vi) the imposition upon the Borrower or any ERISA Affiliate of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, or the imposition or threatened imposition of any Lien upon any assets of the Borrower or any ERISA Affiliate as a result of any alleged failure to comply with the Internal Revenue Code or ERISA in respect of any Plan, (vii) the engaging in or otherwise becoming liable for a nonexempt Prohibited Transaction by the Borrower or any ERISA Affiliate, or a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Internal Revenue Code by any fiduciary of any Plan for which the Borrower or any of its ERISA Affiliates may be directly or indirectly liable,

(viii) the failure of any Plan to satisfy the minimum funding standard of Section 302 of ERISA and Section 412 of the Code, whether or not waived, (ix) with respect to plan years beginning prior to January 1, 2008, the adoption of an amendment to any Plan that, pursuant to Section 307 of ERISA, would require the provision of security to such Plan by the Borrower or an ERISA Affiliate, or (x) with respect to plan years beginning on or after the PPA 2006 Effective Date, the incurrence of an obligation to provide a notice under Section 101(j) of ERISA, the adoption of an amendment which may not take effect due to the application of Section 436(c)(1) of the Code or Section 206(g)(2)(A) of ERISA, or the payment of a contribution in order to satisfy the requirements of Section 436(c)(2) of the Code or Section 206(g)(2)(B) of ERISA.

“Event of Default” shall have the meaning given to such term in **Section 9.1**.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

“Excluded Subsidiary” shall mean, at any time, a Domestic Subsidiary of the Borrower that is currently designated by the Borrower as such, including such Subsidiary’s Subsidiaries. The Borrower may designate any Domestic Subsidiary as an Excluded Subsidiary at any time by notice to the Administrative Agent, provided that (a) after giving effect to such designation, no Default or Event of Default has occurred and is continuing (including on a pro forma basis), (b) such Subsidiary does not have any Indebtedness that is guaranteed by the Borrower or any Subsidiary Guarantor, and (c) all of the following conditions are satisfied:

(i) the aggregate total assets of all Subsidiaries designated as Excluded Subsidiaries plus the total assets of all Foreign Subsidiaries, determined in accordance with GAAP, constitute no more than an amount equal to the greater of (A) 12.5% of the total assets of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, as of the end of the most recently completed fiscal quarter and (B) \$100,000,000; and

(ii) the aggregate total EBIT of all Subsidiaries designated as Excluded Subsidiaries plus the total EBIT of all Foreign Subsidiaries constitutes no more than an amount equal to the greater of (A) 12.5% of the EBIT of the Borrower and its Consolidated Subsidiaries for the most recently completed fiscal quarter and (B) \$12,000,000; and

(iii) no Subsidiary which is designated as an Excluded Subsidiary has guaranteed, or otherwise become subject to any other Contingent Obligation relating to, any Indebtedness of the Borrower or any Subsidiary Guarantor;

provided, if such Subsidiary is a Target at the time of determination, the calculations referred to in clause (i) and (ii) above shall be made on a pro forma basis as if such Target had been consolidated with the Borrower for the periods applicable to such calculations.

“Excluded Taxes” shall mean, with respect to any payment made by or on account of any obligation of the Borrower under any Credit Document any of the following Taxes imposed on or with respect to a Recipient (or a Beneficial Owner), (i) taxes imposed on or measured by its

overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (ii) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located, (iii) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under **Section 2.19(a)**), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with **Section 2.17(e)**, except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to **Section 2.17(a)** and (iv) any U.S. federal withholding taxes imposed by FATCA.

"Existing Credit Agreement" shall have the meaning given to such term in the recitals hereto.

"Existing Lender" shall mean each "Lender" under and as defined in the Existing Credit Agreement.

"Existing Letters of Credit" shall have the meaning given to such term in **Section 3.1**.

"Fair Market Value" shall mean, with respect to any Capital Stock of the Borrower given in connection with an Acquisition, the value given to such Capital Stock for purposes of such Acquisition by the parties thereto, as determined in good faith pursuant to the relevant acquisition agreement or otherwise in connection with such Acquisition.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended version that is substantively comparable) and any current or future regulations or official interpretations thereof.

"Federal Funds Rate" shall mean, for any period, a fluctuating per annum interest rate (rounded upwards, if necessary, to the nearest 1/100 of one percentage point) equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or if such rate is not so published for any day that is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by the Administrative Agent.

"Federal Reserve Board" shall mean the Board of Governors of the Federal Reserve System or any successor thereto.

"Financial Officer" shall mean, with respect to the Borrower, the chief financial officer, vice president - finance, principal accounting officer or treasurer of the Borrower.

“Fixed Charge Coverage Ratio” shall mean, as of the last day of any fiscal quarter, the ratio of (i) the sum of EBIT and Gross Rents, each for the period of four consecutive fiscal quarters then ending, to (ii) the sum of Consolidated Net Interest Expense and Gross Rents, in each case for the period of four consecutive fiscal quarters then ending.

“Foreign Lender” shall mean, with respect to the Borrower, any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” shall mean (i) a Subsidiary of the Borrower that is a “controlled foreign corporation,” as such term is defined in Section 957 of the Internal Revenue Code and (ii) each Subsidiary of such “controlled foreign corporation”; provided, that any Foreign Subsidiary that is directly owned by a non-Foreign Subsidiary that is a disregarded entity for tax purposes shall not be deemed to be a Foreign Subsidiary.

“Fronting Exposure” shall mean, at any time there is a Defaulting Lender, (i) with respect to the Issuing Lender, such Defaulting Lender’s Letter of Credit Exposure with respect to Letters of Credit issued by the Issuing Lender other than such portion of such Defaulting Lender’s Letter of Credit Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with **Section 2.21**, and (ii) with respect to any Swingline Lender, such Defaulting Lender’s Swingline Exposure with respect to outstanding Swingline Loans made by the Swingline Lender other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with **Section 2.21**.

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

“GAAP” shall mean generally accepted accounting principles in the United States of America, as set forth in the statements, opinions and pronouncements of the Accounting Principles Board, the American Institute of Certified Public Accountants and the Financial Accounting Standards Board, consistently applied and maintained, as in effect from time to time (subject to the provisions of **Section 1.2**).

“Governmental Authority” shall mean any nation or government, any state or other political subdivision thereof and any central bank thereof, any municipal, local, city or county government, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Gross Rents” shall mean, for any period, the aggregate amount of all payments which the Borrower and its Subsidiaries are required to make during such period pursuant to the terms of any lease by the Borrower or any Subsidiary of any building (including, without limitation, any leased terminals or similar facilities of the Borrower or any Subsidiary) or revenue producing equipment, including renewals thereof.

“Hazardous Substances” shall mean any substances or materials (i) that are or become defined as hazardous wastes, hazardous substances, pollutants, contaminants or toxic substances under any Environmental Law, (ii) that are defined by any Environmental Law as toxic, explosive, corrosive, ignitable, infectious, radioactive, mutagenic or otherwise hazardous, (iii) the presence of which require investigation or response under any Environmental Law, (iv) that constitute a nuisance, trespass or health or safety hazard to Persons or neighboring properties, (v) that consist of underground or aboveground storage tanks, whether empty, filled or partially filled with any substance, or (vi) that contain, without limitation, asbestos, polychlorinated biphenyls, urea formaldehyde foam insulation, petroleum hydrocarbons, petroleum derived substances or wastes, crude oil, nuclear fuel, natural gas or synthetic gas.

“Hedge Agreement” means any interest or foreign currency rate swap, cap, collar, option, hedge, forward rate or other similar agreement or arrangement designed to protect against fluctuations in interest rates, currency exchange rates or spot prices of new materials.

“Hedge Party” means any Lender or any Affiliate of any Lender in its capacity as a counterparty to any Hedge Agreement with the Borrower or any Subsidiary, which Hedge Agreement is required or permitted under this Agreement to be entered into by the Borrower, or any former Lender or any Affiliate of any former Lender in its capacity as a counterparty to any such Hedge Agreement entered into prior to the date such Person or its Affiliate ceased to be a Lender.

“Increasing Lender” shall have the meaning given to such term in **Section 2.20(a)**.

“Indebtedness” shall mean, with respect to any Person (without duplication), (i) all indebtedness and obligations of such Person for borrowed money or in respect of loans or advances of any kind, (ii) all obligations of such Person evidenced by notes, bonds, debentures or similar instruments, (iii) all reimbursement obligations of such Person with respect to surety bonds, letters of credit and bankers’ acceptances (in each case, whether or not drawn or matured and in the stated amount thereof), (iv) all obligations of such Person to pay the deferred purchase price of property or services, (v) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (vi) all obligations of such Person as lessee under leases that are or are required to be, in accordance with GAAP, recorded as capital leases, to the extent such obligations are required to be so recorded, (vii) all obligations and liabilities of such Person incurred in connection with any transaction or series of transactions providing for the financing of assets through one or more securitizations or in connection with, or pursuant to, any synthetic lease or similar off-balance sheet financing, (viii) all Disqualified Capital Stock issued by such Person, with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any (for purposes hereof, the “maximum fixed repurchase price” of any Disqualified Capital Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Capital Stock as if such Disqualified Capital Stock were purchased on any date on which Indebtedness shall be required to be determined pursuant to this Agreement, and if such price is based upon, or measured by, the fair market value of such Disqualified Capital Stock, such fair market value shall be determined reasonably and in good faith by the board of directors or other governing body of the issuer of such

Disqualified Capital Stock), (ix) all Contingent Obligations of such Person, (x) the principal balance outstanding and owing by such Person under any synthetic lease, tax retention operating lease or similar off-balance sheet financing product (but excluding operating leases entered into in the ordinary course of business and consistent with such Person's past practice), (xi) the net termination obligations of such Person under any Hedge Agreements, calculated as of any date as if such agreement or arrangement were terminated as of such date, and (xii) all indebtedness referred to in clauses (i) through (xi) above secured by any Lien on any property or asset owned or held by such Person regardless of whether the indebtedness secured thereby shall have been assumed by such Person or is nonrecourse to the credit of such Person.

"Indemnified Cost" shall have the meaning given to such term in **Section 11.1**.

"Indemnified Person" shall have the meaning given to such term in **Section 11.1**.

"Indemnified Taxes" shall mean Taxes, other than Excluded Taxes.

"Initial Loans" shall have the meaning given to such term in **Section 2.20(e)**.

"Interest Period" shall have the meaning given to such term in **Section 2.10**.

"Internal Revenue Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

"Investments" shall have the meaning given to such term in **Section 8.5**.

"Issuing Lender" shall mean Wells Fargo in its capacity as issuer of the Letters of Credit, and its successors in such capacity.

"Lender" shall mean each financial institution signatory hereto and each other financial institution that becomes a "Lender" hereunder pursuant to **Section 11.6**, and their respective successors and assigns. Unless the context clearly indicates otherwise, the term "Lenders" shall include the Swingline Lender and the Issuing Lender.

"Lending Office" shall mean, with respect to any Lender, the office of such Lender designated as such in such Lender's Administrative Questionnaire or in connection with an Assignment and Assumption, or such other office as may be otherwise designated in writing from time to time by such Lender to the Borrower and the Administrative Agent. A Lender may designate separate Lending Offices as provided in the foregoing sentence for the purposes of making or maintaining different Types of Loans, and, with respect to LIBOR Loans, such office may be a domestic or foreign branch or Affiliate of such Lender.

"Letter of Credit Exposure" shall mean, with respect to any Lender at any time, such Lender's ratable share (based on the proportion that its Commitment bears to the aggregate Commitments at such time) of the sum of (i) the aggregate Stated Amount of all Letters of Credit outstanding at such time and (ii) the aggregate amount of all Reimbursement Obligations outstanding at such time.

“Letter of Credit Notice” shall have the meaning given to such term in **Section 3.2**.

“Letters of Credit” shall have the meaning given to such term in **Section 3.1**.

“LIBOR Loan” shall mean, at any time, any Loan that bears interest at such time at the Adjusted LIBOR Rate.

“LIBOR Market Index Loans” shall mean, at any time, any Loan that bears interest at such time at the Adjusted LIBOR Market Index Rate.

“LIBOR Market Index Rate” shall mean, for any day, an interest rate per annum for one month U.S. dollar deposits as reported on Reuters Screen LIBOR01 Page (or any successor page), on such day, or if such day is not a Business Day, then the immediately preceding Business Day (or if not so reported, then as determined by the Administrative Agent from another recognized source or interbank quotation).

“LIBOR Rate” shall mean, with respect to each LIBOR Loan comprising part of the same Borrowing for any Interest Period, an interest rate per annum obtained by dividing (i)(y) the rate of interest appearing on Reuters Screen LIBOR01 Page (or any successor page) that represents an average British Bankers Association Interest Settlement Rate for Dollar Deposits or (z) if no such rate is available, the rate of interest determined by the Administrative Agent to be the rate or the arithmetic mean of rates at which Dollar deposits in immediately available funds are offered to first-tier banks in the London interbank Eurodollar market, in each case under (y) and (z) above at approximately 11:00 a.m., London time, two (2) Business Days prior to the first day of such Interest Period for a period substantially equal to such Interest Period and in an amount substantially equal to the amount of Wells Fargo’s LIBOR Loan comprising part of such Borrowing, by (ii) the amount equal to 1.00 minus the Reserve Requirement (expressed as a decimal) for such Interest Period.

“Lien” shall mean any mortgage, pledge, hypothecation, assignment, security interest, lien (statutory or otherwise), preference, priority, charge or other encumbrance of any nature, whether voluntary or involuntary, including, without limitation, the interest of any vendor or lessor under any conditional sale agreement, title retention agreement, capital lease or any other lease or arrangement having substantially the same effect as any of the foregoing.

“Loans” shall mean any or all of the Revolving Loans and the Swingline Loans.

“Margin Stock” shall have the meaning given to such term in Regulation U.

“Material Adverse Change” shall mean a material adverse change in the financial condition, operations, prospects, business, properties or assets of the Borrower and its Subsidiaries, taken as a whole.

“Material Adverse Effect” shall mean a material adverse effect upon (i) the financial condition, operations, prospects, business, properties or assets of the Borrower and its Subsidiaries, taken as a whole, (ii) the ability of the Borrower or any Subsidiary to perform its obligations under this Agreement or any of the other Credit Documents to which it is a party or (iii) the legality, validity or enforceability of this Agreement or any of the other Credit

Documents or the rights and remedies of the Administrative Agent and the Lenders hereunder and thereunder.

“Material Contract” shall have the meaning given to such term in **Section 5.18**.

“Maturity Date” shall mean August 10, 2016.

“Multiemployer Plan” shall mean any “multiemployer plan” within the meaning of Section 4001(a)(3) of ERISA to which the Borrower or any ERISA Affiliate makes, is making or is obligated to make contributions or has made or been obligated to make contributions.

“Non-Consenting Lender” shall mean a Lender that does not (i) approve within a reasonable period of time, as determined by the Administrative Agent (provided such period of time shall not be less than five (5) Business Days), any consent, waiver or amendment to any Credit Document that requires the approval of all Lenders (or all Lenders directly affected thereby) under **Section 11.5** and has been approved by the Required Lenders or (ii) advise the Borrower of its decision to approve or disapprove, within the period of time the Borrower and the Administrative Agent specified in the applicable request for a consent, waiver or amendment (provided such period of time shall not be less than five (5) Business Days), any consent, waiver or amendment to any Credit Document.

“Note Purchase Agreements” shall mean (i) the Note Purchase Agreement dated February 25, 2005 between the Borrower and the purchasers named therein pursuant to which the Borrower issued the 4.68% Series A Senior Notes, Tranches A and B in an aggregate amount of up to \$75,000,000, having a maturity date of February 25, 2015, (ii) the Note Purchase Agreement in effect as of April 25, 2006 between the Borrower and the purchasers named therein pursuant to which the Borrower issued the Series A Senior Notes, Tranches A and B in an aggregate amount of up to \$175,000,000, and (iii) the Note Purchase Agreement dated on or about January 3, 2011 between the Borrower and the purchasers named therein pursuant to which the Borrower issued (A) up to \$50,000,000 in 4.00% Senior Notes, Tranche A, having a maturity date in January 2018 and (B) up to \$45,000,000 in 4.79% Senior Notes, Tranche B, having a maturity date in January 2021.

“Notes” shall mean any or all of the Revolving Notes and the Swingline Note.

“Notice of Borrowing” shall have the meaning given to such term in **Section 2.2(b)**.

“Notice of Conversion/Continuation” shall have the meaning given to such term in **Section 2.11(b)**.

“Notice of Swingline Borrowing” shall have the meaning given to such term in **Section 2.2(d)**.

“Obligations” shall mean all principal of and interest (including, to the greatest extent permitted by law, post-petition interest) on the Loans, all Reimbursement Obligations, all fees, expenses, indemnities and other obligations owing, due or payable at any time by the Borrower to the Administrative Agent, any Lender, the Issuing Lender, the Swingline Lender or any other Person entitled thereto, under this Agreement or any of the other Credit Documents and all

payment and other obligations owing or payable at any time by the Borrower to any Hedge Party under or in connection with any Hedge Agreement required or permitted by this Agreement, and all payment and other obligations owing or payable at any time by the Borrower to any Cash Management Bank under or in connection with any Cash Management Agreement, in each case whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, and whether existing by contract, operation of law or otherwise.

“OFAC” shall mean the U.S. Department of the Treasury’s Office of Foreign Assets Control, and any successor thereto.

“Other Taxes” shall mean all present or future stamp or documentary Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document.

“PBGC” shall mean the Pension Benefit Guaranty Corporation and any successor thereto.

“Participant” shall have the meaning given to such term in **Section 11.6(e)**.

“PATRIOT Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act of 2001), as amended from time to time, and any successor statute, and all rules and regulations from time to time promulgated thereunder.

“Permitted Acquisition” shall mean (a) any Acquisition with respect to which all of the following conditions are satisfied: (i) each business acquired shall be within the permitted lines of business described in **Section 8.8**, (ii) any Capital Stock given as consideration in connection therewith shall be Capital Stock of the Borrower, (iii) in the case of an Acquisition involving the acquisition of control of Capital Stock of any Person, immediately after giving effect to such Acquisition such Person (or the surviving Person, if the Acquisition is effected through a merger or consolidation) shall be the Borrower or a Wholly Owned Subsidiary, and (iv) all of the conditions and requirements of **Sections 6.8** and **6.9** applicable to such Acquisition are satisfied; or (b) any other Acquisition to which the Required Lenders (or the Administrative Agent on their behalf) shall have given their prior written consent (which consent may be in their sole discretion and may be given subject to such additional terms and conditions as the Required Lenders shall establish) and with respect to which all of the conditions and requirements set forth in this definition and in **Section 6.8**, and in or pursuant to any such consent, have been satisfied or waived in writing by the Required Lenders (or the Administrative Agent on their behalf).

“Permitted Liens” shall have the meaning given to such term in **Section 8.3**.

“Person” shall mean any corporation, association, joint venture, partnership, limited liability company, organization, business, individual, trust, government or agency or political subdivision thereof or any other legal entity.

“Plan” shall mean any “employee pension benefit plan” within the meaning of Section 3(2) of ERISA that is subject to the provisions of Title IV of ERISA (other than a Multiemployer Plan) and to which the Borrower or any ERISA Affiliate may have any liability.

“Platform” shall have the meaning given to such term in **Section 11.4(b)**.

“PPA 2006 Effective Date” means, with respect to any Plan, except as hereinafter provided, the first day of the first plan year beginning on or after January 1, 2008. However, solely with respect to a Plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before January 1, 2008, such term means the first day of the first plan year beginning on or after the earlier of (A) and (B), where (A) is the later of (x) the date on which the last collective bargaining agreement relating to the Plan terminates (determined without regard to any extension thereof agreed to after August 17, 2006), or (y) the first day of the first plan year beginning on or after January 1, 2008; and (B) is January 1, 2010.

“Prohibited Transaction” shall mean any transaction described in (i) Section 406 of ERISA that is not exempt by reason of Section 408 of ERISA or by reason of a Department of Labor prohibited transaction individual or class exemption or (ii) Section 4975(c) of the Internal Revenue Code that is not exempt by reason of Section 4975(c)(2) or 4975(d) of the Internal Revenue Code.

“Projections” shall have the meaning given to such term in **Section 5.11(b)**.

“Recipient” shall mean (i) the Administrative Agent, (ii) any Lender and (iii) any Issuing Lender, as applicable, in its capacity as a Person receiving a payment under any Credit Document.

“Refunded Swingline Loans” shall have the meaning given to such term in **Section 2.2(e)**.

“Register” shall have the meaning given to such term in **Section 11.6(c)**.

“Regulations D, T, U and X” shall mean Regulations D, T, U and X, respectively, of the Federal Reserve Board, and any successor regulations.

“Remaining Average Life” with respect to any Indebtedness, shall mean the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) the principal amount of such Indebtedness into (ii) the sum of the products obtained by multiplying (a) the amount of each remaining scheduled principal payments of such Indebtedness by (b) the number of years (calculated to the nearest one-twelfth year) that will elapse between the date of determination of such Indebtedness’ remaining average life and the scheduled due dates of such Indebtedness’ principal payments.

“Reimbursement Obligation” shall have the meaning given to such term in **Section 3.4**.

“Related Parties” shall mean, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Reportable Event” shall mean (i) any “reportable event” within the meaning of Section 4043(c) of ERISA for which the 30-day notice under Section 4043(a) of ERISA has not been waived by the PBGC (including any failure to meet the minimum funding standard of, or timely make any required installment under, Section 412 of the Internal Revenue Code or Section 302 of ERISA, regardless of the issuance of any waivers in accordance with Section 412(d) of the Internal Revenue Code), (ii) any such “reportable event” subject to advance notice to the PBGC under Section 4043(b)(3) of ERISA, (iii) any application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Internal Revenue Code, and (iv) a cessation of operations described in Section 4062(e) of ERISA.

“Required Lenders” shall mean, at any time, the Lenders holding outstanding Loans (excluding Swingline Loans) and Unutilized Commitments (or, after the termination of the Commitments, outstanding Loans (excluding Swingline Loans), Letter of Credit Exposure and participations in outstanding Swingline Loans) representing more than fifty percent (50%) of the aggregate at such time of all outstanding Loans (excluding Swingline Loans) and Unutilized Commitments (or, after the termination of the Commitments, the aggregate at such time of all outstanding Loans (excluding Swingline Loans), Letter of Credit Exposure and participations in outstanding Swingline Loans), provided that the Commitment of, and the portion of the (a) the aggregate principal amount of Revolving Loans outstanding at such time, (b) the aggregate Letter of Credit Exposure of all Lenders at such time and (c) the aggregate principal amount of Swingline Loans outstanding at such time held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Requirement of Law” shall mean, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person, and any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject or otherwise pertaining to any or all of the transactions contemplated by this Agreement and the other Credit Documents.

“Reserve Requirement” shall mean, with respect to any Interest Period, the reserve percentage (expressed as a decimal) in effect from time to time during such Interest Period, as provided by the Federal Reserve Board, applied for determining the maximum reserve requirements (including, without limitation, basic, supplemental, marginal and emergency reserves) applicable to Wells Fargo under Regulation D with respect to “Eurocurrency liabilities” within the meaning of Regulation D, or under any similar or successor regulation with respect to Eurocurrency liabilities or Eurocurrency funding.

“Responsible Officer” shall mean, with respect to the Borrower, the president, the chief executive officer, the chief financial officer, any executive officer, or any other Financial Officer of the Borrower, and any other officer or similar official thereof responsible for the administration of the obligations of the Borrower in respect of this Agreement.

“Restatement Effective Date” shall mean the date upon which this Agreement becomes effective pursuant to **Section 4.1**.

“Restricted Payments” shall have the meaning given to such term in **Section 8.6**.

“Revolving Loans” shall have the meaning given to such term in **Section 2.1(a)**.

“Revolving Notes” shall mean the promissory notes of the Borrower in substantially the form of **Exhibit A-1**, together with any amendments, modifications and supplements thereto, substitutions therefor and restatements thereof.

“Sanctioned Country” shall mean a country subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs/>, or as otherwise published from time to time.

“Sanctioned Person” shall mean (i) a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/-offices/enforcement/ofac/sdn/index.shtml>, or as otherwise published from time to time, or (ii) (A) an agency of the government of a Sanctioned Country, (B) an organization controlled by a Sanctioned Country, or (C) a Person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

“Stated Amount” shall mean, with respect to any Letter of Credit at any time, the aggregate amount available to be drawn thereunder at such time (regardless of whether any conditions for drawing could then be met).

“Subsequent Borrowings” shall have the meaning given to such term in **Section 2.20(e)**.

“Subsidiary” shall mean, with respect to any Person, any corporation or other Person of which more than fifty percent (50%) of the outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors, board of managers or other governing body of such Person, is at the time, directly or indirectly, owned or controlled by such Person and one or more of its other Subsidiaries or a combination thereof (irrespective of whether, at the time, securities of any other class or classes of any such corporation or other Person shall or might have voting power by reason of the happening of any contingency). When used without reference to a parent entity, the term “Subsidiary” shall be deemed to refer to a Subsidiary of the Borrower.

“Subsidiary Guarantor” shall mean any Subsidiary of the Borrower that is a guarantor under the Subsidiary Guaranty.

“Subsidiary Guaranty” shall mean a guaranty agreement made by the Subsidiary Guarantors in favor of the Administrative Agent and the Lenders, in substantially the form of **Exhibit E**, as amended, modified or supplemented from time to time.

“Sweep Program” shall mean the Wells Fargo Sweep Plus Loan Program, as such program is in effect from time to time between the Borrower and Wells Fargo.

“Swingline Commitment” shall mean \$20,000,000 or, if less, the aggregate Commitments at the time of determination, as such amount may be reduced

“Swingline Exposure” shall mean, with respect to any Lender at any time, its maximum aggregate liability to make Refunded Swingline Loans pursuant to **Section 2.2(e)** to refund, or to purchase participations pursuant to **Section 2.2(f)** in, Swingline Loans that are outstanding at such time.

“Swingline Lender” shall mean Wells Fargo in its capacity as maker of Swingline Loans, and its successors in such capacity.

“Swingline Loans” shall have the meaning given to such term in **Section 2.1(b)**.

“Swingline Maturity Date” shall mean the date that is five (5) Business Days prior to the Maturity Date.

“Swingline Note” shall mean the promissory note of the Borrower in substantially the form of **Exhibit A-2**, together with any amendments, modifications and supplements thereto, substitutions therefor and restatements thereof.

“Target” shall have the meaning given to such term in **Section 6.8(b)(i)**.

“Taxes” shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Termination Date” shall mean the Maturity Date or such earlier date of termination of the Commitments pursuant to **Section 2.5** or **Section 9.2**.

“Type” shall have the meaning given to such term in **Section 2.2(a)**.

“Unfunded Pension Liability” shall mean, with respect to any Plan or Multiemployer Plan, the excess of its benefit liabilities under Section 4001(a)(16) of ERISA over the current value of its assets, determined in accordance with the applicable assumptions used for funding under Section 412 of the Internal Revenue Code for the applicable plan year.

“Unutilized Commitment” shall mean, with respect to any Lender at any time, such Lender’s Commitment at such time less the sum of (i) the aggregate principal amount of all Revolving Loans made by such Lender that are outstanding at such time and (ii) such Lender’s Letter of Credit Exposure at such time.

“Unutilized Swingline Commitment” shall mean, with respect to the Swingline Lender at any time, the Swingline Commitment at such time less the aggregate principal amount of all Swingline Loans that are outstanding at such time.

“Wells Fargo” shall mean Wells Fargo Bank, National Association.

“Wells Fargo Fee Letter” shall mean the letter from Wells Fargo and Wells Fargo Securities to the Borrower, dated July 20, 2011, relating to certain fees payable by the Borrower in respect of the transactions contemplated by this Agreement, as amended, modified or supplemented from time to time.

“Wells Fargo Securities” shall mean Wells Fargo Securities, LLC.

“Wholly Owned” shall mean, with respect to any Subsidiary of any Person, that 100% of the outstanding Capital Stock of such Subsidiary (excluding in the case of Foreign Subsidiaries only, any directors’ qualifying shares and shares held by foreign nationals) is owned, directly or indirectly, by such Person.

1.2 Accounting Terms. Except as specifically provided otherwise in this Agreement, all accounting terms used herein that are not specifically defined shall have the meanings customarily given them in accordance with GAAP. Notwithstanding anything to the contrary in this Agreement, for purposes of calculation of the financial covenants set forth in **ARTICLE VII** and otherwise, including **Section 6.8**, all accounting determinations and computations hereunder shall be made in accordance with GAAP as in effect as of the date of this Agreement applied on a basis consistent with the application used in preparing the most recent financial statements of the Borrower referred to in **Section 5.11(a)**. In the event that any changes in GAAP after the date of this Agreement are required to be applied to the Borrower and would affect the computation of the financial covenants contained in **ARTICLE VII** and otherwise, including **Section 6.8**, such changes shall be followed in this Agreement only from and after the date this Agreement shall have been amended to take into account any such changes. The foregoing shall not be construed to prohibit the Borrower from changing its financial statements so that such financial statements comply with GAAP.

1.3 Other Terms; Construction. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

ARTICLE II

AMOUNT AND TERMS OF THE LOANS

2.1 Commitments.

(a) Each Lender severally agrees, subject to and on the terms and conditions of this Agreement, to make loans (each, a “Revolving Loan,” and collectively, the “Revolving Loans”) to the Borrower, from time to time on any Business Day during the period from and including the Restatement Effective Date to but not including the Termination Date, in an aggregate principal amount at any time outstanding not greater than the excess, if any, of its Commitment at such time over its Letter of Credit Exposure at such time, provided that no Borrowing of Revolving Loans shall be made if, immediately after giving effect thereto, the sum of (x) the aggregate principal amount of Revolving Loans outstanding at such time, (y) the aggregate Letter of Credit Exposure of all Lenders at such time and (z) the aggregate principal amount of Swingline Loans outstanding at such time (excluding the aggregate amount of any Swingline Loans to be repaid with proceeds of Revolving Loans made pursuant to such Borrowing) would exceed the aggregate Commitments at such time. Subject to and on the terms and conditions of this Agreement, the Borrower may borrow, repay and reborrow Revolving Loans.

(b) The Swingline Lender agrees, subject to and on the terms and conditions of this Agreement and the Sweep Program (as long as it remains in effect), to make loans (each, a “Swingline Loan,” and collectively, the “Swingline Loans”) to the Borrower, from time to time on any Business Day during the period from and including the Restatement Effective Date to but not including the Swingline Maturity Date (or, if earlier, the Termination Date), in an aggregate principal amount at any time outstanding not exceeding the Swingline Commitment, notwithstanding that the aggregate principal amount of Swingline Loans outstanding at any time, when added to the aggregate principal amount of the Revolving Loans made by the Swingline Lender in its capacity as a Lender outstanding at such time and its Letter of Credit Exposure at such time, may exceed its Commitment at such time, but provided that no Borrowing of Swingline Loans shall be made if, immediately after giving effect thereto, the sum of (x) the aggregate principal amount of Revolving Loans outstanding at such time, (y) the aggregate Letter of Credit Exposure of all Lenders at such time and (z) the aggregate principal amount of Swingline Loans outstanding at such time would exceed the aggregate Commitments at such time, and provided further that the Swingline Lender shall not make any Swingline Loan if any Lender is at that time a Defaulting Lender, unless the Swingline Lender has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the Swingline Lender (in its sole discretion) with the Borrower or such Lender to eliminate the Swingline Lender’s actual or potential Fronting Exposure (after giving effect to **Section 2.21(a)(iii)**) with respect to the Defaulting Lender arising from either the Swingline Loan then proposed to be made or that the Swingline Loan and all other Swingline Loans as to which the Swingline Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion. Subject to and on the terms and conditions of this Agreement and the Sweep Program (as long as it remains in effect), the Borrower may borrow, repay (including by means of a Borrowing of Revolving Loans pursuant to **Section 2.2(e)**) and reborrow Swingline Loans. By their execution of this Agreement, the Borrower, Wells Fargo, and the Lenders hereby agree that effective as of the Restatement Effective Date (i) the aggregate outstanding principal balance of loans (not exceeding the

Swingline Commitment) made under the Sweep Program shall be Swingline Loans under this Agreement and the Sweep Program and subject to the terms hereof and thereof, (ii) Wells Fargo shall be the Swingline Lender hereunder with respect to such Swingline Loans, and (iii) the applicable provisions of the Existing Credit Agreement with respect to such Swingline Loans are replaced by this Agreement.

2.2 Borrowings.

(a) The Revolving Loans shall, at the option of the Borrower and subject to the terms and conditions of this Agreement, be either Base Rate Loans, LIBOR Loans or LIBOR Market Index Loans (each, a “Type” of Loan), provided that (i) all Loans comprising the same Borrowing shall, unless otherwise specifically provided herein, be of the same Type, and (ii) no Borrowing of LIBOR Loans may be made at any time prior to the third (3rd) Business Day after the Restatement Effective Date. The Swingline Loans shall be made and maintained as LIBOR Market Index Loans at all times.

(b) In order to make a Borrowing (other than (w) Borrowings of Swingline Loans which shall be made pursuant to **Section 2.2(d)**, (x) Borrowings for the purpose of repaying Refunded Swingline Loans, which shall be made pursuant to **Section 2.2(e)**, (y) Borrowings for the purpose of paying unpaid Reimbursement Obligations, which shall be made pursuant to **Section 3.5**, and (z) Borrowings involving continuations or conversions of outstanding Loans, which shall be made pursuant to **Section 2.11**), the Borrower will give the Administrative Agent written notice not later than 11:00 a.m., Charlotte time, three (3) Business Days prior to each Borrowing to be comprised of LIBOR Loans and not later than 11:00 a.m. on the requested Borrowing Date for each Borrowing to be comprised of Base Rate Loans or LIBOR Market Index Loans; provided, however, that requests for the Borrowing of any Revolving Loans to be made on the Restatement Effective Date may, at the discretion of the Administrative Agent, be given later than the times specified hereinabove. Each such notice (each, a “Notice of Borrowing”) shall be irrevocable, shall be given in the form of **Exhibit B-1** and shall specify (1) the aggregate principal amount and initial Type of the Loans to be made pursuant to such Borrowing, (2) in the case of a Borrowing of LIBOR Loans, the initial Interest Period to be applicable thereto, and (3) the requested date of such Borrowing (the “Borrowing Date”), which shall be a Business Day. Upon its receipt of a Notice of Borrowing, the Administrative Agent will promptly notify each Lender of the proposed Borrowing. Notwithstanding anything to the contrary contained herein:

(i) the aggregate principal amount of each Borrowing (other than Borrowings of Swingline Loans which shall be made pursuant to **Section 2.2(d)**) shall not be less than \$1,000,000 or, if greater, an integral multiple of \$500,000 in excess thereof (or, if less, in the amount of the aggregate Unutilized Commitments);

(ii) if the Borrower shall have failed to designate the Type of Loans comprising a Borrowing, the Borrower shall be deemed to have requested a Borrowing comprised of LIBOR Market Index Loans (other than Borrowings that are Swingline Loans); and

(iii) if the Borrower shall have failed to select the duration of the Interest Period to be applicable to any Borrowing of LIBOR Loans, then the Borrower shall be deemed to have selected an Interest Period with a duration of one month.

(c) Not later than 1:00 p.m., Charlotte time, on the requested Borrowing Date, each Lender will make available to the Administrative Agent at its office referred to in **Section 11.4** (or at such other location as the Administrative Agent may designate) an amount, in Dollars and in immediately available funds, equal to the amount of the Loan to be made by such Lender. To the extent the Lenders have made such amounts available to the Administrative Agent as provided hereinabove, the Administrative Agent will make the aggregate of such amounts available to the Borrower not later than 3:00 p.m. on the requested Borrowing Date, in accordance with **Section 2.3(a)** and in like funds as received by the Administrative Agent.

(d) Borrowings for Swingline Loans will be made pursuant to the Sweep Program as long as the Sweep Program is in effect. However, upon termination of the Sweep Program, the Borrower will give the Administrative Agent and the Swingline Lender written notice not later than 11:00 a.m., Charlotte time, on the requested Borrowing Date, in order to make a Borrowing of a Swingline Loan. Each such notice (each, a "Notice of Swingline Borrowing") shall be irrevocable, shall be given in the form of **Exhibit B-2** and shall specify (i) the principal amount of the Swingline Loan to be made pursuant to such Borrowing (which shall not be less than \$500,000 and, if greater, shall be in an integral multiple of \$100,000 in excess thereof (or, if less, in the amount of the Unutilized Swingline Commitment)) and (ii) the requested Borrowing Date, which shall be a Business Day. Not later than 2:00 p.m., Charlotte time, on the requested Borrowing Date, the Swingline Lender will make available to the Administrative Agent at its office referred to in **Section 11.4** (or at such other location as the Administrative Agent may designate) an amount, in Dollars and in immediately available funds, equal to the amount of the requested Swingline Loan. To the extent the Swingline Lender has made such amount available to the Administrative Agent as provided hereinabove (if the Administrative Agent is different from the Swingline Lender), the Administrative Agent will make such amount available to the Borrower in accordance with **Section 2.3(a)** and in like funds as received by the Administrative Agent.

(e) With respect to any outstanding Swingline Loans, the Swingline Lender may at any time (regardless of whether an Event of Default has occurred and is continuing or whether the Sweep Program is in effect) in its sole and absolute discretion, and is hereby authorized and empowered by the Borrower to, cause a Borrowing of Revolving Loans to be made for the purpose of repaying such Swingline Loans by delivering to the Administrative Agent (if the Administrative Agent is different from the Swingline Lender) and each other Lender (on behalf of, and with a copy to, the Borrower), not later than 11:00 a.m., Charlotte time, on the requested Borrowing Date, a notice (which shall be deemed to be a Notice of Borrowing given by the Borrower) requesting the Lenders to make Revolving Loans (which shall be made initially as LIBOR Market Index Loans) on such Borrowing Date in an aggregate amount equal to the amount of such Swingline Loans (the "Refunded Swingline Loans") outstanding on the date such notice is given that the Swingline Lender requests to be repaid. Not later than 1:00 p.m., Charlotte time, on the requested Borrowing Date, each Lender (other than the Swingline Lender) will make available to the Administrative Agent at its office referred to in **Section 11.4** (or at such other location as the Administrative Agent may designate) an amount, in Dollars and in

immediately available funds, equal to the amount of the Revolving Loan to be made by such Lender. To the extent the Lenders have made such amounts available to the Administrative Agent as provided hereinabove, the Administrative Agent will make the aggregate of such amounts available to the Swingline Lender in like funds as received by the Administrative Agent, which shall apply such amounts in repayment of the Refunded Swingline Loans. Notwithstanding any provision of this Agreement to the contrary, on the relevant Borrowing Date, the Refunded Swingline Loans (including the Swingline Lender's ratable share thereof, in its capacity as a Lender) shall be deemed to be repaid with the proceeds of the Revolving Loans made as provided above (including a Revolving Loan deemed to have been made by the Swingline Lender), and such Refunded Swingline Loans deemed to be so repaid shall no longer be outstanding as Swingline Loans but shall be outstanding as Revolving Loans. If any portion of any such amount repaid (or deemed to be repaid) to the Swingline Lender shall be recovered by or on behalf of the Borrower from the Swingline Lender in any bankruptcy, insolvency or similar proceeding or otherwise, the loss of the amount so recovered shall be shared ratably among all the Lenders in the manner contemplated by **Section 2.15(b)**.

(f) If, as a result of any bankruptcy, insolvency or similar proceeding with respect to the Borrower, Revolving Loans are not made pursuant to subsection (e) above in an amount sufficient to repay any amounts owed to the Swingline Lender in respect of any outstanding Swingline Loans, or if the Swingline Lender is otherwise precluded for any reason from giving a notice on behalf of the Borrower as provided for hereinabove, the Swingline Lender shall be deemed to have sold without recourse, representation or warranty, and each Lender shall be deemed to have purchased and hereby agrees to purchase, a participation in such outstanding Swingline Loans in an amount equal to its ratable share (based on the proportion that its Commitment bears to the aggregate Commitments at such time) of the unpaid amount thereof together with accrued interest thereon. Upon one (1) Business Day's prior notice from the Swingline Lender, each Lender (other than the Swingline Lender) will make available to the Administrative Agent at its office referred to in **Section 11.4** (or at such other location as the Administrative Agent may designate) an amount, in Dollars and in immediately available funds, equal to its respective participation. To the extent the Lenders have made such amounts available to the Administrative Agent as provided hereinabove, the Administrative Agent will make the aggregate of such amounts available to the Swingline Lender in like funds as received by the Administrative Agent. In the event any such Lender fails to make available to the Administrative Agent the amount of such Lender's participation as provided in this subsection (f), the Swingline Lender shall be entitled to recover such amount on demand from such Lender, together with interest thereon for each day from the date such amount is required to be made available for the account of the Swingline Lender until the date such amount is made available to the Swingline Lender at the Federal Funds Rate for the first three (3) Business Days and thereafter at the Adjusted Base Rate applicable to Revolving Loans. Promptly following its receipt of any payment by or on behalf of the Borrower in respect of a Swingline Loan, the Swingline Lender will pay to each Lender that has acquired a participation therein such Lender's ratable share of such payment.

(g) Notwithstanding any provision of this Agreement to the contrary, the obligation of each Lender (other than the Swingline Lender) to make Revolving Loans for the purpose of repaying any Refunded Swingline Loans pursuant to subsection (e) above and each such Lender's obligation to purchase a participation in any unpaid Swingline Loans pursuant to

subsection (f) above shall be absolute and unconditional and shall not be affected by any circumstance or event whatsoever, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right that such Lender may have against the Swingline Lender, the Administrative Agent, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of any Default or Event of Default, (iii) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Borrower or any of its Subsidiaries, (iv) any breach of this Agreement or the Sweep Program by any party hereto, (v) whether the Sweep Program is in effect or (vi) the failure of the conditions set forth in **Section 4.2** or elsewhere herein to be satisfied.

2.3 Disbursements; Funding Reliance; Domicile of Loans.

(a) The Borrower hereby authorizes the Administrative Agent to disburse the proceeds of each Borrowing in accordance with the terms of any written instructions from any of the Authorized Officers or pursuant to the terms of the Sweep Program, as applicable, provided that the Administrative Agent shall not be obligated under any circumstances to forward amounts to any account not listed in an Account Designation Letter or pursuant to the Sweep Program. The Borrower may at any time deliver to the Administrative Agent an Account Designation Letter listing any additional accounts or deleting any accounts listed in a previous Account Designation Letter.

(b) Unless the Administrative Agent has received, prior to 1:00 p.m., Charlotte time, on the relevant Borrowing Date, written notice from a Lender that such Lender will not make available to the Administrative Agent such Lender's ratable portion, if any, of the relevant Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent in immediately available funds on such Borrowing Date in accordance with the applicable provisions of **Section 2.2**, and the Administrative Agent may, in reliance upon such assumption, but shall not be obligated to, make a corresponding amount available to the Borrower on such Borrowing Date. If and to the extent that such Lender shall not have made such portion available to the Administrative Agent, and the Administrative Agent shall have made such corresponding amount available to the Borrower, such Lender, on the one hand, and the Borrower, on the other, severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount, together with interest thereon for each day from and including the date such amount is made available to the Borrower to but excluding the date such amount is repaid to the Administrative Agent, at (i) in the case of payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, and (ii) in the case of payment to be made by the Borrower, at the rate of interest applicable at such time to the Type of Loans comprising such Borrowing, as determined under the provisions of **Section 2.8**. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement. The failure of any Lender to make any Loan required to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan as part of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the

Loan to be made by such other Lender as part of any Borrowing. Any such repayment by the Borrower shall not prejudice its rights with respect to a Lender who has not made its portion of a Borrowing available to the Administrative Agent.

(c) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to **Section 11.1(c)** are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any such payment on any date shall not relieve any other Lender of its corresponding obligation, if any, hereunder to do so on such date, but no Lender shall be responsible for the failure of any other Lender to so make its Loan, purchase its participation or to make any such payment required hereunder.

(d) Each Lender may, at its option, make and maintain any Loan at, to or for the account of any of its Lending Offices, provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan to or for the account of such Lender in accordance with the terms of this Agreement.

2.4 Evidence of Debt; Notes.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to the applicable 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 11.6(c)**, and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each such Loan and Type of each such Loan and the Interest Period 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 in respect of each such Loan and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower in respect of each such Loan and each Lender's share thereof.

(c) The entries made in the accounts, Register and subaccounts maintained pursuant to **Section 2.4(b)** (and, if consistent with the entries of the Administrative Agent, **Section 2.4(a)**) 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 such 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 actually made to the Borrower by such Lender in accordance with the terms of this Agreement.

(d) The Loans made by each Lender shall, if requested by the applicable Lender (which request shall be made to the Administrative Agent), be evidenced (i) in the case of Revolving Loans, by a Revolving Note, and (ii) in the case of the Swingline Loans, by a Swingline Note, in each case executed by the Borrower and payable to the order of such Lender.

Each Note shall be entitled to all of the benefits of this Agreement and the other Credit Documents and shall be subject to the provisions hereof and thereof.

2.5 Termination and Reduction of Commitments and Swingline Commitment

(a) The Commitments shall be automatically and permanently terminated on the Termination Date. The Swingline Commitment shall be automatically and permanently terminated on the Swingline Maturity Date, unless sooner terminated pursuant to any other provision of this **Section 2.5** or **Section 9.2**.

(b) At any time and from time to time after the date hereof, upon not less than five (5) Business Days' prior written notice to the Administrative Agent (and, in the case of a termination or reduction of the Unutilized Swingline Commitment, the Swingline Lender), the Borrower may terminate in whole or reduce in part the aggregate Unutilized Commitments or the Unutilized Swingline Commitment, provided that any such partial reduction shall be in an aggregate amount of not less than \$10,000,000 or, if greater, an integral multiple of \$5,000,000 in excess thereof (\$1,000,000 or if greater, an integral multiple of \$100,000 in the case of the Unutilized Swingline Commitment). The amount of any termination or reduction made under this subsection (b) may not thereafter be reinstated.

(c) Each reduction of the Commitments pursuant to this **Section 2.5** shall be applied ratably among the Lenders according to their respective Commitments. Notwithstanding any provision of this Agreement to the contrary, any reduction of the Commitments pursuant to this **Section 2.5** that has the effect of reducing the aggregate Commitments to an amount less than the amount of the Swingline Commitment at such time shall result in an automatic corresponding reduction of the Swingline Commitment to the amount of the aggregate Commitments (as so reduced), without any further action on the part of the Borrower or the Swingline Lender.

2.6 Mandatory Payments and Prepayments

(a) Except to the extent due or paid sooner pursuant to the provisions of this Agreement, (i) the aggregate outstanding principal of the Revolving Loans shall be due and payable in full on the Maturity Date and (ii) the aggregate outstanding principal of the Swingline Loans shall be due and payable in full on the Swingline Maturity Date.

(b) In the event that, at any time, the sum of (x) the aggregate principal amount of Revolving Loans outstanding at such time, (y) the aggregate Letter of Credit Exposure of all Lenders at such time and (z) the aggregate principal amount of Swingline Loans outstanding at such time (excluding the aggregate amount of any Swingline Loans to be repaid with proceeds of Revolving Loans made on the date of determination) shall exceed the aggregate Commitments at such time (after giving effect to any concurrent termination or reduction thereof), (i) the Borrower will immediately prepay the outstanding principal amount of the Swingline Loans, (ii) to the extent of any excess remaining after prepayment in full of outstanding Swingline Loans, the Borrower will immediately prepay the outstanding principal amount of the Revolving Loans in the amount of such excess, and (iii) to the extent of any excess remaining after prepayment in full of outstanding Swingline Loans and outstanding Revolving Loans, the Borrower will pay into the Cash Collateral Account as cover for Letter of Credit Exposure, as

more particularly described in **Section 3.8**, and thereupon such cash shall be deemed to reduce the aggregate Letter of Credit Exposure in the amount of such excess.

(c) Each payment or prepayment pursuant to the provisions of this **Section 2.6** shall be applied ratably among the Lenders holding the Loans being prepaid, in proportion to the principal amount held by each.

(d) Each payment or prepayment of a LIBOR Loan made pursuant to the provisions of this **Section 2.6** on a day other than the last day of the Interest Period applicable thereto shall be made together with all amounts required under **Section 2.18** to be paid as a consequence thereof.

2.7 Voluntary Prepayments.

(a) At any time and from time to time, the Borrower shall have the right to prepay the Loans, in whole or in part, without premium or penalty (except as provided in clause (C) below), (i) pursuant to the Sweep Program, if such program is in effect, with respect to Swingline Loans, or (ii) otherwise upon written notice given to the Administrative Agent not later than 11:00 a.m., Charlotte time, three (3) Business Days prior to each intended prepayment of LIBOR Loans and one (1) Business Day prior to each intended prepayment of Base Rate Loans (other than LIBOR Market Index Loans and Swingline Loans), provided that (A) each partial prepayment shall be in an aggregate principal amount of not less than \$1,000,000 or, if greater, an integral multiple of \$500,000 in excess thereof (\$500,000 and \$100,000, respectively, in the case of Swingline Loans), (B) no partial prepayment of LIBOR Loans made pursuant to any single Borrowing shall reduce the aggregate outstanding principal amount of the remaining LIBOR Loans under such Borrowing to less than \$1,000,000 or to any greater amount not an integral multiple of \$500,000 in excess thereof, and (C) unless made together with all amounts required under **Section 2.18** to be paid as a consequence of such prepayment, a prepayment of a LIBOR Loan may be made only on the last day of the Interest Period applicable thereto. Each such notice shall specify the proposed date of such prepayment and the aggregate principal amount and Type of the Loans to be prepaid (and, in the case of LIBOR Loans, the Interest Period of the Borrowing pursuant to which made), and shall be irrevocable and shall bind the Borrower to make such prepayment on the terms specified therein. Loans prepaid pursuant to this subsection (a) may be reborrowed, subject to the terms and conditions of this Agreement.

(b) Each prepayment of the Loans made pursuant to subsection (a) above shall be applied ratably among the Lenders holding the Loans being prepaid, in proportion to the principal amount held by each, provided that if any Lender is a Defaulting Lender at the time of any such prepayment, any voluntary prepayment of the Loans shall, if the Administrative Agent so directs at the time of making such voluntary prepayment, first be applied to the Loans of other Lenders as if such Defaulting Lender had no Loans outstanding and the outstanding Loans of such Defaulting Lender were zero.

2.8 Interest.

(a) The Borrower will pay interest in respect of the unpaid principal amount of each Loan, from the date of Borrowing thereof until such principal amount shall be paid in full, at the

rate equal to the sum of the rate provided for in the Sweep Program for Swingline Loans plus the Adjusted LIBOR Rate, as long as the Sweep Program remains in effect, and otherwise (i) at the Adjusted Base Rate, as in effect from time to time during such periods as such Loan is a Base Rate Loan, (ii) at the Adjusted LIBOR Rate, as in effect from time to time during such periods as such Loan is a LIBOR Loan, and (iii) at the Adjusted LIBOR Market Index Rate, as in effect from time to time during such periods as such Loan is a LIBOR Market Index Loan.

(b) Upon the occurrence and during the continuance of any default by the Borrower in the payment of any principal of or interest on any Loan, any fees or other amount hereunder when due (whether at maturity, pursuant to acceleration or otherwise), and (at the election of the Required Lenders) upon the occurrence and during the continuance of any other Event of Default, all outstanding principal amounts of the Loans and, to the greatest extent permitted by law, all interest accrued on the Loans and all other accrued and outstanding fees and other amounts hereunder, shall bear interest at a rate per annum equal to the interest rate applicable from time to time thereafter to such Loans (whether the rate provided for in the Sweep Program, the Adjusted Base Rate, the Adjusted LIBOR Rate or the Adjusted LIBOR Market Index Rate) plus 2% (or, in the case of fees and other amounts, at the Adjusted Base Rate plus 2%), and, in each case, such default interest shall be payable on demand. To the greatest extent permitted by law, interest shall continue to accrue after the filing by or against the Borrower of any petition seeking any relief in bankruptcy or under any law pertaining to insolvency or debtor relief.

(c) Accrued (and theretofore unpaid) interest shall be payable as follows:

(i) in respect of each Base Rate Loan and each LIBOR Market Index Loan (including any Base Rate Loan and any LIBOR Market Index Loan or portion thereof paid or prepaid pursuant to the provisions of **Section 2.6**, except as provided hereinbelow), in arrears on the last Business Day of each calendar quarter, beginning with the first such day to occur after the Restatement Effective Date; provided, that in the event the Loans are repaid or prepaid in full and the Commitments have been terminated, then accrued interest in respect of all Base Rate Loans and all LIBOR Market Index Loans shall be payable together with such repayment or prepayment of outstanding principal on the date thereof;

(ii) in respect of each LIBOR Loan (including any LIBOR Loan or portion thereof paid or prepaid pursuant to the provisions of **Section 2.6**, except as provided hereinbelow), in arrears (y) on the last Business Day of the Interest Period applicable thereto (subject to the provisions of clause (iv) in **Section 2.10**) and (z) in addition, in the case of a LIBOR Loan with an Interest Period having a duration of six months or longer, on each date on which interest would have been payable under clause (y) above had successive Interest Periods of three months' duration been applicable to such LIBOR Loan; provided, that in the event all LIBOR Loans made pursuant to a single Borrowing are repaid or prepaid in full, then accrued interest in respect of such LIBOR Loans shall be payable together with such repayment or prepayment on the date thereof;

(iii) in respect of each Swingline Loan, pursuant to the terms of the Sweep Program as long as it remains in effect but otherwise in accordance with clause (i) of this **Section 2.8**; provided, that in the event the Loans are repaid or prepaid in full and the

Commitments have been terminated, then accrued interest in respect of all Swingline Loans shall be payable together with such repayment or prepayment on the date thereof; and

(iv) in respect of any Loan, at maturity (whether pursuant to acceleration or otherwise) and, after maturity, on demand.

(d) Nothing contained in this Agreement or in any other Credit Document shall be deemed to establish or require the payment of interest to any Lender at a rate in excess of the maximum rate permitted by applicable law. If the amount of interest payable for the account of any Lender on any interest payment date would exceed the maximum amount permitted by applicable law to be charged by such Lender, the amount of interest payable for its account on such interest payment date shall be automatically reduced to such maximum permissible amount. In the event of any such reduction affecting any Lender, if from time to time thereafter the amount of interest payable for the account of such Lender on any interest payment date would be less than the maximum amount permitted by applicable law to be charged by such Lender, then the amount of interest payable for its account on such subsequent interest payment date shall be automatically increased to such maximum permissible amount, provided that at no time shall the aggregate amount by which interest paid for the account of any Lender has been increased pursuant to this sentence exceed the aggregate amount by which interest paid for its account has theretofore been reduced pursuant to the previous sentence.

(e) The Administrative Agent shall promptly notify the Borrower and the Lenders upon determining the interest rate for each Borrowing of LIBOR Loans after its receipt of the relevant Notice of Borrowing or Notice of Conversion/Continuation, and upon each change in the Adjusted Base Rate; provided, however, that the failure of the Administrative Agent to provide the Borrower or the Lenders with any such notice shall neither affect any obligations of the Borrower or the Lenders hereunder nor result in any liability on the part of the Administrative Agent to the Borrower or any Lender. Each such determination (including each determination of the Reserve Requirement) shall, absent manifest error, be conclusive and binding on all parties hereto.

(f) In the event that any financial statement or Compliance Certificate delivered pursuant to **Section 5.11, 6.1 or 6.2** is shown to be inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin Percentage for any Lender for any period (an "Applicable Period") than the Applicable Margin Percentage applied for such Applicable Period, then the Borrower shall immediately (i) deliver to the Administrative Agent a correct Compliance Certificate for such Applicable Period, (ii) determine the Applicable Margin Percentage for such Applicable Period based upon the corrected Compliance Certificate, and (iii) immediately pay to the Administrative Agent the accrued additional interest and commitment fees owing as a result of such increased Applicable Margin Percentage for such Lender for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with **Section 2.12(e)**. This **Section 2.8(f)** is in addition to the rights of the Administrative Agent and Lenders with respect to **Sections 2.8(b)** and **9.1** and other respective rights under this Agreement.

2.9 Fees. The Borrower agrees to pay:

(a) To the Arrangers, for their own respective accounts, on the Restatement Effective Date, the fees required under the Commitment Letter, the Wells Fargo Fee Letter and the BB&T Fee Letter to be paid on the Restatement Effective Date in the amounts due and payable as required by the terms thereof;

(b) To the Administrative Agent, for the account of each Lender, a commitment fee for each calendar quarter (or portion thereof) for the period from the Restatement Effective Date to the Termination Date, at a per annum rate equal to the Applicable Margin Percentage in effect for such fee from time to time during such quarter, on such Lender's ratable share (based on the proportion that its Commitment bears to the aggregate Commitments) of the average daily aggregate Unutilized Commitments, payable in arrears (i) on the last Business Day of each calendar quarter, beginning with the first such day to occur after the Restatement Effective Date, and (ii) on the Termination Date; provided, however, that no commitment fee shall accrue on the Unutilized Commitment of a Defaulting Lender during any period that such Lender shall be a Defaulting Lender;

(c) To the Administrative Agent, for the account of each Lender, a letter of credit fee for each calendar quarter (or portion thereof) in respect of all Letters of Credit outstanding during such quarter, at a per annum rate equal to the Applicable Margin Percentage in effect from time to time during such quarter for Loans that are maintained as LIBOR Loans, on such Lender's ratable share (based on the proportion that its Commitment bears to the aggregate Commitments) of the daily average aggregate Stated Amount of such Letters of Credit, payable in arrears (i) on the last Business Day of each calendar quarter, beginning with the first such day to occur after the Restatement Effective Date, and (ii) on the later of the Termination Date and the date of termination of the last outstanding Letter of Credit; provided, however, that any letter of credit fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the Issuing Lender pursuant to **Section 3.1(a)** shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective pro rata percentages allocable to such Letter of Credit pursuant to **Section 2.21(a)(iii)**, with the balance of such fee, if any, payable to the Issuing Lender for its own account;

(d) To the Issuing Lender, for its own account, a fronting fee for each calendar quarter (or portion thereof) in respect of all Letters of Credit outstanding during such quarter, at a rate of 0.125% per annum of the daily average aggregate face amount of all outstanding Letters of Credit issued by the Issuing Lender during such quarter. All such fronting fees shall be payable on (i) the last Business Day of each calendar quarter and (ii) the Maturity Date;

(e) To the Issuing Lender, for its own account, such commissions, issuance fees, transfer fees and other fees and charges incurred in connection with the issuance and administration of each Letter of Credit as are customarily charged from time to time by the Issuing Lender for the performance of such services in connection with similar letters of credit, or as may be otherwise agreed to by the Issuing Lender, but without duplication of amounts payable under subsection (d) above; and

(f) To the Administrative Agent, for its own account, the annual administrative fee described in the Wells Fargo Fee Letter, on the terms, in the amount and at the times set forth therein.

2.10 Interest Periods. Concurrently with the giving of a Notice of Borrowing or Notice of Conversion/Continuation in respect of any Borrowing comprised of Base Rate Loans or LIBOR Market Index Loans to be converted into, or LIBOR Loans to be continued as, LIBOR Loans, the Borrower shall have the right to elect, pursuant to such notice, the interest period (each, an “Interest Period”) to be applicable to such LIBOR Loans, which Interest Period shall, at the option of the Borrower, be a one, two, three or six-month period; provided, however, that:

(i) all LIBOR Loans comprising a single Borrowing shall at all times have the same Interest Period;

(ii) the initial Interest Period for any LIBOR Loan shall commence on the date of the Borrowing of such LIBOR Loan (including the date of any continuation of, or conversion into, such LIBOR Loan), and each successive Interest Period applicable to such LIBOR Loan shall commence on the day on which the next preceding Interest Period applicable thereto expires;

(iii) LIBOR Loans may not be outstanding under more than six (6) separate Interest Periods at any one time (for which purpose Interest Periods shall be deemed to be separate even if they are coterminous);

(iv) if any Interest Period otherwise would expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day unless such next succeeding Business Day falls in another calendar month, in which case such Interest Period shall expire on the immediately preceding Business Day;

(v) the Borrower may not select any Interest Period that begins prior to the third (3rd) Business Day after the Restatement Effective Date or that expires after the Maturity Date;

(vi) if any Interest Period begins on a day for which there is no numerically corresponding day in the calendar month during which such Interest Period would otherwise expire, such Interest Period shall expire on the last Business Day of such calendar month; and

(vii) the Borrower may not select any Interest Period (and consequently, no LIBOR Loans shall be made) if a Default or Event of Default shall have occurred and be continuing at the time of such Notice of Borrowing or Notice of Conversion/Continuation with respect to any Borrowing.

2.11 Conversions and Continuations.

(a) With respect to Revolving Loans, the Borrower shall have the right, on any Business Day occurring on or after the Restatement Effective Date, to elect (i) to convert all or a portion of the outstanding principal amount of any Base Rate Loans or any LIBOR Market Index

Loans into LIBOR Loans, or to convert any LIBOR Loans the Interest Periods for which end on the same day into Base Rate Loans or LIBOR Market Index Loans, or (ii) upon the expiration of any Interest Period, to continue all or a portion of the outstanding principal amount of any LIBOR Loans the Interest Periods for which end on the same day for an additional Interest Period, provided that (w) any such conversion of LIBOR Loans into Base Rate Loans or LIBOR Market Index Loans shall involve an aggregate principal amount of not less than \$1,000,000 or, if greater, an integral multiple of \$500,000 in excess thereof; any such conversion of Base Rate Loans or LIBOR Market Index Loans into, or continuation of, LIBOR Loans shall involve an aggregate principal amount of not less than \$1,000,000 or, if greater, an integral multiple of \$500,000 in excess thereof; and no partial conversion of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding principal amount of such LIBOR Loans to less than \$1,000,000 or to any greater amount not an integral multiple of \$500,000 in excess thereof, (x) except as otherwise provided in **Section 2.16(d)**, LIBOR Loans may be converted into Base Rate Loans or LIBOR Market Index Loans only on the last day of the Interest Period applicable thereto (and, in any event, if a LIBOR Loan is converted into a Base Rate Loan or LIBOR Market Index Loan on any day other than the last day of the Interest Period applicable thereto, the Borrower will pay, upon such conversion, all amounts required under **Section 2.18** to be paid as a consequence thereof), (y) no such conversion or continuation shall be permitted with regard to any Swingline Loans, and (z) no conversion of Base Rate Loans or LIBOR Market Index Loans into LIBOR Loans or continuation of LIBOR Loans shall be permitted during the continuance of a Default or Event of Default.

(b) The Borrower shall make each such election by giving the Administrative Agent written notice not later than 11:00 a.m., Charlotte time, three (3) Business Days prior to the intended effective date of any conversion of Base Rate Loans or LIBOR Market Index Loans into, or continuation of, LIBOR Loans and one (1) Business Day prior to the intended effective date of any conversion of LIBOR Loans into Base Rate Loans or LIBOR Market Index Loans. Each such notice (each, a “Notice of Conversion/Continuation”) shall be irrevocable, shall be given in the form of **Exhibit B-3** and shall specify (x) the date of such conversion or continuation (which shall be a Business Day), (y) in the case of a conversion into, or a continuation of, LIBOR Loans, the Interest Period to be applicable thereto, and (z) the aggregate amount and Type of the Loans being converted or continued. Upon the receipt of a Notice of Conversion/Continuation, the Administrative Agent will promptly notify each Lender of the proposed conversion or continuation. In the event that the Borrower shall fail to deliver a Notice of Conversion/Continuation as provided herein with respect to any outstanding LIBOR Loans, such LIBOR Loans shall automatically be converted to LIBOR Market Index Loans upon the expiration of the then current Interest Period applicable thereto (unless repaid pursuant to the terms hereof). In the event the Borrower shall have failed to select in a Notice of Conversion/Continuation the duration of the Interest Period to be applicable to any conversion into, or continuation of, LIBOR Loans, then the Borrower shall be deemed to have selected an Interest Period with a duration of one month.

2.12 Method of Payments; Computations; Apportionment of Payments.

(a) All payments by the Borrower hereunder shall be made without setoff, counterclaim or other defense, in Dollars and in immediately available funds to the Administrative Agent, for the account of the Lenders entitled to such payment or the Swingline

Lender, as the case may be (except as otherwise (i) expressly provided herein as to payments required to be made directly to the Issuing Lender and the Lenders and (ii) provided in the Sweep Program) at its office referred to in **Section 11.4**, prior to 12:00 noon, Charlotte time, on the date payment is due. Any payment made as required hereinabove, but after 12:00 noon, Charlotte time, shall be deemed to have been made on the next succeeding Business Day. If any payment falls due on a day that is not a Business Day, then such due date shall be extended to the next succeeding Business Day (except that in the case of LIBOR Loans to which the provisions of clause (iv) in **Section 2.10** are applicable, such due date shall be the immediately preceding Business Day), and such extension of time shall then be included in the computation of payment of interest, fees or other applicable amounts.

(b) The Administrative Agent will distribute to the Lenders like amounts relating to payments made to the Administrative Agent for the account of the Lenders as follows: (i) if the payment is received by 12:00 noon, Charlotte time, in immediately available funds, the Administrative Agent will make available to each relevant Lender on the same date, by wire transfer of immediately available funds, such Lender's ratable share of such payment (based on the percentage that the amount of the relevant payment owing to such Lender bears to the total amount of such payment owing to all of the relevant Lenders), and (ii) if such payment is received after 12:00 noon, Charlotte time, or in other than immediately available funds, the Administrative Agent will make available to each such Lender its ratable share of such payment by wire transfer of immediately available funds on the next succeeding Business Day (or in the case of uncollected funds, as soon as practicable after collected). Notwithstanding the foregoing or any contrary provision hereof, if any Lender shall fail to make any payment required to be made by it hereunder to the Administrative Agent, the Issuing Lender or the Swingline Lender, then the Administrative Agent may, in its discretion, apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations to the Administrative Agent, the Issuing Lender or the Swingline Lender, as the case may be, until all such unsatisfied obligations are fully paid. If the Administrative Agent shall not have made a required distribution to the appropriate Lenders as required hereinabove after receiving a payment for the account of such Lenders, the Administrative Agent will pay to each such Lender, on demand, its ratable share of such payment with interest thereon at the Federal Funds Rate for each day from the date such amount was required to be disbursed by the Administrative Agent until the date repaid to such Lender. The Administrative Agent will distribute to the Issuing Lender like amounts relating to payments made to the Administrative Agent for the account of the Issuing Lender in the same manner, and subject to the same terms and conditions, as set forth hereinabove with respect to distributions of amounts to the Lenders.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the Issuing Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the

Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(d) All computations of interest and fees hereunder (including computations of the Reserve Requirement) shall be made on the basis of a year consisting of (i) in the case of interest on Base Rate Loans and LIBOR Market Index Loans, 365/366 days, as the case may be, or (ii) in all other instances, 360 days; and in each case under (i) and (ii) above, with regard to the actual number of days (including the first day, but excluding the last day) elapsed.

(e) Notwithstanding any other provision of this Agreement or any other Credit Document to the contrary, all amounts collected or received by the Administrative Agent or any Lender after acceleration of the Loans pursuant to **Section 9.2** shall be applied by the Administrative Agent as follows:

(i) first, to the payment of all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' and consultants' fees irrespective of whether such fees are allowed as a claim after the occurrence of an Event of Default pursuant to **Section 9.1(f)** or **Section 9.1(g)**) of the Administrative Agent in connection with enforcing the rights of the Lenders under the Credit Documents;

(ii) second, to the payment of any fees owed to the Administrative Agent hereunder or under any other Credit Document;

(iii) third, to the payment of all reasonable and documented out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' and consultants' fees irrespective of whether such fees are allowed as a claim after the occurrence of a an Event of Default pursuant to **Section 9.1(f)** or **Section 9.1(g)**) of each of the Lenders in connection with enforcing its rights under the Credit Documents or otherwise with respect to the Obligations owing to such Lender;

(iv) fourth, to the payment of all of the Obligations consisting of accrued fees and interest (including, without limitation, fees incurred and interest accruing at the then applicable rate after the occurrence of an Event of Default pursuant to **Section 9.1(f)** or **Section 9.1(g)**) irrespective of whether a claim for such fees incurred and interest accruing is allowed in such proceeding);

(v) fifth, to the payment of the outstanding principal amount of the Obligations (including the payment of any outstanding Reimbursement Obligations and the obligation to cash collateralize Letter of Credit Exposure), and including any payment obligations then owing under (A) any Hedge Agreement between the Borrower or any of its Subsidiaries and any Hedge Party (to the extent such Hedge Agreement is required or permitted hereunder), including any breakage, termination or other payments due under such Hedge Agreement and any interest accrued thereon and (B) any Cash Management Agreement between the Borrower or any of its Subsidiaries and any Cash Management Bank;

(vi) sixth, to the payment of all other Obligations and other obligations that shall have become due and payable under the Credit Documents or otherwise and not repaid; and

(vii) seventh, to the payment of the surplus (if any) to whomever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category, (y) all amounts shall be apportioned ratably among the Lenders or Hedge Parties in proportion to the amounts of such principal, interest, fees or other Obligations owed to them respectively pursuant to clauses (iii) through (vii) above, and (z) to the extent that any amounts available for distribution pursuant to clause (v) above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by the Administrative Agent to cash collateralize Letter of Credit Exposure pursuant to **Section 3.8**.

2.13 Recovery of Payments.

(a) The Borrower agrees that to the extent the Borrower makes a payment or payments to or for the account of the Administrative Agent, the Swingline Lender any Lender or the Issuing Lender, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy, insolvency or similar state or federal law, common law or equitable cause, then, to the extent such payment is invalidated, declared to be fraudulent or preferential, set aside or required to be repaid, the Obligation intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been received.

(b) If any amounts distributed by the Administrative Agent to any Lender are subsequently returned or repaid by the Administrative Agent to the Borrower or its representative or successor in interest, whether by court order or by settlement approved by the Lender in question, such Lender will, promptly upon receipt of notice thereof from the Administrative Agent, pay the Administrative Agent such amount. If any such amounts are recovered by the Administrative Agent from the Borrower or its representative or successor in interest, the Administrative Agent will redistribute such amounts to the Lenders on the same basis as such amounts were originally distributed.

2.14 Use of Proceeds. The proceeds of the Loans shall be used (i) to refinance any Indebtedness outstanding under the Existing Credit Agreement in full (other than the Existing Letters of Credit), (ii) to pay or reimburse reasonable transaction fees and expenses in connection with the closing of the transactions contemplated hereby and (iii) for working capital, the issuance of Letters of Credit, and general corporate purposes and in accordance with the terms and provisions of this Agreement.

2.15 Pro Rata Treatment.

(a) Except in the case of Swingline Loans, all fundings, continuations and conversions of Loans shall be made by the Lenders pro rata on the basis of their respective Commitments (in the case of the funding of Loans pursuant to **Section 2.2**) or on the basis of

their respective outstanding Loans (in the case of continuations and conversions of Loans pursuant to **Section 2.11**, and additionally in all cases in the event the Commitments for Loans of have expired or have been terminated), as the case may be from time to time. All payments on account of principal of or interest on any Loans, fees or any other Obligations owing to or for the account of any one or more Lenders shall be apportioned ratably among such Lenders in proportion to the amounts of such principal, interest, fees or other Obligations owed to them respectively.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other Obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such Obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other Obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this **Section 2.15(b)** shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Reimbursement Obligations or Swingline Loans to any Assignee or Participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this **Section 2.15(b)** shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation. If under the Bankruptcy Code or similar debtor relief laws, any Lender receives a secured claim in lieu of a setoff to which this **Section 2.15(b)** applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this **Section 2.15(b)** to share in the benefits of any recovery on such secured claim.

2.16 Increased Costs; Change in Circumstances; Illegality.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except the Reserve Requirement reflected in the LIBOR Rate) or the Issuing Lender;

(ii) subject any Lender or the Issuing Lender to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any LIBOR Loan or LIBOR Market Index Loan made by it, or change

the basis of taxation of payments to such Lender or the Issuing Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by **Section 2.17** and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or the Issuing Lender); or

(iii) impose on any Lender or the Issuing Lender or the London interbank market any other condition, cost or expense affecting this Agreement, LIBOR Loans or LIBOR Market Index Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any LIBOR Loans or LIBOR Market Index Loans (or of maintaining its obligation to make any such Loans), or to increase the cost to such Lender or the Issuing Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the Issuing Lender hereunder (whether of principal, interest or any other amount), then, upon request of such Lender or the Issuing Lender, the Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Lender determines that any Change in Law affecting such Lender or the Issuing Lender or any Lending Office of such Lender or such Lender's or the Issuing Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Lender's capital or on the capital of such Lender's or the Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or the Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Lender's policies and the policies of such Lender's or the Issuing Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender or the Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or the Issuing Lender or its holding company, as the case may be, as specified in **Section 2.16(a)** or **Section 2.16(b)** and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Lender to demand compensation pursuant to the foregoing provisions of this **Section 2.16** shall not constitute a waiver of such Lender's or the Issuing Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the Issuing Lender pursuant to

the foregoing provisions of this **Section 2.16** for any increased costs incurred or reductions suffered more than ninety (90) days prior to the date that such Lender or the Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the ninety (90)-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) If, (i) on or prior to the first day of any Interest Period, the Administrative Agent shall have determined that adequate and reasonable means do not exist for ascertaining the applicable LIBOR Rate for such Interest Period, (ii) at any time, the Administrative Agent shall have determined that adequate and reasonable means do not exist for ascertaining the LIBOR Market Index Rate, (iii) on or prior to the first day of any Interest Period, the Administrative Agent shall have received written notice from the Required Lenders of their determination that the rate of interest referred to in the definition of "LIBOR Rate" upon the basis of which the Adjusted LIBOR Rate for LIBOR Loans is to be determined will not adequately and fairly reflect the cost to such Lenders of making or maintaining LIBOR Loans during such Interest Period, or (iv) at any time, the Administrative Agent shall have received written notice from the Required Lenders of their determination that the rate of interest referred to in the definition of "LIBOR Market Interest Rate" will not adequately and fairly reflect the cost to such Lenders of making LIBOR Market Interest Rate Loans, the Administrative Agent will forthwith so notify the Borrower and the Lenders. Upon such notice, (A) all then outstanding LIBOR Loans shall automatically, on the expiration date of the respective Interest Periods for LIBOR Loans, if applicable (unless then repaid in full), be converted into Base Rate Loans, (B) all then outstanding LIBOR Market Index Loans, shall automatically, on the day of such notice, be converted into Base Rate Loans, (C) the obligation of the Lenders to make, to convert Base Rate Loans into, or to continue, LIBOR Loans shall be suspended (including pursuant to the Borrowing to which an Interest Period applies), and (iii) any Notice of Borrowing or Notice of Conversion/Continuation given at any time thereafter with respect to LIBOR Loans shall be deemed to be a request for Base Rate Loans, in each case until the Administrative Agent or the Required Lenders, as the case may be, shall have determined that the circumstances giving rise to such suspension no longer exist (and the Required Lenders, if making such determination, shall have so notified the Administrative Agent), and the Administrative Agent shall have so notified the Borrower and the Lenders.

(f) Notwithstanding any other provision in this Agreement, if, at any time after the date hereof and from time to time, any Lender shall have determined in good faith that the introduction of or any change in any applicable law, rule or regulation or in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance with any guideline or request from any such Governmental Authority (whether or not having the force of law), has or would have the effect of making it unlawful for such Lender to make or to continue to make or maintain LIBOR Loans or LIBOR Market Index Loans, as the case may be, such Lender will forthwith so notify the Administrative Agent and the Borrower. Upon such notice, (i) each of such Lender's then outstanding LIBOR Loans or LIBOR Market Index Loans, as the case may be, shall automatically, on the expiration date of the respective Interest Period applicable to any LIBOR Loans (or, to the extent any such LIBOR Loan may not lawfully be maintained as a LIBOR Loan until such expiration date, upon

such notice) and to the extent not sooner prepaid, be converted into a Base Rate Loan, (ii) the obligation of such Lender to make, to convert Base Rate Loans into, or to continue, LIBOR Loans shall be suspended (including pursuant to any Borrowing for which the Administrative Agent has received a Notice of Borrowing but for which the Borrowing Date has not arrived), and (iii) any Notice of Borrowing or Notice of Conversion/Continuation given at any time thereafter with respect to LIBOR Loans or LIBOR Market Index Loans, as the case may be, shall, as to such Lender, be deemed to be a request for a Base Rate Loan, in each case until such Lender shall have determined that the circumstances giving rise to such suspension no longer exist and shall have so notified the Administrative Agent, and the Administrative Agent shall have so notified the Borrower.

2.17 Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Credit Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this **Section 2.17**) the Administrative Agent, Lender or Issuing Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Without limiting the provisions of **Section 2.17(a)**, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Administrative Agent, each Lender and the Issuing Lender, within ten 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 2.17**) paid by the Administrative Agent, such Lender or the Issuing Lender, as the case may be, and any penalties, interest and 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 such payment or liability delivered to the Borrower by a Lender or the Issuing Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Lender, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Credit Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that the Borrower is resident for tax purposes in the United States, any Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

- (i) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,
- (ii) duly completed copies of Internal Revenue Service Form W-8ECI,
- (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code and
- (y) duly completed copies of Internal Revenue Service Form W-8BEN, or
- (iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

(f) If the Administrative Agent, any Lender or the Issuing Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this **Section 2.17**, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this **Section 2.17** with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, such Lender or the Issuing 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, such Lender or the Issuing 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, such Lender or the Issuing Lender in the event the Administrative Agent, such Lender or the Issuing Lender is required to repay such refund to such Governmental Authority. This **Section 2.17(f)** shall not be construed to require the Administrative Agent, any Lender or the Issuing Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

2.18 Compensation. The Borrower will compensate each Lender upon demand for all losses, expenses and liabilities (including, without limitation, any loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by such Lender to fund or maintain LIBOR Loans) that such Lender may incur or sustain (i) if for any reason (other than a default by such Lender) a Borrowing or continuation of, or conversion into, a LIBOR Loan does not occur on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation, (ii) if any repayment, prepayment or conversion of any LIBOR Loan occurs on a date other than the last day of an Interest Period applicable thereto (including as a consequence of any assignment made pursuant to **Section 2.19(a)** or any acceleration of the maturity of the Loans pursuant to **Section 9.2**), (iii) if any prepayment of any LIBOR Loan is not made on any date specified in a notice of prepayment given by the Borrower or (iv) as a consequence of any other failure by the Borrower to make any payments with respect to any LIBOR Loan when due hereunder. Calculation of all amounts payable to a Lender under this **Section 2.18** shall be made as though such Lender had actually funded its relevant LIBOR Loan through the purchase of a Eurodollar deposit bearing interest at the LIBOR Rate in an amount equal to the amount of such LIBOR Loan, having a maturity comparable to the relevant Interest Period; provided, however, that each Lender may fund its LIBOR Loans in any manner it sees fit and the foregoing assumption shall be utilized only for the calculation of amounts payable under this **Section 2.18**. A certificate (which shall be in reasonable detail) showing the bases for the determinations set forth in this **Section 2.18** by any Lender as to any additional amounts payable pursuant to this **Section 2.18** shall be submitted by such Lender to the Borrower either directly or through the Administrative Agent. Determinations set forth in any such certificate made in good faith for purposes of this **Section 2.18** of any such losses, expenses or liabilities shall be conclusive, absent manifest error.

2.19 Replacement of Lenders; Mitigation of Costs.

(a) The Borrower may, at any time at its sole expense and effort, require any Lender (w) that has requested compensation from the Borrower under **Sections 2.16(a)** or **2.16(b)** or payments from the Borrower under **Section 2.17**, (x) the obligation of which to make or maintain LIBOR Loans or LIBOR Market Index Loans has been suspended under **Section 2.16(f)** or (y) that is a Defaulting Lender or (z) that is a Non-Consenting Lender, in any case upon notice to such Lender and the Administrative Agent, to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, **Section 11.6**), all of its interests, rights and obligations under this Agreement and the related Credit

Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

- (i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in **Section 11.6(b)(iv)**;
- (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and any funded participations in Letters of Credit not refinanced through the Borrowing of Revolving Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under **Section 2.18** from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (iii) in the case of any such assignment resulting from a request for compensation under **Sections 2.16(a)** or **2.16(b)** or payments required to be made pursuant to **Section 2.17**, such assignment will result in a reduction in such compensation or payments thereafter; and
- (iv) such assignment does not conflict with applicable Requirements of Law.

If a Lender is subject to this **Section 2.19(a)** solely because of the circumstances described in (A) clauses (w) and (x) hereof, such Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender, the circumstances entitling the Borrower to require such assignment and delegation cease to apply or (B) clause (y) hereof, notwithstanding **Section 2.5(c)**, the Borrower may reduce the aggregate outstanding Commitments on a non-ratable basis (applied solely to the Commitment of the Defaulting Lender) by an amount equal to such Defaulting Lender's Commitment in order to remove such Defaulting Lender as a Lender under this Agreement provided that, at such time, no Loans are then outstanding. Any such assignment, delegation or reduction elected by Borrower pursuant to this **Section 2.19** shall be without prejudice to any right or remedy available to Borrower hereunder or under applicable law.

(b) If any Lender requests compensation under **Sections 2.16(a)** or **2.16(b)**, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to **Section 2.17**, or if any Lender gives a notice pursuant to **Section 2.16(f)**, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to **Sections 2.16(a)**, **2.16(b)** or **2.17**, as the case may be, in the future, or eliminate the need for the notice pursuant to **Section 2.16(f)**, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

2.20 Increase in Commitments.

(a) The Borrower shall have the right, at any time and from time to time after the Restatement Effective Date by written notice to and in consultation with the Administrative Agent, to request an increase in the aggregate Commitments (each such requested increase, a "Commitment Increase"), by having one or more existing Lenders increase their respective Commitments then in effect (each, an "Increasing Lender"), by adding as a Lender with a new Commitment hereunder one or more Persons that are not already Lenders (each, an "Additional Lender"), or a combination thereof; provided that (i) any such request for a Commitment Increase shall be in a minimum amount of \$25,000,000, (ii) immediately after giving effect to any Commitment Increase, (y) the aggregate Commitments shall not exceed \$300,000,000 and (z) the aggregate of all Commitment Increases effected shall not exceed \$100,000,000, (iii) no Default or Event of Default shall have occurred and be continuing on the applicable Commitment Increase Date (as hereinafter defined) or shall result from any Commitment Increase, (iv) immediately after giving effect to any Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower shall be in compliance with the financial covenants contained in **ARTICLE VII**, and (v) the Borrower shall give the existing Lenders the right of first refusal for participating in any such Commitment Increase by providing such notice to the Administrative Agent ten (10) Business Days before making a request to any Person that is not already a Lender. An existing Lender shall have priority over Additional Lenders to participate in such requested Commitment Increase if it provides written notice of its election to participate within ten (10) Business Days of the Administrative Agent's receipt of such notice. Such notice from the Borrower shall specify the requested amount of the Commitment Increase. No Lender shall have any obligation to become an Increasing Lender. Any fees paid by the Borrower for a Commitment Increase to an Increasing Lender, an Additional Lender, the Administrative Agent or Wells Fargo, as Arranger, shall be for their own account and shall be in an amount, if any, mutually agreed upon by each such party and the Borrower, in each party's sole discretion. Nothing contained in this **Section 2.20** shall be construed to obligate the Borrower to pay any fee for a Commitment Increase to an Increasing Lender, an Additional Lender, the Administrative Agent either Arranger.

(b) Each Additional Lender must be approved in writing by the Administrative Agent and the Issuing Lender. The Borrower and each Additional Lender shall execute a joinder agreement, and the Borrower and each Lender shall execute all such other documentation as the Administrative Agent and the Borrower may reasonably require including without limitation the documentation for the amendment referred to in **Section 2.20(d)(i)(A)**, all in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, to evidence the Commitment adjustments referred to in **Section 2.20(e)**.

(c) If the aggregate Commitments are increased in accordance with this **Section 2.20**, the Borrower (in consultation with the Administrative Agent), Increasing Lender(s) (if any) and Additional Lender(s) (if any) shall agree upon the effective date (the "Commitment Increase Date," which shall be a Business Day not less than thirty (30) days prior to the Termination Date). The Administrative Agent shall promptly notify the Lenders of such increase and the Commitment Increase Date.

(d) Notwithstanding anything set forth in this **Section 2.20** to the contrary, the Borrower shall not incur any Revolving Loans pursuant to any Commitment Increase (and no Commitment Increase shall be effective) unless the conditions set forth in **Section 2.20(a)** as well as the following conditions precedent are satisfied on the applicable Commitment Increase Date:

(i) The Administrative Agent shall have received the following, each dated the Commitment Increase Date and in form and substance reasonably satisfactory to the Administrative Agent:

(A) an amendment to this Agreement signed by the Increasing Lenders (if any) and Additional Lenders (if any), setting forth the reallocation of Commitments referred to in **Section 2.20(e)**, together with all other documentation required by the Administrative Agent pursuant to **Section 2.20(b)**;

(B) an instrument, duly executed by the Borrower and each other Subsidiary Guarantor, if any, acknowledging and reaffirming its obligations under the Subsidiary Guaranty, and the other Credit Documents to which it is a party;

(C) a certificate of the secretary or an assistant secretary of the Borrower and each Subsidiary Guarantor, certifying to and attaching the resolutions adopted by the board of directors (or similar governing body) of such party approving or consenting to such Commitment Increase;

(D) a certificate of a Financial Officer of the Borrower, certifying that (x) all representations and warranties of the Borrower and the Subsidiary Guarantors contained in this Agreement and the other Credit Documents are true and correct in all material respects as of the Commitment Increase Date (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date), (y) immediately after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower is in compliance with the financial covenants contained in **ARTICLE VII**, and (z) no Default or Event of Default has occurred and is continuing, both immediately before and after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof); and

(E) an opinion or opinions of counsel for the Borrower and the Subsidiary Guarantors, addressed to the Administrative Agent and the Lenders, together with such other documents, instruments and certificates as the Administrative Agent shall have reasonably requested;

(ii) In the case of any Borrowing of Revolving Loans in connection with such Commitment Increase for the purpose of funding a Permitted Acquisition, the applicable

conditions set forth in this Agreement with respect to Permitted Acquisitions shall have been satisfied.

(e) On the Commitment Increase Date, (i) the aggregate principal outstanding amount of the Revolving Loans (the “Initial Loans”) immediately prior to giving effect to the Commitment Increase shall be deemed to be repaid, (ii) immediately after the effectiveness of the Commitment Increase, the Borrower shall be deemed to have made new Borrowings of Revolving Loans (the “Subsequent Borrowings”) in an aggregate principal amount equal to the aggregate principal amount of the Initial Loans and of the Types and for the Interest Periods specified in a Notice of Borrowing delivered to the Administrative Agent in accordance with **Section 2.2(b)**, (iii) each Lender shall pay to the Administrative Agent in immediately available funds an amount equal to the difference, if positive, between (y) such Lender’s pro rata percentage (calculated after giving effect to the Commitment Increase) of the Subsequent Borrowings and (z) such Lender’s pro rata percentage (calculated without giving effect to the Commitment Increase) of the Initial Loans, (iv) after the Administrative Agent receives the funds specified in clause (iii) above, the Administrative Agent shall pay to each Lender the portion of such funds equal to the difference, if positive, between (y) such Lender’s pro rata percentage (calculated without giving effect to the Commitment Increase) of the Initial Loans and (z) such Lender’s pro rata percentage (calculated after giving effect to the Commitment Increase) of the amount of the Subsequent Borrowings, (v) the Lenders shall be deemed to hold the Subsequent Borrowings ratably in accordance with their respective Commitments (calculated after giving effect to the Commitment Increase), (vi) the Borrower shall pay all accrued but unpaid interest on the Initial Loans to the Lenders entitled thereto, and (vii) **Schedule 1.1** shall be amended to reflect the Commitments of all Lenders after giving effect to the Commitment Increase. The deemed payments made pursuant to clause (i) above in respect of each LIBOR Loan shall be subject to indemnification by the Borrower pursuant to the provisions of **Section 2.18** if the Commitment Increase Date occurs other than on the last day of the Interest Period relating thereto.

2.21 Defaulting Lenders.

(a) Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender’s right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and in **Section 11.5**.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to **ARTICLE X** or otherwise) shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or the Swingline Lender hereunder; third, if so determined by the Administrative Agent or requested by the Issuing Lender or the

Swingline Lender, to be held as Cash Collateral for future funding obligations of such Defaulting Lender in respect of any participation in any Letter of Credit or Swingline Loan; fourth, as the Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of such Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders, the Issuing Lender or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lender or the Swingline Lender against that Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or any Letter of Credit Exposure in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in **Section 5.2** were satisfied or waived, such payment shall be applied solely to pay the Loans of, and obligations in respect of Letters of Credit owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or obligations in respect of Letters of Credit owed to, such Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this **Section 2.21** shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) All or any part of such Defaulting Lender's Letters of Credit Exposure and its Swingline Exposure shall automatically (effective on the day such Lender becomes a Defaulting Lender) be reallocated among the non-Defaulting Lenders in accordance with their respective Credit Exposures (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (A) no Default shall have occurred and be continuing (and, unless the Borrower shall have otherwise notified the Administrative Agent at the time, the Borrower shall be deemed to have represented and warranted that such condition is satisfied at such time), and (B) such reallocation does not cause the sum of (x) the total principal amount of Revolving Loans, (y) the Letter of Credit Exposure and (z) the principal amount of Swingline Loans for any non-Defaulting Lender outstanding at such time, to exceed such non-Defaulting Lender's Commitment.

(iv) If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, within two (2) Business Days following notice by the Administrative Agent, Cash Collateralize such Defaulting Lender's Letter of Credit Exposure and its Swingline Exposure (after giving effect to any partial reallocation pursuant to clause (iii) above) in accordance with the procedures set forth in **Section**

2.21(c) for so long as such Swingline Loans are outstanding. The Borrower shall be permitted to Cash Collateralize such Letter of Credit Exposure and Swingline Exposure using Loans to the extent available to Borrower in accordance with this Agreement, including the satisfaction of the conditions to Borrowing in **Section 4.2**.

(b) If the Borrower, the Administrative Agent, the Issuing Lender and the Swingline Lender agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Revolving Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their respective Commitments (without giving effect to **Section 2.21(a)(iii)**); whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) At any time that there shall exist a Defaulting Lender, within two (2) Business Days upon the request of the Administrative Agent, the Issuing Lender or the Swingline Lender, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to **Section 2.21(a)(iii)** and any Cash Collateral provided by the Defaulting Lender).

(i) All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked deposit accounts with the Administrative Agent. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lenders and the Lenders (including the Swingline Lender), and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(ii) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this **Section 2.21** in respect of Letters of Credit or

Swingline Loans shall be held and applied to the satisfaction of the specific Letter of Credit Exposure or Swingline Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(iii) Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee)), or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default (and following application as provided in this **Section 2.21** may be otherwise applied in accordance with **Section 2.15**), and (y) the Person providing Cash Collateral and each applicable Issuing Lender or Swingline Lender may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

ARTICLE III

LETTERS OF CREDIT

3.1 Issuance; Existing Letters of Credit. Subject to and upon the terms and conditions herein set forth, so long as no Default or Event of Default has occurred and is continuing, the Issuing Lender will, at any time and from time to time on and after the Restatement Effective Date and prior to the earlier of (i) the seventh day prior to the Maturity Date and (ii) the Termination Date, and upon request by the Borrower in accordance with the provisions of **Section 3.2**, issue for the account of the Borrower one or more irrevocable standby letters of credit denominated in Dollars and in a form customarily used or otherwise approved by the Issuing Lender (together with all amendments, modifications and supplements thereto, substitutions therefor and renewals and restatements thereof, collectively, the "Letters of Credit"). By their execution of this Agreement, the Borrower, Wells Fargo, and the Lenders hereby agree that effective as of the Restatement Effective Date (i) the letters of credit listed on **Schedule 3.1** (the "Existing Letters of Credit") shall be Letters of Credit under this Agreement and subject to the terms hereof, (ii) Wells Fargo shall be the Issuing Lender hereunder with respect to the Existing Letters of Credit, and (iii) the applicable provisions of the Existing Credit Agreement with respect to the Existing Letters of Credit are replaced by this Agreement. The Stated Amount of each Letter of Credit shall not be less than \$100,000 unless such amount is acceptable to the Issuing Lender. Notwithstanding the foregoing:

(a) No Letter of Credit shall be issued if its Stated Amount, upon issuance, (i) when added to the aggregate Letter of Credit Exposure of the Lenders at such time, would exceed \$150,000,000, (ii) when added to the sum of (x) the aggregate principal amount of Revolving Loans outstanding at such time, (y) the aggregate Letter of Credit Exposure of all Lenders at such time and (z) the aggregate principal amount of Swingline Loans outstanding at such time, would exceed the aggregate Commitments at such time or (iii) any Lender is at that time a

Defaulting Lender, unless the Issuing Lender has entered into an arrangement, including the delivery of Cash Collateral, satisfactory to the Issuing Lender (in its sole discretion) with the Borrower or such Lender to eliminate the Issuing Lender's actual or potential Fronting Exposure (after giving effect to **Section 2.21(a)(iii)**) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other Letter of Credit Exposure as to which the Issuing Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion;

(b) No Letter of Credit shall be issued that by its terms expires later than the seventh day prior to the Maturity Date or, in any event, more than one (1) year after its date of issuance; provided, however, that a Letter of Credit may, if requested by the Borrower, provide by its terms, and on terms acceptable to the Issuing Lender, for renewal for successive periods of one year or less (but not beyond the seventh day prior to the Maturity Date), unless and until the Issuing Lender shall have delivered a notice of nonrenewal to the beneficiary of such Letter of Credit and provided further that any Letter of Credit issued, extended or renewed no later than thirty (30) days prior to the Maturity Date may have an expiration date after the Maturity Date so long as on or before the Maturity Date, the Borrower shall have deposited with the Administrative Agent an amount in immediately available funds (which funds shall be held as collateral pursuant to a Cash Collateral Account) equal to the aggregate amount available for drawing under such Letter of Credit;

(c) Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, or otherwise will benefit, a Subsidiary of the Borrower, the Borrower shall be obligated to reimburse the Issuing Lender hereunder for any and all drawings under such Letter of Credit (and the Borrower hereby acknowledges that the issuance of Letters of Credit for the benefit of its Subsidiaries inures to the benefit of the Borrower and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries); and

(d) The Issuing Lender shall be under no obligation to issue any Letter of Credit if, at the time of such proposed issuance, (i) any order, judgment or decree of any Governmental Authority or arbitrator shall purport by its terms to enjoin or restrain the Issuing Lender from issuing such Letter of Credit, or any Requirement of Law applicable to the Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Lender shall prohibit, or request that the Issuing Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Lender with respect to such Letter of Credit any restriction not in effect on the Restatement Effective Date or any reserve or capital requirement (for which the Issuing Lender is not otherwise compensated) not in effect on the Restatement Effective Date and that the Issuing Lender in good faith deems material to it, or any unreimbursed loss, cost or expense that was not applicable, in effect or known to the Issuing Lender as of the Restatement Effective Date and that the Issuing Lender in good faith deems material to it, or (ii) the Issuing Lender shall have actual knowledge, or shall have received notice from any Lender, prior to the issuance of such Letter of Credit that one or more of the conditions specified in **Sections 4.1** (if applicable) or **4.2** are not then satisfied (or have not been waived in writing as required herein) or that the issuance of such Letter of Credit would violate the provisions of subsection (a) above.

3.2 Notices. Whenever the Borrower desires the issuance of a Letter of Credit, the Borrower will give the Issuing Lender written notice with a copy to the Administrative Agent not later than 11:00 a.m., Charlotte time, three (3) Business Days (or such shorter period as is acceptable to the Issuing Lender in any given case) prior to the requested date of issuance thereof. Each such notice (each, a "Letter of Credit Notice") shall be irrevocable, shall be given in the form of **Exhibit B-4** and shall specify (i) the requested date of issuance, which shall be a Business Day, (ii) the requested Stated Amount and expiry date of the Letter of Credit, and (iii) the name and address of the requested beneficiary or beneficiaries of the Letter of Credit. The Borrower will also complete any application procedures and documents required by the Issuing Lender in connection with the issuance of any Letter of Credit. Upon its issuance of any Letter of Credit, the Issuing Lender will promptly notify the Administrative Agent of such issuance, and the Administrative Agent will give prompt notice thereof to each Lender. The renewal or extension of any outstanding Letter of Credit shall, for purposes of this **ARTICLE III**, be treated in all respects as the issuance of a new Letter of Credit.

3.3 Participations. Immediately upon the issuance of any Letter of Credit, the Issuing Lender shall be deemed to have sold and transferred to each Lender, and each Lender shall be deemed irrevocably and unconditionally to have purchased and received from the Issuing Lender, without recourse or warranty, an undivided interest and participation, pro rata (based on the percentage of the aggregate Commitments represented by such Lender's Commitment), in such Letter of Credit, each drawing made thereunder and the obligations of the Borrower under this Agreement with respect thereto and any security therefor or guaranty pertaining thereto; provided, however, that the fee relating to Letters of Credit described in **Section 2.9(d)** shall be payable directly to the Issuing Lender as provided therein, and the Lenders shall have no right to receive any portion thereof. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Lender, such Lender's pro rata share of each Reimbursement Obligation not reimbursed by the Borrower on the date due as provided in **Section 3.4** or through the Borrowing of Revolving Loans as provided in **Section 3.5** (because the conditions set forth in **Section 4.2** cannot be satisfied, or for any other reason), or of any reimbursement payment required to be refunded to the Borrower for any reason. Upon any change in the Commitments of any of the Lenders pursuant to **Section 11.6(b)**, with respect to all outstanding Letters of Credit and Reimbursement Obligations there shall be an automatic adjustment to the participations pursuant to this **Section 3.3** to reflect the new pro rata shares of the assigning Lender and the Assignee. Each Lender's obligation to make payment to the Issuing Lender pursuant to this **Section 3.3** shall be absolute and unconditional and shall not be affected by any circumstance whatsoever, including the termination of the Commitments or the existence of any Default or Event of Default, and each such payment shall be made without any offset, abatement, reduction or withholding whatsoever.

3.4 Reimbursement. The Borrower hereby agrees to reimburse the Issuing Lender by making payment to the Administrative Agent, for the account of the Issuing Lender, in immediately available funds, for any payment made by the Issuing Lender under any Letter of Credit in accordance with the terms of such Letter of Credit (each such amount so paid until reimbursed, together with interest thereon payable as provided hereinbelow, a "Reimbursement Obligation") immediately after, and in any event within one (1) Business Day after its receipt of notice of, such payment (provided that any such Reimbursement Obligation shall be deemed

timely satisfied (but nevertheless subject to the payment of interest thereon as provided hereinbelow) if satisfied pursuant to a Borrowing of Revolving Loans made on or prior to the next Business Day following the date of the Borrower's receipt of notice of such payment), together with interest on the amount so paid by the Issuing Lender, to the extent not reimbursed prior to 1:00 p.m., Charlotte time, on the date of such payment or disbursement, for the period from the date of the respective payment to the date the Reimbursement Obligation created thereby is satisfied, at the Adjusted LIBOR Market Index Rate applicable to Revolving Loans as in effect from time to time during such period, such interest also to be payable on demand. The Issuing Lender will provide the Administrative Agent and the Borrower with prompt notice of any payment or disbursement made under any Letter of Credit, although the failure to give, or any delay in giving, any such notice shall not release, diminish or otherwise affect the Borrower's obligations under this **Section 3.4** or any other provision of this Agreement. The Administrative Agent will promptly pay to the Issuing Lender any such amounts received by it under this **Section 3.4**.

3.5 Payment by Revolving Loans. In the event that the Issuing Lender makes any payment under any Letter of Credit and the Borrower shall not have timely satisfied in full its Reimbursement Obligation to the Issuing Lender pursuant to **Section 3.4**, and to the extent that any amounts then held in the Cash Collateral Account established pursuant to **Section 3.8** shall be insufficient to satisfy such Reimbursement Obligation in full, the Issuing Lender will promptly notify the Administrative Agent, and the Administrative Agent will promptly notify each Lender, of such failure. If the Administrative Agent gives such notice prior to 11:00 a.m., Charlotte time, on any Business Day, each Lender will make available to the Administrative Agent, for the account of the Issuing Lender, its pro rata share (based on the percentage of the aggregate Commitments represented by such Lender's Commitment) of the amount of such payment on such Business Day in immediately available funds. If the Administrative Agent gives such notice after 11:00 a.m., Charlotte time, on any Business Day, each such Lender shall make its pro rata share of such amount available to the Administrative Agent on the next succeeding Business Day. If and to the extent any Lender shall not have so made its pro rata share of the amount of such payment available to the Administrative Agent, such Lender agrees to pay to the Administrative Agent, for the account of the Issuing Lender, forthwith on demand such amount, together with interest thereon at the Federal Funds Rate for each day from such date until the date such amount is paid to the Administrative Agent. The failure of any Lender to make available to the Administrative Agent its pro rata share of any payment under any Letter of Credit shall not relieve any other Lender of its obligation hereunder to make available to the Administrative Agent its pro rata share of any payment under any Letter of Credit on the date required, as specified above, but no Lender shall be responsible for the failure of any other Lender to make available to the Administrative Agent such other Lender's pro rata share of any such payment. Each such payment by a Lender under this **Section 3.5** of its pro rata share of an amount paid by the Issuing Lender shall constitute a Revolving Loan by such Lender (the Borrower being deemed to have given a timely Notice of Borrowing therefor) and shall be treated as such for all purposes of this Agreement; provided that for purposes of determining the aggregate Unutilized Commitments immediately prior to giving effect to the application of the proceeds of such Revolving Loans, the Reimbursement Obligation being satisfied thereby shall be deemed not to be outstanding at such time. Each Lender's obligation to make Revolving Loans pursuant to this **Section 3.5** shall be absolute and unconditional and shall not be affected by any circumstance whatsoever, including, without limitation, the failure of the amount of such

Borrowing of Revolving Loans to meet the minimum Borrowing amount specified in **Section 2.2(b)**; provided, however, that each Lender's obligation to make Revolving Loans pursuant to this **Section 3.5** is subject to the conditions set forth in **Section 4.2** (other than delivery by the Borrower of a Notice of Borrowing).

3.6 Payment to Lenders. Whenever the Issuing Lender receives a payment in respect of a Reimbursement Obligation as to which the Administrative Agent has received, for the account of the Issuing Lender, any payments from the Lenders pursuant to **Section 3.5**, the Issuing Lender will promptly pay to the Administrative Agent, and the Administrative Agent will promptly pay to each Lender that has paid its pro rata share thereof, in immediately available funds, an amount equal to such Lender's ratable share (based on the proportionate amount funded by such Lender to the aggregate amount funded by all Lenders) of such Reimbursement Obligation.

3.7 Obligations Absolute. The Reimbursement Obligations of the Borrower, and the obligations of the Lenders under **Section 3.5** to make payments to the Administrative Agent, for the account of the Issuing Lender, with respect to Letters of Credit, shall be irrevocable, shall remain in effect until the Issuing Lender shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit, and, except to the extent resulting from any gross negligence or willful misconduct on the part of the Issuing Lender, shall be absolute and unconditional, shall not be subject to counterclaim, setoff or other defense or any other qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, including, without limitation, any of the following circumstances:

(a) Any lack of validity or enforceability of this Agreement, any of the other Credit Documents or any documents or instruments relating to any Letter of Credit;

(b) Any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations in respect of any Letter of Credit or any other amendment, modification or waiver of or any consent to departure from any Letter of Credit or any documents or instruments relating thereto, in each case whether or not the Borrower has notice or knowledge thereof;

(c) The existence of any claim, setoff, defense or other right that the Borrower may have at any time against a beneficiary named in a Letter of Credit, any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the Administrative Agent, the Issuing Lender (but without prejudicing the Borrower's rights with respect thereto), any Lender or other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated hereby or any unrelated transactions (including any underlying transaction between the Borrower and the beneficiary named in any such Letter of Credit);

(d) Any draft, certificate or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect (provided that such draft, certificate or other document appears on its face to comply with the terms of such Letter of Credit), any errors, omissions,

interruptions or delays in transmission or delivery of any messages, by mail, telecopier or otherwise, or any errors in translation or in interpretation of technical terms;

(e) Any defense based upon the failure of any drawing under a Letter of Credit to conform to the terms of the Letter of Credit (provided that any draft, certificate or other document presented pursuant to such Letter of Credit appears on its face to comply with the terms thereof, including without limitation the expiry date of such Letter of Credit), any nonapplication or misapplication by the beneficiary or any transferee of the proceeds of such drawing or any other act or omission of such beneficiary or transferee in connection with such Letter of Credit;

(f) The exchange, release, surrender or impairment of any security for the Obligations;

(g) The occurrence of any Default or Event of Default; or

(h) Any other circumstance or event whatsoever, including, without limitation, any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or a guarantor.

Any action taken or omitted to be taken by the Issuing Lender under or in connection with any Letter of Credit, if taken or omitted in the absence of gross negligence or willful misconduct, shall be binding upon the Borrower and each Lender and shall not create or result in any liability of the Issuing Lender to the Borrower or any Lender. It is expressly understood and agreed that, for purposes of determining whether a wrongful payment under a Letter of Credit resulted from the Issuing Lender's gross negligence or willful misconduct, (i) the Issuing Lender's acceptance of documents that appear on their face to comply with the terms of such Letter of Credit, without responsibility for further investigation, regardless of any notice or information to the contrary, (ii) the Issuing Lender's exclusive reliance on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including the amount of any draft presented under such Letter of Credit, whether or not the amount due to the beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect (so long as such document appears on its face to comply with the terms of such Letter of Credit), and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever, and (iii) any noncompliance in any immaterial respect of the documents presented under such Letter of Credit with the terms thereof shall, in each case, be deemed not to constitute gross negligence or willful misconduct of the Issuing Lender.

3.8 Cash Collateral Account. At any time and from time to time (i) after the occurrence and during the continuance of an Event of Default, the Administrative Agent, at the direction or with the consent of the Required Lenders, may require the Borrower to deliver to the Administrative Agent such additional amount of cash as is equal to the aggregate Stated Amount of all Letters of Credit at any time outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) and (ii) in the event of a prepayment under **Section 2.6(b)**, the Administrative Agent will retain such amount as may

then be required to be retained, such amounts in each case under clauses (i) and (ii) above to be held by the Administrative Agent in a cash collateral account (the "Cash Collateral Account"). The Borrower hereby grants to the Administrative Agent, for the benefit of the Issuing Lender and the Lenders, a Lien upon and security interest in the Cash Collateral Account and all amounts held therein from time to time as security for Letter of Credit Exposure, and for application to the Borrower's Reimbursement Obligations as and when the same shall arise. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest on the investment of such amounts in Cash Equivalents, which investments shall be made at the direction of the Borrower (unless a Default or Event of Default shall have occurred and be continuing, in which case the determination as to investments shall be made at the option and in the discretion of the Administrative Agent), amounts in the Cash Collateral Account shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. In the event of a drawing, and subsequent payment by the Issuing Lender, under any Letter of Credit at any time during which any amounts are held in the Cash Collateral Account, the Administrative Agent will deliver to the Issuing Lender an amount equal to the Reimbursement Obligation created as a result of such payment (or, if the amounts so held are less than such Reimbursement Obligation, all of such amounts) to reimburse the Issuing Lender therefor. Any amounts remaining in the Cash Collateral Account (including interest) after the expiration of all Letters of Credit and reimbursement in full of the Issuing Lender for all of its obligations thereunder shall be held by the Administrative Agent, for the benefit of the Borrower, to be applied against the Obligations in such order and manner as the Administrative Agent may direct. If the Borrower is required to provide cash collateral pursuant to **Section 2.6(b)**, such amount (including interest), to the extent not applied as aforesaid, shall be returned to the Borrower on demand, provided that after giving effect to such return (i) the sum of (y) the aggregate principal amount of all Loans outstanding at such time and (z) the aggregate Letter of Credit Exposure of all Lenders at such time would not exceed the aggregate Commitments at such time and (ii) no Default or Event of Default shall have occurred and be continuing at such time. If the Borrower is required to provide cash collateral as a result of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

3.9 The Issuing Lender. The Issuing Lender shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the Issuing Lender shall have all of the rights, benefits and immunities (a) provided to the Administrative Agent in **ARTICLE X** with respect to any acts taken or omissions suffered by it in connection with Letters of Credit issued by it or proposed to be issued by it and any documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in **ARTICLE X** included the Issuing Lender with respect to such acts or omissions, and (b) as additionally provided herein with respect to the Issuing Lender.

3.10 Effectiveness. Notwithstanding any termination of the Commitments or repayment of the Loans, or both, the obligations of the Borrower under this ARTICLE III shall remain in full force and effect until the Issuing Lender and the Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

ARTICLE IV

CONDITIONS OF BORROWING

4.1 Conditions of Initial Borrowing. The obligation of each Lender to make Loans in connection with the initial Borrowing hereunder, and the obligation of the Issuing Lender to issue Letters of Credit hereunder on the Restatement Effective Date, is subject to the satisfaction of the following conditions precedent:

(a) The Administrative Agent shall have received the following, each dated as of the Restatement Effective Date (unless otherwise specified) and, except for the Notes, in sufficient copies for each Lender:

(i) counterparts hereof signed by each of the parties hereto (or, in the case of any party as to which an executed counterpart hereof shall not have been received, receipt by the Administrative Agent in form satisfactory to it of electronic, telegraphic, telecopy, or other written confirmation from such party of execution of a counterpart hereof by such party), including, without limitation, Lenders holding Commitments in an aggregate amount of \$200,000,000;

(ii) to the extent requested by any Lender in accordance with **Section 2.4(d)**, a Revolving Note for each Lender that is a party hereto as of the Restatement Effective Date, in the amount of such Lender's Commitment, each duly completed in accordance with the relevant provisions of **Section 2.4(d)** and executed by the Borrower; and

(iii) the favorable opinions of (A) the General Counsel of the Borrower, addressed to the Administrative Agent and the Lenders, regarding the Borrower's qualification and good standing in those material states in which it conducts business and (B) Womble Carlyle Sandridge & Rice, PLLC, special counsel to the Borrower, addressed to the Administrative Agent and the Lenders, in each case in form and substance reasonably satisfactory to the Administrative Agent.

(b) The Administrative Agent shall have received a certificate, signed by the president, the chief executive officer, the chief financial officer or the treasurer of the Borrower, in form and substance satisfactory to the Administrative Agent, certifying that (i) all representations and warranties of the Borrower contained in this Agreement and the other Credit Documents are true and correct as of the Restatement Effective Date in all material respects (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date), both immediately before and after giving effect to the consummation of the transactions contemplated hereby, the making of the initial Loans hereunder and the application of the proceeds thereof, (ii) no Default or Event of Default has occurred and is continuing, both immediately before and after giving effect to the consummation of the transactions contemplated hereby, the making of the initial Loans hereunder and the application of the proceeds thereof, (iii) both immediately before and after giving effect to the consummation of the transactions contemplated hereby, the making of the

initial Loans hereunder and the application of the proceeds thereof, no Material Adverse Change has occurred since December 31, 2010 and, to the best of his knowledge, there exists no event, condition or state of facts that could reasonably be expected to result in a Material Adverse Change, and (iv) all conditions to the initial extensions of credit hereunder set forth in this **Section 4.1** and in **Section 4.2** have been satisfied or waived as required hereunder.

(c) The Administrative Agent shall have received a certificate of the secretary or an assistant secretary of each of the Borrower and its Subsidiaries (other than Excluded Subsidiaries), in form and substance satisfactory to the Administrative Agent, certifying (i) that attached thereto is a true and complete copy of the articles or certificate of incorporation and all amendments thereto of the Borrower or such Subsidiary, as the case may be, certified as of a recent date by the Secretary of State (or comparable Governmental Authority) of its jurisdiction of organization, and that the same has not been amended since the date of such certification, (ii) that attached thereto is a true and complete copy of the bylaws of the Borrower or such Subsidiary, as the case may be, as then in effect and as in effect at all times from the date on which the resolutions referred to in clause (iii) below were adopted to and including the date of such certificate, and (iii) that attached thereto is a true and complete copy of resolutions adopted by the board of directors of the Borrower or such Subsidiary, as the case may be, authorizing the execution, delivery and performance of this Agreement and the other Credit Documents to which it is a party, and as to the incumbency and genuineness of the signature of each officer of the Borrower or such Subsidiary, as the case may be, executing this Agreement or any of such other Credit Documents, and attaching all such copies of the documents described above.

(d) The Administrative Agent shall have received a certificate as of a recent date of the good standing or existence of each of the Borrower and its Subsidiaries under the laws of its jurisdiction of organization, from the Secretary of State (or comparable Governmental Authority) of such jurisdiction.

(e) All legal, tax, accounting, business and other matters and all corporate or other proceedings incident to the transactions contemplated hereby shall be satisfactory in form and substance to the Administrative Agent; all approvals, permits and consents of any Governmental Authorities or other Persons required in connection with the execution and delivery of this Agreement and the other Credit Documents and the consummation of the transactions contemplated hereby and thereby shall have been obtained, without the imposition of conditions that are not acceptable to the Administrative Agent, and all related filings, if any, shall have been made, and all such approvals, permits, consents and filings shall be in full force and effect and the Administrative Agent shall have received such copies thereof as it shall have requested; all applicable waiting periods shall have expired without any adverse action being taken by any Governmental Authority having jurisdiction; and no action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before, and no order, injunction or decree shall have been entered by, any court or other Governmental Authority, in each case to enjoin, restrain or prohibit, to obtain substantial damages in respect of, or that is otherwise related to or arises out of, this Agreement, any of the other Credit Documents or the consummation of the transactions contemplated hereby or thereby, or that, in the opinion of the Administrative Agent, could reasonably be expected to have a Material Adverse Effect.

(f) Since December 31, 2010, both immediately before and after giving effect to the consummation of the transactions contemplated by this Agreement, there shall not have occurred any Material Adverse Change or any event, condition or state of facts that could reasonably be expected to result in a Material Adverse Change.

(g) The Borrower shall have paid (i) to Wells Fargo and Wells Fargo Securities, the fees required under the Wells Fargo Fee Letter to be paid to them on the Restatement Effective Date, in the amounts due and payable on the Restatement Effective Date, as required by the terms thereof, (ii) to Branch Banking and Trust Company and BB&T Capital Markets, the fees required under the BB&T Fee Letter to be paid to them on the Restatement Effective Date, in the amounts due and payable on the Restatement Effective Date, as required by the terms thereof, (iii) to the Administrative Agent, the initial payment of the annual administrative fee described in the Wells Fargo Fee Letter and (iv) all other fees and expenses of the Arrangers, the Administrative Agent and the Lenders required hereunder or under any other Credit Document to be paid on or prior to the Restatement Effective Date (including fees and expenses of counsel) in connection with this Agreement and the transactions contemplated hereby.

(h) The Administrative Agent shall have received the Projections as described in **Section 5.11(b)**, which shall be in form and substance satisfactory to the Administrative Agent.

(i) The Administrative Agent shall have received evidence satisfactory to it that (i) concurrently with the making of the initial Loans hereunder, all principal, interest and other amounts outstanding with respect to the Existing Credit Agreement shall be repaid and satisfied in full and (ii) any letters of credit outstanding with respect to the Existing Credit Agreement (other than the Existing Letters of Credit) shall have been terminated or canceled.

(j) The Administrative Agent shall have received evidence in form and substance reasonably satisfactory to it that all of the requirements of **Section 6.6**.

(k) The Administrative Agent shall have received all documentation and other information requested by the Administrative Agent that is required to satisfy applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act.

(l) There shall be no liquidation or dissolution proceedings pending or threatened against the Borrower and the Borrower shall not be aware of any event or fact affecting or threatening the corporate existence of the Borrower or any of its Subsidiaries.

(m) The Administrative Agent shall have received an Account Designation Letter, together with written instructions from an Authorized Officer, including wire transfer information, directing the payment of the proceeds of the initial Loans to be made hereunder.

(n) The Administrative Agent and each Lender shall have received such other documents, certificates, opinions and instruments in connection with the transactions contemplated hereby as it shall have reasonably requested.

4.2 Conditions of All Borrowings. The obligation of each Lender and the Swingline Lender to make any Loans hereunder, including the initial Loans (but excluding Revolving

Loans made for the purpose of repaying Refunded Swingline Loans pursuant to **Section 2.2(e)**, and the obligation of the Issuing Lender to issue any Letters of Credit hereunder, is subject to the satisfaction of the following conditions precedent on the relevant Borrowing Date or date of issuance:

(a) The Administrative Agent shall have received a Notice of Borrowing in accordance with **Section 2.2(b)**, or (together with the Swingline Lender) a Notice of Swingline Borrowing in accordance with **Section 2.2(d)**, or (together with the Issuing Lender) a Letter of Credit Notice in accordance with **Section 3.2**, as applicable;

(b) Each of the representations and warranties contained in **ARTICLE V** and in the other Credit Documents shall be true and correct in all material respects on and as of such Borrowing Date (including the Restatement Effective Date, in the case of the initial Loans made hereunder) or date of issuance with the same effect as if made on and as of such date (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date), both immediately before and after giving effect to the Loans to be made or Letter of Credit to be issued on such date; and

(c) No Default or Event of Default shall have occurred and be continuing on such date, both immediately before and after giving effect to the Loans to be made or Letter of Credit to be issued on such date.

Each giving of a Notice of Borrowing, a Notice of Swingline Borrowing, or a Letter of Credit Notice and the consummation of each Borrowing or issuance of a Letter of Credit, shall be deemed to constitute a representation by the Borrower that the statements contained in subsections (b) and (c) above are true, both as of the date of such notice or request and as of the relevant Borrowing Date or date of issuance.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent, the Issuing Lender and the Lenders to enter into this Agreement and to induce the Lenders to extend the credit contemplated hereby and the Issuing Lender to issue Letters of Credit, the Borrower represents and warrants to the Administrative Agent and the Lenders as follows:

5.1 Corporate Organization and Power. Each of the Borrower and its Subsidiaries (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, (ii) has the full corporate power and authority to execute, deliver and perform the Credit Documents to which it is or will be a party, to own and hold its property and to engage in its business as presently conducted, and (iii) is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where the nature of its business or the ownership of its properties requires it to be so qualified, except where the failure to be so qualified would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect.

5.2 Authorization; Enforceability. Each of the Borrower and its Subsidiaries has taken, or on the Restatement Effective Date will have taken, all necessary corporate action to execute, deliver and perform each of the Credit Documents to which it is or will be a party, and has, or on the Restatement Effective Date (or any later date of execution and delivery) will have, validly executed and delivered each of the Credit Documents to which it is or will be a party. This Agreement constitutes, and each of the other Credit Documents upon execution and delivery will constitute, the legal, valid and binding obligation of each of the Borrower and its Subsidiaries that is a party hereto or thereto, enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally, by general equitable principles or by principles of good faith and fair dealing (regardless of whether enforcement is sought in equity or at law).

5.3 No Violation. The execution, delivery and performance by each of the Borrower and its Subsidiaries of this Agreement and each of the other Credit Documents to which it is or will be a party, and compliance by it with the terms hereof and thereof, do not and will not (i) violate any provision of its articles or certificate of incorporation or its bylaws, (ii) contravene any other Requirement of Law applicable to it, (iii) conflict with, result in a breach of or constitute (with notice, lapse of time or both) a default under any indenture, contract, agreement or other instrument to which it is a party, by which it or any of its properties is bound or to which it is subject, except where such conflict, breach or default would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or (iv) result in or require the creation or imposition of any Lien upon any of its properties or assets. No Subsidiary is a party to any agreement or instrument or otherwise subject to any restriction or encumbrance that restricts or limits its ability to make dividend payments or other distributions in respect of its Capital Stock, to repay Indebtedness owed to the Borrower or any other Subsidiary, to make loans or advances to the Borrower or any other Subsidiary, or to transfer any of its assets or properties to the Borrower or any other Subsidiary, in each case other than such restrictions or encumbrances existing under or by reason of the Credit Documents or applicable Requirements of Law.

5.4 Governmental and Third-Party Authorization; Permits.

(a) No consent, approval, authorization or other action by, notice to, or registration or filing with, any Governmental Authority or other Person is or will be required as a condition to or otherwise in connection with the due execution, delivery and performance by each of the Borrower and its Subsidiaries of this Agreement or any of the other Credit Documents to which it is or will be a party or the legality, validity or enforceability hereof or thereof, other than (i) consents, authorizations and filings that have been (or on or prior to the Restatement Effective Date will have been) made or obtained and that are (or on the Restatement Effective Date will be) in full force and effect, which consents, authorizations and filings are listed on **Schedule 5.4**, and (ii) consents and filings the failure to obtain or make would not, individually or in the aggregate, have a Material Adverse Effect.

(b) Each of the Borrower and its Subsidiaries has, and is in good standing with respect to, all governmental approvals, licenses, permits and authorizations necessary to conduct its business as presently conducted and to own or lease and operate its properties, except for

those the failure of which to obtain would not be reasonably likely, individually or in the aggregate, to have a Material Adverse Effect.

5.5 Litigation. There are no actions, investigations, suits or proceedings pending or, to the knowledge of the Borrower, threatened, at law, in equity or in arbitration, before any court, other Governmental Authority, arbitrator or other Person, (i) against or affecting the Borrower, any of its Subsidiaries or any of their respective properties that could reasonably be expected to have a Material Adverse Effect, or (ii) with respect to this Agreement or any of the other Credit Documents or any of the transactions contemplated hereby or thereby.

5.6 Taxes. Each of the Borrower and its Subsidiaries has timely filed all federal, state and local tax returns and reports required to be filed by it (except for those the failure to file would not be reasonably likely to, individually or in the aggregate, to have a Material Adverse Effect) and has paid, prior to the date on which penalties would attach thereto or a Lien would attach to any of the properties of the Borrower or its Subsidiaries if unpaid, all taxes, assessments, fees and other charges levied upon it or upon its properties that are shown thereon as due and payable, other than those that are not yet delinquent or that are being contested in good faith and by proper proceedings and for which adequate reserves have been established in accordance with GAAP. Such returns accurately reflect in all material respects all liability for taxes of the Borrower and its Subsidiaries for the periods covered thereby. There is no unresolved claim by any Governmental Authority concerning the tax liability of the Borrower or any of its Subsidiaries for any period for which tax returns have been or were required to have been filed, other than unsecured claims for which adequate reserves have been established in accordance with GAAP. Neither the Borrower nor any of its Subsidiaries has waived or extended or has been requested to waive or extend the statute of limitations relating to the payment of any taxes, other than taxes for which adequate reserves have been established in accordance with GAAP.

5.7 Subsidiaries. **Schedule 5.7** sets forth a list, as of the Restatement Effective Date, of all of the Subsidiaries of the Borrower and, as to each such Subsidiary, the percentage ownership (direct and indirect) of the Borrower in each class of its capital stock and each direct owner thereof. Except for the shares of capital stock expressly indicated on **Schedule 5.7** as of the Restatement Effective Date, there are no shares of capital stock, warrants, rights, options or other equity securities, or other Capital Stock of any Subsidiary of the Borrower outstanding or reserved for any purpose. All outstanding shares of capital stock of each Subsidiary of the Borrower are duly and validly issued, fully paid and nonassessable. The Borrower is the sole legal, record and beneficial owner of, and has good and valid title to, all such capital stock, free and clear of all Liens.

5.8 Full Disclosure. All factual information heretofore or contemporaneously furnished to the Administrative Agent or any Lender in writing by or on behalf of the Borrower or any of its Subsidiaries for purposes of or in connection with this Agreement and the transactions contemplated hereby is, and all other such factual information hereafter furnished to the Administrative Agent or any Lender in writing by or on behalf of the Borrower or any of its Subsidiaries will be, true and accurate in all material respects on the date as of which such information is dated or certified (or, if such information has been updated, amended or supplemented, on the date as of which any such update, amendment or supplement is dated or

certified) and not made incomplete by omitting to state a material fact necessary to make the statements contained herein and therein, in light of the circumstances under which such information was provided, not misleading.

5.9 Margin Regulations. Neither the Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock. No proceeds of the Loans will be used, directly or indirectly, to purchase or carry any Margin Stock, to extend credit for such purpose or for any other purpose that would violate or be inconsistent with Regulations T, U or X or any provision of the Exchange Act. Not more than 25% of the value of the assets of the Borrower and its Subsidiaries is represented by Margin Stock.

5.10 No Material Adverse Change. There has been no Material Adverse Change since December 31, 2010, and there exists no event, condition or state of facts that could reasonably be expected to result in a Material Adverse Change.

5.11 Financial Matters.

(a) The Borrower has heretofore furnished to the Administrative Agent copies of (i) the audited consolidated balance sheets of the Borrower and its Subsidiaries as of December 31, 2010, and the related statements of income, cash flows and stockholders' equity for the fiscal years then ended, together with the opinion of Ernst & Young LLP thereon, and (ii) the unaudited consolidated balance sheet of the Borrower and its Subsidiaries as of June 30, 2011, and the related statements of income, cash flows and stockholders' equity for the six (6)-month period then ended. Such financial statements have been prepared in accordance with GAAP (subject, with respect to the unaudited financial statements, to the absence of notes required by GAAP and to normal year-end adjustments) and present fairly the financial condition of the Borrower and its Subsidiaries on a consolidated basis as of the respective dates thereof and the consolidated results of operations of the Borrower and its Subsidiaries for the respective periods then ended. Except as fully reflected in the most recent financial statements referred to above and the notes thereto as of the Restatement Effective Date, there are no material liabilities or obligations with respect to the Borrower or any of its Subsidiaries of any nature whatsoever (whether absolute, contingent or otherwise and whether or not due).

(b) The Borrower has prepared, and has heretofore furnished to the Administrative Agent a copy of, annual projected balance sheets and statements of income and cash flows of the Borrower for the five (5)-year period beginning with the year ending December 31, 2010, giving effect to the initial extensions of credit made under this Agreement, including, without limitation, the assumption of the Existing Letters of Credit under this Agreement, and the payment of transaction fees and expenses related to the foregoing (the "Projections"). In the opinion of management of the Borrower, the assumptions used in the preparation of the Projections were fair, complete and reasonable when made and continue to be fair, complete and reasonable as of the Restatement Effective Date. The Projections have been prepared in good faith by the executive and financial personnel of the Borrower, are complete as of the Restatement Effective Date and represent as of the Restatement Effective Date a reasonable estimate of the future performance and financial condition of the Borrower, subject to the uncertainties and approximations inherent in any projections.

(c) Each of the Borrower and its Subsidiaries, after giving effect to the consummation of the transactions contemplated hereby, (i) has capital sufficient to carry on its businesses as conducted and as proposed to be conducted, (ii) has assets with a fair saleable value, determined on a going concern basis, (y) not less than the amount required to pay the probable liability on its existing debts as they become absolute and matured and (z) greater than the total amount of its liabilities (including identified contingent liabilities, valued at the amount that can reasonably be expected to become absolute and matured in their ordinary course), and (iii) does not intend to, and does not believe that it will, incur debts or liabilities beyond its ability to pay such debts and liabilities as they mature in their ordinary course.

5.12 Ownership of Properties. Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to cause a Material Adverse Effect, each of the Borrower and its Subsidiaries (i) has good and marketable title to all material real properties owned by it, (ii) holds interests as lessee under valid leases in full force and effect with respect to all material leased real and personal property used in connection with its business, (iii) possesses or has rights to use licenses, patents, copyrights, trademarks, service marks, trade names and other assets sufficient to enable it to continue to conduct its business substantially as heretofore conducted and without any material conflict with the rights of others, and (iv) has good title to all of its other material properties and assets reflected in the most recent financial statements referred to in **Section 5.11(a)** (except as sold or otherwise disposed of since the date thereof in the ordinary course of business), in each case under (i), (ii), (iii) and (iv) above free and clear of all Liens other than Permitted Liens.

5.13 ERISA.

(a) Each of the Borrower and its ERISA Affiliates is in compliance in all material respects with the applicable provisions of ERISA, and each Plan is and has been administered in compliance in all material respects with all applicable Requirements of Law, including, without limitation, the applicable provisions of ERISA and the Internal Revenue Code. No ERISA Event (i) has occurred within the five (5)-year period prior to the Restatement Effective Date, (ii) has occurred and is continuing, or (iii) to the knowledge of the Borrower, is reasonably expected to occur with respect to any Plan. No Plan has any Unfunded Pension Liability as of the most recent annual valuation date applicable thereto, and neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

(b) Neither the Borrower nor any ERISA Affiliate has had a complete or partial withdrawal from any Multiemployer Plan, and neither the Borrower nor any ERISA Affiliate would become subject to any liability under ERISA if the Borrower or any ERISA Affiliate were to withdraw completely from all Multiemployer Plans as of the most recent valuation date. No Multiemployer Plan is in “reorganization” or is “insolvent” within the meaning of such terms under ERISA.

5.14 Environmental Matters.

(a) No Hazardous Substances are or have been generated, used, located, released, treated, disposed of or stored by the Borrower or any of its Subsidiaries or, to the knowledge of the Borrower, by any other Person (including any predecessor in interest) or otherwise, in, on or

under any portion of any real property, leased or owned, of the Borrower or any of its Subsidiaries, except in compliance with the requirements of all applicable Environmental Laws and except where the failure to do so is not reasonably likely to result in a Material Adverse Effect, and no portion of any such real property or, to the knowledge of the Borrower, any other real property at any time leased, owned or operated by the Borrower or any of its Subsidiaries, has been contaminated by any Hazardous Substance to the extent that is reasonably likely to result in a Material Adverse Effect; and no portion of any real property, leased or owned, of the Borrower or any of its Subsidiaries has been or is presently or, to the knowledge of the Borrower, has ever been, the subject of an environmental audit, assessment or remedial action to the extent that is reasonably likely to result in a Material Adverse Effect.

(b) No portion of any real property, leased or owned, of the Borrower or any of its Subsidiaries has been used by the Borrower or any of its Subsidiaries or, to the knowledge of the Borrower, by any other Person, as or for a mine, a landfill, a dump or other disposal facility, a gasoline service station, or (other than for petroleum substances stored in the ordinary course of business) a petroleum products storage facility; no portion of such real property or any other real property at any time leased, owned or operated by the Borrower or any of its Subsidiaries has, pursuant to any Environmental Law, been placed on the “National Priorities List” or “CERCLIS List” (or any similar federal, state or local list) of sites subject to possible environmental problems.

(c) All activities and operations of the Borrower and its Subsidiaries are in compliance with the requirements of all applicable Environmental Laws, except to the extent the failure so to comply, individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect. Each of the Borrower and its Subsidiaries has obtained all licenses and permits under Environmental Laws necessary to its respective operations except where the failure to do so is not reasonably likely to result in a Material Adverse Effect; all such licenses and permits are being maintained in good standing except where the failure to do so is not reasonably likely to result in a Material Adverse Effect; and each of the Borrower and its Subsidiaries is in compliance with all terms and conditions of such licenses and permits, except for such licenses and permits the failure to obtain, maintain or comply with which would not be reasonably likely, individually or in the aggregate, to have a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries is involved in any suit, action or proceeding, or has received any notice, complaint or other request for information from any Governmental Authority or other Person, with respect to any actual or alleged Environmental Claims that, if adversely determined, would be reasonably likely, individually or in the aggregate, to have a Material Adverse Effect; and, to the knowledge of the Borrower, there are no threatened actions, suits, proceedings or investigations with respect to any such Environmental Claims, nor any basis therefore that, if adversely determined, would be reasonably likely to have a Material Adverse Effect.

5.15 Compliance with Laws. Each of the Borrower and its Subsidiaries: (i) has timely filed all material reports, documents and other materials required to be filed by it under all applicable Requirements of Law with any Governmental Authority, (ii) has retained all material records and documents required to be retained by it under all applicable Requirements of Law, and (iii) is otherwise in compliance with all applicable Requirements of Law in respect of the conduct of its business and the ownership and operation of its properties, except in each case

under clauses (i), (ii) and (iii) above for such Requirements of Law the failure to comply with which, individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

5.16 **Regulated Industries.** Neither the Borrower nor any of its Subsidiaries is (i) an “investment company,” a company “controlled” by an “investment company,” or an “investment advisor,” within the meaning of the Investment Company Act of 1940, as amended, or (ii) a “holding company,” a “subsidiary company” of a “holding company,” or an “affiliate” of a “holding company” or of a “subsidiary company” of a “holding company,” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

5.17 **Insurance.** **Schedule 5.17** sets forth a true and complete summary of all material insurance policies or arrangements carried or maintained by the Borrower and its Subsidiaries as of the Restatement Effective Date, indicating in each case the insurer, policy number, expiration, amount and type of coverage and deductibles. The assets, properties and business of the Borrower and its Subsidiaries are insured against such hazards and liabilities, under such coverages and in such amounts, as are customarily maintained by prudent companies similarly situated and under policies issued by insurers of recognized responsibility.

5.18 **Material Contracts.** **Schedule 5.18** lists, as of the Restatement Effective Date, each “material contract” (within the meaning of Item 601(b)(10) of Regulation S-K under the Exchange Act) to which the Borrower or any of its Subsidiaries is a party, by which any of them or their respective properties is bound or to which any of them is subject (collectively, “**Material Contracts**”), and also indicates the parties, subject matter and term thereof. As of the Restatement Effective Date and except with respect to the Existing Credit Agreement, (i) each Material Contract is in full force and effect and is enforceable by the Borrower or the Subsidiary that is a party thereto in accordance with its terms, and (ii) neither the Borrower nor any of its Subsidiaries (nor, to the knowledge of the Borrower, any other party thereto) is in breach of or default under any Material Contract in any material respect or has given notice of termination or cancellation of any Material Contract.

5.19 **Trade Relations.** To the best of the Borrower’s knowledge, there exists no actual or threatened termination, cancellation or limitation of, or any modification or change in, any business relationship of the Borrower or its Subsidiaries which would be reasonably likely to have a Material Adverse Effect, including, without limitation, any business relationship with any customer or any group of customers or any supplier or group of suppliers.

5.20 **Labor Relations.** Neither the Borrower nor any of its Subsidiaries is engaged in any unfair labor practice within the meaning of the National Labor Relations Act of 1947, as amended, to the extent that is reasonably likely, individually or in the aggregate, to cause a Material Adverse Effect. Except for those situations that would not, individually or in the aggregate, be reasonably likely to result in a Material Adverse Effect, there is (i) no unfair labor practice complaint before the National Labor Relations Board, or grievance or arbitration proceeding arising out of or under any collective bargaining agreement, pending or, to the knowledge of the Borrower, threatened, against the Borrower or any of its Subsidiaries, (ii) no strike, lock-out, slowdown, stoppage, walkout or other labor dispute pending or, to the knowledge of the Borrower, threatened, against the Borrower or any of its Subsidiaries, and (iii)

to the knowledge of the Borrower, no petition for certification or union election or union organizing activities taking place with respect to the Borrower or any of its Subsidiaries. As of the Restatement Effective Date, there are no collective bargaining or Multiemployer Plans covering the employees of the Borrower or any of its Subsidiaries.

5.21 Leases. The Borrower and its Subsidiaries, enjoy peaceful and undisturbed possession under all of their leases and all such leases are valid and subsisting and in full force and effect except such leases that if not in existence would not be reasonably likely to have a Material Adverse Effect.

5.22 OFAC: Anti-Terrorism Laws.

(a) None of the Borrower, any Subsidiary of the Borrower or any Affiliate of the Borrower are in violation of and shall not violate in any material respect any of the country or list based economic and trade sanctions administered and enforced by OFAC that are described or referenced at <http://www.ustreas.gov/offices/enforcement/ofac/> or as otherwise published from time to time.

(b) Neither the making of the Loans hereunder nor the use of the proceeds thereof will violate the PATRIOT Act, the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. The Borrower and its Subsidiaries are in compliance in all material respects with the PATRIOT Act, except to the extent the failure to comply, individually or in the aggregate, is not reasonably likely to cause a Material Adverse Effect.

ARTICLE VI

AFFIRMATIVE COVENANTS

The Borrower covenants and agrees that, until the termination of the Commitments, the termination or expiration of all Letters of Credit and the payment in full of all principal and interest with respect to the Loans and all Reimbursement Obligations together with all other amounts then due and owing hereunder:

6.1 Financial Statements. The Borrower will deliver to each Lender:

(a) Concurrently with filing its Quarterly Report on Form 10-Q with the Securities and Exchange Commission and in any event within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year, beginning with the fiscal quarter ending September 30, 2011, unaudited consolidated balance sheets of the Borrower and its Subsidiaries as of the end of such fiscal quarter and unaudited consolidated statements of income and cash flows for the Borrower and its Subsidiaries for the fiscal quarter then ended and (in the case of the second and third fiscal quarters) for that portion of the fiscal year then ended, in each case setting forth comparative consolidated figures as of the end of and for the corresponding period in the preceding fiscal year, all in reasonable detail and prepared in accordance with GAAP (subject to the absence of notes required by GAAP and subject to normal year-end adjustments) applied on a basis consistent with that of the preceding quarter or containing disclosure of the

effect on the financial condition or results of operations of any change in the application of accounting principles and practices during such quarter; provided that delivery within the time period specified above of copies of the Borrower's Quarterly Report on Form 10-Q prepared in compliance with the requirements therefore and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this **Section 6.1**; and

(b) Concurrently with filing its Annual Report on Form 10-K with the Securities and Exchange Commission and in any event within one hundred (100) days after the end of each fiscal year, beginning with the fiscal year ending December 31, 2011, an audited consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year and audited consolidated statements of income, cash flows and stockholders' equity for the Borrower and its Subsidiaries for the fiscal year then ended, including the notes thereto, in each case setting forth comparative figures as of the end of and for the preceding fiscal year, all in reasonable detail and certified by the independent certified public accounting firm regularly retained by the Borrower or another independent certified public accounting firm of recognized national standing reasonably acceptable to the Required Lenders, together with (y) a report thereon by such accountants that is not qualified as to going concern or scope of audit and to the effect that such financial statements present fairly the consolidated financial condition and results of operations of the Borrower and its Subsidiaries as of the dates and for the periods indicated in accordance with GAAP applied on a basis consistent with that of the preceding year or containing disclosure of the effect on the financial condition or results of operations of any change in the application of accounting principles and practices during such year, and (z) a report by such accountants to the effect that, based on and in connection with their examination of the financial statements of the Borrower and its Subsidiaries, they obtained no knowledge of the occurrence or existence of any Default or Event of Default relating to accounting or financial reporting matters, or a statement specifying the nature and period of existence of any such Default or Event of Default disclosed by their audit; provided, however, that such accountants shall not be liable by reason of the failure to obtain knowledge of any Default or Event of Default that would not be disclosed or revealed in the course of their audit examination, and; provided further that the delivery within the time period specified above of the Borrower's Annual Report on Form 10-K for such fiscal year (together with the Borrower's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor and filed with the Securities and Exchange Commission, together with the accountant's report described in clauses (y) and (z) above, shall be deemed to satisfy the requirements of this **Section 6.1**.

6.2 Other Business and Financial Information. The Borrower will deliver to the Administrative Agent:

(a) Within sixty (60) days after the end of each of the first three (3) fiscal quarters of each fiscal year, beginning with the fiscal quarter ending September 30, 2011, and within one hundred (100) days after the end of each fiscal year, beginning with the fiscal year ending December 31, 2011, a Compliance Certificate with respect to the period covered by the financial statements delivered under **Section 6.1**, executed by a Financial Officer of the Borrower, together with a Covenant Compliance Worksheet reflecting the computation of the financial covenants set forth in **Sections 7.1** and **7.2** as of the last day of the period covered by such financial statements;

(b) Concurrently with each delivery thereof, a copy of any certificate regarding the status of defaults or events of defaults required to be delivered in connection with the Note Purchase Agreements;

(c) As soon as available and in any event within forty-five (45) days after the end of each fiscal year, beginning with the fiscal year ending December 31, 2011, a consolidated financial forecast for the Borrower and its Subsidiaries for the next fiscal year (prepared on an annual basis and updated periodically as may be requested by the Administrative Agent, but no more frequently than quarterly), consisting of a consolidated balance sheet and consolidated statements of income and cash flows, together with a certificate of a Financial Officer of the Borrower to the effect that such forecast have been prepared in good faith and are reasonable estimates of the financial position and results of operations of the Borrower and its Subsidiaries for the period covered thereby subject to the uncertainties and approximations inherent in any projections; and as soon as reasonably available from time to time thereafter, any modifications or revisions to or restatements of such forecast that are prepared by the Borrower;

(d) Promptly upon receipt thereof, copies of any “management letter” submitted to the Borrower or any of its Subsidiaries by its certified public accountants in connection with each annual, interim or special audit, and promptly upon completion thereof, any response reports from the Borrower or any such Subsidiary in respect thereof;

(e) Promptly upon the sending, filing or receipt thereof, copies of (i) all financial statements, reports, notices and proxy statements that the Borrower or any of its Subsidiaries shall send or make available generally to its shareholders, (ii) all regular, periodic and special reports, registration statements and prospectuses (other than on Form S-8) that the Borrower or any of its Subsidiaries shall render to or file with the Securities and Exchange Commission, the National Association of Securities Dealers, Inc. or any national securities exchange, and (iii) all press releases and other statements made available generally by the Borrower or any of its Subsidiaries to the public concerning material developments in the business of the Borrower or any of its Subsidiaries (documents required to be delivered pursuant to **Section 6.2(e)** (to the extent any such documents are included in materials otherwise filed with the Securities and Exchange Commission) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date the Borrower notifies the Administrative Agent that such documents have become available on the U.S. Securities Exchange Commission’s EDGAR Database provided that: (i) Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents);

(f) Promptly upon (and in any event within five (5) Business Days after) any Responsible Officer of the Borrower obtaining knowledge thereof, written notice of any of the following:

(i) the occurrence of any Default or Event of Default, together with a written statement of a Responsible Officer of the Borrower specifying the nature of such Default

or Event of Default, the period of existence thereof and the action that the Borrower has taken and proposes to take with respect thereto;

(ii) the institution or threatened institution of any action, suit, investigation or proceeding against or affecting the Borrower or any of its Subsidiaries, including any such investigation or proceeding by any Governmental Authority (other than routine periodic inquiries, investigations or reviews), that would, if adversely determined, be reasonably likely, individually or in the aggregate, to have a Material Adverse Effect, and any material development in any litigation or other proceeding previously reported pursuant to **Section 5.5** or this subsection;

(iii) the receipt by the Borrower or any of its Subsidiaries from any Governmental Authority of (y) any notice asserting any failure by the Borrower or any of its Subsidiaries to be in compliance with applicable Requirements of Law which is reasonably likely to have a Material Adverse Effect or that threatens the taking of any action against the Borrower or such Subsidiary or sets forth circumstances that, if taken or adversely determined, would be reasonably likely to have a Material Adverse Effect, or (z) any notice of any actual or threatened suspension, limitation or revocation of, failure to renew, or imposition of any restraining order, escrow or impoundment of funds in connection with, any license, permit, accreditation or authorization of the Borrower or any of its Subsidiaries, where any such action would be reasonably likely to have a Material Adverse Effect;

(iv) the occurrence of any ERISA Event, together with (x) a written statement of a Responsible Officer of the Borrower specifying the details of such ERISA Event and the action that the Borrower has taken and proposes to take with respect thereto, (y) a copy of any notice with respect to such ERISA Event that may be required to be filed with the PBGC and (z) a copy of any notice delivered by the PBGC to the Borrower or such ERISA Affiliate with respect to such ERISA Event;

(v) the occurrence of any material default under, or any proposed or threatened termination or cancellation of, any Material Contract or other material contract or agreement to which the Borrower or any of its Subsidiaries is a party, the termination or cancellation of which would be reasonably likely to have a Material Adverse Effect;

(vi) the occurrence of any of the following: (x) the assertion of any Environmental Claim against or affecting the Borrower, any of its Subsidiaries or any of their respective real property, leased or owned; (y) the receipt by the Borrower or any of its Subsidiaries of notice of any alleged violation of or noncompliance with any Environmental Laws; or (z) the taking of any remedial action by the Borrower, any of its Subsidiaries or any other Person in response to the actual or alleged generation, storage, release, disposal or discharge of any Hazardous Substances on, to, upon or from any real property leased or owned by the Borrower or any of its Subsidiaries; but in each case under clauses (x), (y) and (z) above, only to the extent the same would be reasonably likely to have a Material Adverse Effect; and

(vii) any other matter or event that has, or would be reasonably likely to have, a Material Adverse Effect, together with a written statement of a Responsible Officer of the Borrower setting forth the nature and period of existence thereof and the action that the Borrower has taken and proposes to take with respect thereto; and

(g) As promptly as reasonably possible, such other information about the business, condition (financial or otherwise), operations or properties of the Borrower or any of its Subsidiaries (including any Plan and any information required to be filed under ERISA) as the Administrative Agent or any Lender may from time to time reasonably request.

6.3 Existence; Franchises; Maintenance of Properties. The Borrower will, and will cause each of its Subsidiaries to, (i) maintain and preserve in full force and effect its legal existence, except as expressly permitted otherwise by **Section 8.1**, (ii) obtain, maintain and preserve in full force and effect all other rights, franchises, licenses, permits, certifications, approvals and authorizations required by Governmental Authorities and necessary to the ownership, occupation or use of its properties or the conduct of its business, except to the extent the failure to do so would not be reasonably likely to have a Material Adverse Effect, and (iii) keep all material properties in good working order and condition (normal wear and tear excepted) and from time to time make all necessary repairs to and renewals and replacements of such properties, except to the extent that any of such properties are obsolete or are being replaced.

6.4 Compliance with Laws. The Borrower will, and will cause each of its Subsidiaries to, comply in all respects with all Requirements of Law applicable in respect of the conduct of its business and the ownership and operation of its properties, except to the extent the failure so to comply would not be reasonably likely to have a Material Adverse Effect.

6.5 Payment of Obligations. The Borrower will, and will cause each of its Subsidiaries to, (i) pay all liabilities and obligations as and when due (subject to any applicable subordination provisions), except to the extent failure to do so would not be reasonably likely to have a Material Adverse Effect, and (ii) pay and discharge all taxes, assessments and governmental charges or levies imposed upon it, upon its income or profits or upon any of its properties, prior to the date on which such payment is delinquent and penalties would attach thereto, and all lawful claims that, if unpaid, might become a material Lien upon any of the properties of the Borrower or any of its Subsidiaries; provided, however, that neither the Borrower nor any of its 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 and as to which the Borrower or such Subsidiary is maintaining adequate reserves with respect thereto in accordance with GAAP.

6.6 Insurance. The Borrower will, and will cause each of its Subsidiaries to, maintain with financially sound and reputable insurance companies insurance with respect to its assets, properties and business, against such hazards and liabilities, of such types and in such amounts, as is customarily maintained by companies in the same or similar businesses similarly situated.

6.7 Maintenance of Books and Records; Inspection. The Borrower will, and will cause each of its Subsidiaries to, (i) maintain adequate books, accounts and records, in which

full, true and correct entries shall be made of all financial transactions in relation to its business and properties, and prepare all financial statements required under this Agreement, in each case in accordance with GAAP and in compliance with the requirements of any Governmental Authority having jurisdiction over it, and (ii) permit employees or agents of the Administrative Agent or any Lender to visit and inspect its properties and examine or audit its books, records, working papers and accounts and make copies and memoranda of them, and to discuss its affairs, finances and accounts with its officers and employees and, upon notice to the Borrower, the independent public accountants of the Borrower and its Subsidiaries (and by this provision the Borrower authorizes such accountants to discuss the finances and affairs of the Borrower and its Subsidiaries), all at such times and from time to time, upon reasonable notice and during business hours, as may be reasonably requested.

6.8 Permitted Acquisitions.

(a) Subject to the provisions of subsection (b) below and the requirements contained in the definition of Permitted Acquisition, and subject to the other terms and conditions of this Agreement, the Borrower or any Subsidiary may from time to time on or after the Restatement Effective Date effect Permitted Acquisitions, provided that, with respect to each Permitted Acquisition:

(i) no Default or Event of Default shall have occurred and be continuing at the time of the consummation of such Permitted Acquisition or would exist immediately after giving effect thereto;

(ii) immediately after giving effect to such Permitted Acquisition and any Debt incurred or assumed in connection therewith, the ratio of Consolidated Debt to Consolidated Total Capitalization shall be no greater than 0.45 to 1.00, determined on a pro forma basis giving effect to such Permitted Acquisition and Debt as of the end of the fiscal quarter then most recently ended for which the Administrative Agent has received financial statements and a Compliance Certificate required by **Sections 6.1** and **6.2(a)**; and

(iii) in the case of an Acquisition of Capital Stock of any Person that would be a Foreign Subsidiary, the Acquisition Amount with respect thereto, together with (x) the Acquisition Amount with respect to all other Acquisitions of Foreign Subsidiaries after the Restatement Effective Date and (y) the aggregate amount of Investments pursuant to **Section 8.5(vii)**, shall not exceed 12.5% the total assets of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, as of the end of the most recently completed fiscal quarter then most recently ended for which the Administrative Agent has received financial statements and a Compliance Certificate required by **Sections 6.1** and **6.2(a)**.

(b) Not less than ten (10) Business Days prior to the consummation of any Permitted Acquisition with respect to which the Acquisition Amount exceeds \$25,000,000, the Borrower shall have delivered to the Administrative Agent and each Lender the following:

(i) a reasonably detailed description of the material terms of such Permitted Acquisition (including, without limitation, the purchase price and method and structure of payment) and of each Person or business that is the subject of such Permitted Acquisition (each, a “Target”); and

(ii) a certificate, in form and substance reasonably satisfactory to the Administrative Agent, executed by a Financial Officer of the Borrower setting forth the Acquisition Amount and further to the effect that, to the best of such individual’s knowledge, (x) the consummation of such Permitted Acquisition will not result in a violation of any provision of this **Section 6.8**, and without limiting the foregoing, the conditions set forth in **Sections 6.8(a)(ii)** and **6.8(a)(iii)** are satisfied with respect to such Permitted Acquisition (such calculations to be attached to the certificate), (y) the Borrower believes in good faith that it will continue to comply with such financial covenants for a period of one year following the date of the consummation of such Permitted Acquisition, and (z) after giving effect to such Permitted Acquisition and any Borrowings in connection therewith, the Borrower believes in good faith that it will have sufficient availability under the Commitments to meet its ongoing working capital requirements.

(c) The consummation of each Permitted Acquisition shall be deemed to be a representation and warranty by the Borrower that (except as shall have been approved in writing by the Required Lenders) all conditions thereto set forth in this **Section 6.8** and in the description furnished under clause (i) of subsection (b) above have been satisfied, that the same is permitted in accordance with the terms of this Agreement, and that the matters certified to by the Financial Officer of the Borrower in the certificate referred to in clause (ii) of subsection (b) above are, to the best of such individual’s knowledge, true and correct in all material respects as of the date such certificate is given, which representation and warranty shall be deemed to be a representation and warranty as of the date thereof for all purposes hereunder, including, without limitation, for purposes of **Sections 4.2** and **9.1**.

6.9 Creation or Acquisition of Subsidiaries: Excluded Subsidiaries. Subject to the provisions of **Section 8.5**, the Borrower may from time to time create or acquire new Wholly Owned Subsidiaries in connection with Permitted Acquisitions or otherwise, the Wholly Owned Subsidiaries of the Borrower may create or acquire new Wholly Owned Subsidiaries and, subject to the definition of “Excluded Subsidiary,” the Borrower may designate a Domestic Subsidiary as an Excluded Subsidiary; provided that:

(a) Concurrently with (and in any event within ten (10) Business Days thereafter) the creation or direct or indirect acquisition by the Borrower thereof, each such new Subsidiary will execute and deliver to the Administrative Agent a Subsidiary Guaranty, substantially in the form attached hereto as **Exhibit E**, or a joinder thereto, pursuant to which such new Subsidiary shall guarantee the payment in full of the Obligations of the Borrower under this Agreement and the other Credit Documents. Notwithstanding the foregoing, any such new Subsidiary shall be exempt from providing a Subsidiary Guaranty (i) for so long as such new Subsidiary is an Excluded Subsidiary or (ii) if such new Subsidiary is a Foreign Subsidiary, to the extent a guaranty by a Foreign Subsidiary would have a material adverse federal income tax consequence for the Borrower.

(b) If any Domestic Subsidiary is currently designated as an Excluded Subsidiary, the Borrower will (i) continue to monitor whether the requirements of the definition of “Excluded Subsidiary” are satisfied, which monitoring shall include without limitation, calculating whether the Borrower has satisfied clauses (i) and (ii) of the definition of “Excluded Subsidiary” within ten (10) Business Days after the Borrower is required to deliver the financial information under **Section 6.1(a)** and **(b)**, as applicable and (ii) within ten (10) Business Days after the requirements of the definition of “Excluded Subsidiary” have no longer been satisfied, the Borrower will cause one or more Subsidiaries to become Subsidiary Guarantors, such that all the requirements of the definition of “Excluded Subsidiary” are satisfied.

(c) Concurrently with the execution and delivery of the Subsidiary Guaranty, or any joinder thereto, by a Subsidiary Guarantor, the Borrower will deliver to the Administrative Agent:

(i) a written legal opinion of counsel to such Subsidiary (which may be provided by in-house counsel) addressed to the Administrative Agent and the Lenders, in form and substance reasonably satisfactory to the Administrative Agent and its counsel, which shall cover such matters relating to such Subsidiary and the creation or acquisition thereof incident to the transactions contemplated by this Agreement and this **Section 6.9** and the other Credit Documents as set forth in the legal opinion of counsel delivered to the Administrative Agent and the Lenders on the Restatement Effective Date;

(ii) (A) a copy of the certificate of incorporation (or other charter documents) of such Subsidiary, certified as of a date that is acceptable to the Administrative Agent by the applicable Governmental Authority of the jurisdiction of incorporation or organization of such Subsidiary, (B) a copy of the bylaws or similar organizational document of such Subsidiary, certified on behalf of such Subsidiary as of a date that is acceptable to the Administrative Agent by the corporate secretary or assistant secretary of such Subsidiary, (C) an original certificate of good standing for such Subsidiary issued by the applicable Governmental Authority of the jurisdiction of incorporation or organization of such Subsidiary and (D) copies of the resolutions of the board of directors and, if required, stockholders or other equity owners of such Subsidiary authorizing the execution, delivery and performance of the agreements, documents and instruments executed pursuant to **Section 6.9(a)**, certified on behalf of such Subsidiary by an Authorized Officer of such Subsidiary, all in form and substance reasonably satisfactory to the Administrative Agent; and

(iii) a certificate of the secretary or an assistant secretary of such Subsidiary as to the incumbency and signature of the officers executing agreements, documents and instruments executed pursuant to **Section 6.9(a)**.

(d) As promptly as reasonably possible, the Borrower and its Subsidiaries will deliver any such other documents, certificates and opinions, in form and substance reasonably satisfactory to the Administrative Agent, as the Administrative Agent or the Required Lenders may reasonably request in connection therewith.

6.10 Further Assurances. The Borrower will, and will cause each of its Subsidiaries to, make, execute, endorse, acknowledge and deliver any amendments, modifications or supplements hereto and restatements hereof and any other agreements, instruments or documents, and take any and all such other actions, as may from time to time be reasonably requested by the Administrative Agent or the Required Lenders to effect, confirm or further assure or protect and preserve the interests, rights and remedies of the Administrative Agent and the Lenders under this Agreement and the other Credit Documents.

6.11 OFAC, PATRIOT Act Compliance. The Borrower will, and will cause each of its Subsidiaries to, (i) refrain from doing business in a Sanctioned Country or with a Sanctioned Person in violation of the economic sanctions of the United States of America administered by OFAC, and (ii) provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Administrative Agent or any Lender in order to assist the Administrative Agent and the Lenders in maintaining compliance with the PATRIOT Act.

ARTICLE VII

FINANCIAL COVENANTS

The Borrower covenants and agrees that, until the termination of the Commitments, the termination or expiration of all Letters of Credit and the payment in full of all principal and interest with respect to the Loans and all Reimbursement Obligations together with all other amounts then due and owing hereunder:

7.1 Consolidated Debt to Consolidated Total Capitalization. The Borrower will not permit the ratio of Consolidated Debt to Consolidated Total Capitalization as of the last day of any fiscal quarter to be greater than 0.60 to 1.0.

7.2 Fixed Charge Coverage Ratio. The Borrower will not permit the Fixed Charge Coverage Ratio as of the last day of any fiscal quarter to be less than 2.00 to 1.0.

ARTICLE VIII

NEGATIVE COVENANTS

The Borrower covenants and agrees that, until the termination of the Commitments, the termination or expiration of all Letters of Credit and the payment in full of all principal and interest with respect to the Loans and all Reimbursement Obligations together with all fees, expenses and other amounts then due and owing hereunder:

8.1 Merger; Consolidation. The Borrower will not, and will not permit or cause any of its Subsidiaries to, liquidate, wind up or dissolve, or enter into any consolidation, merger or other combination, or agree to do any of the foregoing; provided, however, that:

(i) the Borrower may merge or consolidate with another Person so long as (x) the Borrower is the surviving entity, (y) unless such other Person is a Wholly Owned Subsidiary immediately prior to giving effect thereto, such merger or consolidation shall constitute a Permitted Acquisition and the applicable conditions and requirements of

Sections 6.8 and 6.9 shall be satisfied, and (z) immediately after giving effect thereto, no Default or Event of Default would exist;

(ii) any Subsidiary Guarantor may merge or consolidate with another Person so long as (x) the surviving entity is the Borrower or a Subsidiary Guarantor, (y) unless such other Person is a Wholly Owned Subsidiary immediately prior to giving effect thereto, such merger or consolidation shall constitute a Permitted Acquisition and the applicable conditions and requirements of **Sections 6.8 and 6.9** shall be satisfied, and (z) immediately after giving effect thereto, no Default or Event of Default would exist;

(iii) any Excluded Subsidiary or Foreign Subsidiary may merge or consolidate with another Person so long as (x) the surviving entity is the Borrower or a Subsidiary, (y) unless such other Person is a Wholly Owned Subsidiary immediately prior to giving effect thereto, such merger or consolidation shall constitute a Permitted Acquisition and the applicable conditions and requirements of **Sections 6.8 and 6.9** shall be satisfied, and (z) immediately after giving effect thereto, no Default or Event of Default would exist;

(iv) any Subsidiary Guarantor may liquidate, wind up or dissolve so long as (x) such Subsidiary transfers all or substantially all of its net assets to the Borrower or a Subsidiary Guarantor prior to such liquidation, winding up or dissolution and (y) immediately after giving effect thereto, no Default or Event of Default would exist; and

(v) any Excluded Subsidiary or Foreign Subsidiary may liquidate, wind up or dissolve so long as (x) such Subsidiary transfers all or substantially all of its net assets to the Borrower or a Subsidiary prior to such liquidation, winding up or dissolution and (y) immediately after giving effect thereto, no Default or Event of Default would exist.

8.2 Indebtedness. The Borrower will not, and will not permit or cause any of its Subsidiaries to, create, incur, assume or suffer to exist any Indebtedness other than (without duplication):

(i) Indebtedness incurred under this Agreement, the Notes and the Subsidiary Guaranty;

(ii) Indebtedness pursuant to its terms and conditions existing on the Restatement Effective Date and described in **Schedule 8.2**, and any renewals, refinancings or replacements thereof as long as (w) the principal amount of such renewed, refinanced or replaced Indebtedness shall not exceed the principal amount of such Indebtedness being renewed, refinanced or replaced, (x) such Indebtedness to be incurred shall not mature prior to the stated maturity of such Indebtedness being renewed, refinanced or replaced, (y) the Remaining Average Life of such renewed, refinanced or replaced Indebtedness shall be no less than the Remaining Average Life of such Indebtedness being renewed, refinanced or replaced and no payment of any amount due under such Indebtedness being renewed, refinanced or replaced shall be shortened or accelerated by the renewed, refinanced or replaced Indebtedness, and (z) the representations, covenants and defaults of such renewed, refinanced or replaced Indebtedness shall be the same as, or less burdensome to the Borrower than, the

representations, covenants and defaults of such Indebtedness being renewed, refinanced or replaced;

(iii) accrued expenses (including salaries, accrued vacation and other compensation), current trade or other accounts payable and other current liabilities arising in the ordinary course of business and not incurred through the borrowing of money, provided that the same shall be paid when due except to the extent being contested in good faith and by appropriate proceedings;

(iv) purchase money Indebtedness of the Borrower and the Subsidiary Guarantors incurred solely to finance the payment of all or part of the purchase price of any equipment, real property or other fixed assets acquired in the ordinary course of business, including Indebtedness in respect of capital lease obligations, and any renewals, refinancings or replacements thereof (subject to the limitations on the principal amount thereof set forth in this clause (iv)), the aggregate principal amount of such Indebtedness, together with the aggregate principal amount of Indebtedness incurred by the Borrower and the Subsidiary Guarantors under clause (xiii) of this **Section 8.2**, shall not at any time exceed the greater of (A) 15% of the Borrower's Consolidated Net Worth, determined as of the last day of the fiscal quarter immediately preceding the date such Indebtedness is incurred, and (B) \$60,000,000;

(v) Indebtedness of Borrower incurred as a result of a Lender failing to make any Loan pursuant to **Section 2.3(b)** in an amount up to the amount of such Loan not made as long as the conditions to making the Loan in **Section 4.2** are satisfied immediately before and after such Loan should have been made;

(vi) Indebtedness of the Borrower under Hedge Agreements entered into in the ordinary course of business to manage existing or anticipated interest rate, foreign currency or commodity risks and not for speculative purposes;

(vii) Indebtedness of Excluded Subsidiaries and Foreign Subsidiaries in an aggregate amount not to exceed \$10,000,000;

(viii) Indebtedness incurred under loans and advances permitted by **Sections 8.5(vi)** and **8.5(vii)**;

(ix) Indebtedness in respect of performance bonds and surety bonds entered into by the Borrower or any Subsidiary in the ordinary course of business;

(x) Indebtedness incurred by the Borrower under the Note Purchase Agreements as of the Restatement Effective Date (or any guaranty thereof by the Subsidiary Guarantors);

(xi) other unsecured Indebtedness of the Borrower and the Subsidiary Guarantors, provided that (A) no Default or Event of Default shall exist before or after the incurrence of such Indebtedness, (B) immediately after giving effect to the incurrence of such Indebtedness, the Borrower is in compliance with **Section 7.1**, determined on a pro forma basis giving effect to such Indebtedness as of the end of the fiscal quarter then

most recently ended for which the Administrative agent has received the financial statements and a Compliance Certificate required by **Sections 6.1** and **6.2(a)** and (C) to the extent such Indebtedness is greater than or equal to \$25,000,000, the Borrower shall have delivered to the Administrative Agent a certificate that the conditions of this **Section 8.2(xi)** have been satisfied (including the pro forma calculations of **Section 7.1**); and

(xii) other secured Indebtedness of the Borrower and the Subsidiary Guarantors the aggregate principal amount of which, together with the aggregate principal amount of Indebtedness incurred by the Borrower and the Subsidiary Guarantors under clause (iv) of this **Section 8.2** shall not at any time exceed the greater of (A) 15% of the Borrower's Consolidated Net Worth, determined as of the last day of the fiscal quarter immediately preceding the date such Indebtedness is incurred, and (B) \$60,000,000; provided that (x) no Default or Event of Default shall exist before or after the incurrence of such Indebtedness, (y) the Borrower is in compliance with **Section 7.1**, determined on a pro forma basis giving effect to such Indebtedness as of the end of the fiscal quarter then most recently ended for which the Administrative agent has received the financial statements and a Compliance Certificate required by **Sections 6.1** and **6.2(a)** and (z) to the extent such Indebtedness is greater than or equal to \$25,000,000, the Borrower shall have delivered to the Administrative Agent a certificate that the conditions of this **Section 8.2(xii)** have been satisfied (including the pro forma calculations of **Section 7.1**).

8.3 Liens. The Borrower will not, and will not permit or cause any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist, any Lien upon or with respect to any part of its property or assets, whether now owned or hereafter acquired, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the Uniform Commercial Code of any state or under any similar recording or notice statute, or agree to do any of the foregoing, other than the following (collectively, "Permitted Liens"):

(i) Liens in existence on the Restatement Effective Date and set forth on **Schedule 8.3**;

(ii) Liens imposed by law, such as Liens of carriers, warehousemen, mechanics, materialmen and landlords, and other similar Liens incurred in the ordinary course of business for sums not constituting borrowed money that are not overdue for a period of more than thirty (30) days or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);

(iii) Liens (other than (i) any Lien imposed by ERISA, the creation or incurrence of which would result in an Event of Default under **Section 9.1(i)** and (ii) any Lien, the creation or incurrence of which would result in an Event of Default under **Section 9.1(m)**) incurred in the ordinary course of business in connection with worker's compensation, unemployment insurance or other forms of governmental insurance or benefits, or to secure the performance of letters of credit, bids, tenders, statutory obligations, surety and appeal bonds, leases, government contracts and other similar

obligations (other than obligations for borrowed money) entered into in the ordinary course of business;

(iv) Liens for taxes, assessments or other governmental charges or statutory obligations that are not delinquent or remain payable without any penalty or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);

(v) Liens securing the purchase money Indebtedness permitted under clause (iv) of **Section 8.2**, provided that any such Lien (A) shall attach to such property concurrently with or within ten (10) days after the acquisition thereof (or sixty (60) days after the completion thereof in the case of construction financing) by the Borrower or such Subsidiary, (B) shall not exceed the lesser of (y) the fair market value of such property or (z) the cost thereof to the Borrower or such Subsidiary and (C) shall not encumber any other property of the Borrower or any of its Subsidiaries;

(vi) any attachment or judgment Lien not constituting an Event of Default under **Section 9.1(h)** and that is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);

(vii) Liens arising from the filing, for notice purposes only, of financing statements in respect of true leases;

(viii) with respect to any real property occupied by the Borrower or any of its Subsidiaries, all easements, rights of way, licenses and similar encumbrances on title that do not materially impair the use of such property for its intended purposes;

(ix) Liens securing the Indebtedness permitted under clause (xii) of **Section 8.2**;

(x) Liens arising from the conduct of business or ownership of assets of the Borrower or any of its Subsidiaries that do not secure Indebtedness and do not materially detract from the value of any such assets; and

(xi) Liens arising out of the refinancing, extension, renewal or refunding of any Indebtedness secured by any Lien permitted by any of the foregoing clauses of this **Section 8.3**, provided that such Indebtedness is not increased and is not secured by any additional assets.

8.4 Disposition of Assets. The Borrower will not, and will not permit or cause any of its Subsidiaries to, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) all or any portion of its assets, business or properties (including, without limitation, any Capital Stock of any Subsidiary), or enter into any arrangement with any Person providing for the lease by the Borrower or any Subsidiary as lessee of any asset that has been sold or transferred by the Borrower or such Subsidiary to such Person, or agree to do any of the foregoing, except:

(i) the sale, lease or other disposition of assets in the ordinary course of business of the Borrower and its Subsidiaries;

(ii) the sale, lease or other disposition of assets by the Borrower or any Subsidiary of the Borrower to the Borrower or to a Subsidiary Guarantor (or by any Subsidiary that is not a Subsidiary Guarantor to another Subsidiary that is not a Subsidiary Guarantor), in each case so long as no Event of Default shall have occurred or be continuing or would result therefrom;

(iii) the termination or unwinding of Hedge Agreements permitted hereunder; and

(iv) other dispositions in an aggregate amount, as valued at the time each such disposition is made, not exceeding the greater of (A) 10% of the Borrower's Consolidated Net Worth, determined as of the last day of the fiscal quarter immediately preceding the date of such disposition and (B) \$60,000,000 for all such dispositions, in each case, from and after the Restatement Effective Date (it being understood that the Lenders will release a Subsidiary Guarantor from its Subsidiary Guaranty if such Subsidiary is sold in a disposition permitted by this **Section 8.4**).

8.5 Investments. The Borrower will not, and will not permit or cause any of its Subsidiaries to, directly or indirectly, purchase, own, invest in or otherwise acquire any Capital Stock, evidence of indebtedness or other obligation or security or any interest whatsoever in any other Person, or make or permit to exist any loans, advances or extensions of credit to, or any investment in cash or by delivery of property in, any other Person, or purchase or otherwise acquire (whether in one or a series of related transactions) any portion of the assets, business or properties of another Person (including pursuant to an Acquisition), or create or acquire any Subsidiary, or become a partner or joint venturer in any partnership or joint venture (collectively, "**Investments**"), or make a commitment or otherwise agree to do any of the foregoing, other than:

(i) Cash Equivalents;

(ii) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or licenses or leases of intellectual property and other assets, in each case in the ordinary course of business;

(iii) Investments consisting of loans and advances to employees for reasonable travel, relocation and business expenses in the ordinary course of business, extensions of trade credit in the ordinary course of business, and prepaid expenses incurred in the ordinary course of business;

(iv) Investments existing on the Restatement Effective Date and described in **Schedule 8.5A**;

(v) Investments of the Borrower under Hedge Agreements entered into in the ordinary course of business to manage existing or anticipated interest rate, foreign currency or commodity risks and not for speculative purposes;

(vi) Investments consisting of the making of loans, advances, capital contributions or the purchase of Capital Stock (A) by the Borrower or any Subsidiary in any other Wholly Owned Subsidiary that is (or immediately after giving effect to such Investment will be) a Subsidiary Guarantor or Excluded Subsidiary, provided that the Borrower complies with the provisions of **Section 6.9**, (B) by any Subsidiary in the Borrower, and (C) by any Foreign Subsidiary in another Foreign Subsidiary;

(vii) Investments by the Borrower or any Domestic Subsidiary in Foreign Subsidiaries consisting of the making of loans, advances, capital contributions, the purchase of Capital Stock, and Contingent Obligations with respect to obligations of any such Foreign Subsidiary, provided that, at the time of such Investment, immediately after giving effect thereto, the aggregate amount of Investments permitted under this **Section 8.5(vii)**, together with the Acquisition Amount for all Acquisitions of Foreign Subsidiaries after the Restatement Effective Date, shall not exceed 12.5% of the total assets of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP as of the end of the fiscal quarter then most recently ended for which the Administrative Agent has received financial statements and a Compliance Certificate required by **Sections 6.1** and **6.2(a)**;

(viii) Permitted Acquisitions;

(ix) Investments (other than Acquisitions) made pursuant to the Borrower's investment policy set forth on **Schedule 8.5B**; and

(x) other Investments in an aggregate amount, as valued at the time each such Investment is made, not exceeding \$25,000,000 for all such Investments from and after the Restatement Effective Date.

8.6 Restricted Payments. The Borrower will not, and will not permit or cause any of its Subsidiaries to, directly or indirectly, declare or make any dividend payment, or make any other distribution of cash, property or assets, in respect of any of its Capital Stock or any warrants, rights or options to acquire its Capital Stock, or purchase, redeem, retire or otherwise acquire for value any shares of its Capital Stock or any warrants, rights or options to acquire its Capital Stock (collectively, "Restricted Payments"), or set aside funds for any of the foregoing, unless immediately after giving effect to such action:

(i) no Default or Event of Default shall then exist;

(ii) after giving effect to such Restricted Payment no Default or Event of Default would then exist;

(iii) such Restricted Payment has been duly authorized by all necessary corporate action and is permitted by applicable Requirements of Law; and

(iv) such Restricted Payment, together with all other Restricted Payments made during the same fiscal year of the Borrower, shall not exceed the greatest of (A) \$20,000,000, (B) the amount paid in the immediately preceding fiscal year, and (C) an

amount equal to 25% of the Borrower's Consolidated Net Income from its immediately preceding fiscal year.

Notwithstanding the foregoing, each Wholly Owned Subsidiary of the Borrower may declare and make dividend payments or other distributions to the Borrower or another Wholly Owned Subsidiary of the Borrower, to the extent not prohibited under applicable Requirements of Law.

8.7 Transactions with Affiliates. The Borrower will not, and will not permit or cause any of its Subsidiaries to, enter into any transaction (including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service) with any officer, director, stockholder or other Affiliate of the Borrower or any Subsidiary, except in the ordinary course of its business pursuant to the reasonable requirements of the Borrower or such Subsidiary and upon fair and reasonable terms that are no less favorable to it than would obtain in a comparable arm's length transaction with a Person other than an Affiliate of the Borrower or such Subsidiary; provided, however, that nothing contained in this **Section 8.7** shall prohibit:

(i) transactions described on **Schedule 8.7** or otherwise expressly permitted under this Agreement; and

(ii) the payment by the Borrower of reasonable and customary fees to members of its board of directors, including without limitation indemnification payments and payments for D&O insurance.

8.8 Lines of Business. The Borrower will not, and will not permit or cause any of its Subsidiaries to, engage in any business other than the businesses engaged in by it on the date hereof and businesses and activities reasonably related thereto.

8.9 Limitation on Certain Restrictions. The Borrower will not, and will not permit or cause any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any restriction or encumbrance on (i) the ability of the Borrower and its Subsidiaries to perform and comply with their respective obligations under the Credit Documents or (ii) the ability of any Subsidiary of the Borrower to make any dividend payments or other distributions in respect of its Capital Stock, to repay Indebtedness owed to the Borrower or any other Subsidiary, to make loans or advances to the Borrower or any other Subsidiary, or to transfer any of its assets or properties to the Borrower or any other Subsidiary, in each case other than such restrictions or encumbrances existing under or by reason of the Credit Documents, applicable Requirements of Law or any agreement or instrument creating a Permitted Lien (but only to the extent such restriction or encumbrance applies to the assets subject to such Permitted Lien).

8.10 Fiscal Year. The Borrower will not, and will not permit or cause any of its Subsidiaries to, change the ending date of its fiscal year to a date other than December 31.

8.11 Accounting Changes. The Borrower will not, and will not permit or cause any of its Subsidiaries to, make or permit any material change in its accounting policies or reporting practices, except as may be required by GAAP or practices generally consistent with the accounting practices of other Persons in the same or similar lines of business as Borrower that

would not materially affect the calculation or determination of the financial covenants in **ARTICLE VII**.

8.12 Certain Amendments. The Borrower will not, and will not permit or cause any of its Subsidiaries to, amend, modify or waive, or permit the amendment, modification or waiver of, any provision of any of the Note Purchase Agreements, the effect of which would be (a) to provide for any mandatory prepayments not already provided for by the terms thereof or (b) to increase the applicable interest rate or amount of any fees or costs due thereunder. Furthermore, the Borrower will not, and will not cause or permit any of its Subsidiaries to, directly or indirectly, grant or suffer to exist any Lien to secure the obligations under the Note Purchase Agreements (or any notes issued to refinance obligations under the Note Purchase Agreements) unless the Obligations will be equally and ratably secured with any and all other obligations thereby secured, such Lien to be pursuant to an agreement reasonably satisfactory to the Required Lenders.

ARTICLE IX

EVENTS OF DEFAULT

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an “Event of Default”:

(a) The Borrower shall fail to pay (i) any principal of any Loan or any Reimbursement Obligation when it is due or (ii) any interest on any Loan, any fee or any other Obligation (other than any Obligation under a Hedge Agreement or Cash Management Agreement) within five (5) days after it is due;

(b) The Borrower shall fail to observe, perform or comply with any condition, covenant or agreement contained in any of **Sections 2.14, 6.1, 6.2, 6.3(i), 6.8, 6.9** or in **ARTICLE VII** or **ARTICLE VIII**;

(c) The Borrower or any of its Subsidiaries shall fail to observe, perform or comply with any condition, covenant or agreement contained in this Agreement or any of the other Credit Documents other than those enumerated in **Sections 9.1(a)** and **9.1(b)** above, and such failure (i) is deemed by the terms of the relevant Credit Document to constitute an Event of Default or (ii) shall continue unremedied for any grace period specifically applicable thereto or, if no such grace period is applicable, for a period of thirty (30) days after the earlier of (y) the date on which a Responsible Officer of the Borrower acquires knowledge thereof and (z) the date on which written notice thereof is delivered by the Administrative Agent or any Lender to the Borrower; or any default or event of default shall occur under any Hedge Agreement to which the Borrower and any Hedge Party are parties or any Cash Management Agreement to which the Borrower and any Cash Management Bank are parties;

(d) Any representation or warranty made or deemed made by or on behalf of the Borrower or any of its Subsidiaries in this Agreement, any of the other Credit Documents or in any certificate, instrument, report or other document furnished in connection herewith or therewith or in connection with the transactions contemplated hereby or thereby shall prove to

have been false or misleading in any material respect as of the time made, deemed made or furnished;

(e) The Borrower or any of its Subsidiaries shall (i) fail to pay when due (whether by scheduled maturity, acceleration or otherwise and after giving effect to any applicable grace period) (y) any principal of or interest on any Indebtedness (other than the Indebtedness incurred pursuant to this Agreement or a Hedge Agreement) having an aggregate principal amount of at least \$10,000,000 or (z) any termination or other payment under any Hedge Agreement covering a notional amount of Indebtedness of at least \$50,000,000 or (ii) fail to observe, perform or comply with any condition, covenant or agreement contained in any agreement or instrument evidencing or relating to any such Indebtedness, or any other event shall occur or condition exist in respect thereof so as to permit the holder to accelerate the maturity of such Indebtedness;

(f) The Borrower or any of its Subsidiaries shall (i) file a voluntary petition or commence a voluntary case seeking liquidation, winding-up, reorganization, dissolution, arrangement, readjustment of debts or any other relief under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to controvert in a timely and appropriate manner, any petition or case of the type described in **Section 9.1(g)** below, (iii) apply for or consent to the appointment of or taking possession by a custodian, trustee, receiver or similar official for or of itself or all or a substantial part of its properties or assets, (iv) fail generally, or admit in writing its inability, to pay its debts generally as they become due, (v) make a general assignment for the benefit of creditors or (vi) take any corporate action to authorize or approve any of the foregoing;

(g) Any involuntary petition or case shall be filed or commenced against the Borrower or any of its Subsidiaries seeking liquidation, winding-up, reorganization, dissolution, arrangement, readjustment of debts, the appointment of a custodian, trustee, receiver or similar official for it or all or a substantial part of its properties or any other relief under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, and such petition or case shall continue undismissed and unstayed for a period of sixty (60) days; or an order, judgment or decree approving or ordering any of the foregoing shall be entered in any such proceeding;

(h) Any one or more money judgments, writs or warrants of attachment, executions or similar processes involving an aggregate amount (exclusive of amounts fully bonded or covered by insurance as to which the surety or insurer, as the case may be, has acknowledged its liability in writing) in excess of \$10,000,000 shall be entered or filed against the Borrower or any of its Subsidiaries or any of their respective properties and the same shall not be dismissed, stayed or discharged for a period of thirty (30) days or in any event later than five days prior to the date of any proposed sale thereunder;

(i) Following the execution of the Subsidiary Guaranty by one or more Subsidiaries of the Borrower, any Subsidiary of the Borrower or any Person acting on behalf of such Subsidiary shall deny or disaffirm such Subsidiary's obligations under the Subsidiary Guaranty;

(j) Any ERISA Event or any other event or condition shall occur or exist with respect to any Plan or Multiemployer Plan and, as a result thereof, together with all other ERISA Events

and other events or conditions then existing, the Borrower and its ERISA Affiliates have incurred or would be reasonably likely to incur liability to any one or more Plans or Multiemployer Plans or to the PBGC (or to any combination thereof);

(k) Any one or more licenses, permits, accreditations or authorizations of the Borrower or any of its Subsidiaries shall be suspended, limited or terminated or shall not be renewed, or any other action shall be taken, by any Governmental Authority in response to any alleged failure by the Borrower or any of its Subsidiaries to be in compliance with applicable Requirements of Law, and such action, individually or in the aggregate, has or would be reasonably likely to have a Material Adverse Effect;

(l) Any one or more Environmental Claims shall have been asserted against the Borrower or any of its Subsidiaries (or a reasonable basis shall exist therefor); the Borrower and its Subsidiaries have incurred or would be reasonably likely to incur liability as a result thereof; and such liability, individually or in the aggregate, has or would be reasonably likely to have a Material Adverse Effect;

(m) Any notice of lien, levy or assessment is filed of record to all or any of the Borrower's or any Subsidiary's assets by the United States of America, or any department, agency or instrumentality thereof, or by any state, county, municipal or other governmental agency, including, without limitation the PBGC respecting taxes and debts owing and delinquent, or if any taxes or debts owing at any time or times hereafter to any one of them becomes delinquent and a lien or encumbrance upon the Borrower's or any Subsidiary's property and the same is not dismissed, released, bonded or discharged within thirty (30) days after the same becomes a lien or encumbrance or, in the case of ad valorem taxes, prior to the last day when payment may be made without penalty;

(n) The Borrower ceases to be solvent, or the Borrower ceases to conduct its business substantially as now conducted or is enjoined, restrained or in any way prevented by court order from conducting all or any material part of its business affairs; or

(o) Any of the following shall occur: (i) any Person or group of Persons acting in concert as a partnership or other group shall, as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, have become, after the date hereof, the "beneficial owner" (within the meaning of such term under Rule 13d-3 under the Exchange Act) of securities of the Borrower representing a greater percentage of the combined voting power of the then outstanding securities of the Borrower ordinarily (and apart from rights accruing under special circumstances) having the right to vote in the election of directors than the Control Group beneficially owns at such time; or (ii) the Board of Directors of the Borrower shall cease to consist of a majority of the individuals who constituted the Board of Directors as of the date hereof or who shall have become a member thereof subsequent to the date hereof after having been nominated, or otherwise approved in writing, by at least a majority of individuals who constituted the Board of Directors of the Borrower as of the date hereof (or their replacements approved as herein required).

9.2 Remedies: Termination of Commitments, Acceleration, etc. Upon and at any time after the occurrence and during the continuance of any Event of Default, the Administrative

Agent shall at the direction, or may with the consent, of the Required Lenders, take any or all of the following actions at the same or different times:

(a) Declare the Commitments, the Swingline Commitment and the Issuing Lender's obligation to issue Letters of Credit, to be terminated, whereupon the same shall terminate (provided that, upon the occurrence of an Event of Default pursuant to **Section 9.1(f)** or **Section 9.1(g)**, the Commitments, the Swingline Commitment and the Issuing Lender's obligation to issue Letters of Credit shall automatically be terminated);

(b) Declare all or any part of the outstanding principal amount of the Loans to be immediately due and payable, whereupon the principal amount so declared to be immediately due and payable, together with all interest accrued thereon and all other amounts payable under this Agreement, the Notes and the other Credit Documents (but excluding any amounts owing under any Hedge Agreement or Cash Management Agreement), shall become immediately due and payable without presentment, demand, protest, notice of intent to accelerate or other notice or legal process of any kind, all of which are hereby knowingly and expressly waived by the Borrower (provided that, upon the occurrence of an Event of Default pursuant to **Section 9.1(f)** or **Section 9.1(g)**, all of the outstanding principal amount of the Loans and all other amounts described in this **subsection (b)** shall automatically become immediately due and payable without presentment, demand, protest, notice of intent to accelerate or other notice or legal process of any kind, all of which are hereby knowingly and expressly waived by the Borrower);

(c) Direct the Borrower to deposit (and the Borrower hereby agrees, forthwith upon receipt of notice of such direction from the Administrative Agent, to deposit) with the Administrative Agent from time to time such additional amount of cash as is equal to the aggregate Stated Amount of all Letters of Credit then outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder), such amount to be held by the Administrative Agent in the Cash Collateral Account as security for the Letter of Credit Exposure as described in **Section 3.8**; and

(d) Exercise all rights and remedies available to it under this Agreement, the other Credit Documents and applicable law.

9.3 **Remedies: Set-Off.** In addition to all other rights and remedies available under the Credit Documents or applicable law or otherwise, upon and at any time after the occurrence and during the continuance of any Event of Default, each Lender may, and each is hereby authorized by the Borrower, at any such time and from time to time, to the fullest extent permitted by applicable law, without presentment, demand, protest or other notice of any kind, all of which are hereby knowingly and expressly waived by the Borrower, to set off and to apply any and all deposits (general or special, time or demand, provisional or final) and any other property at any time held (including at any branches or agencies, wherever located), and any other indebtedness at any time owing, by such Lender to or for the credit or the account of the Borrower against any or all of the Obligations to such Lender now or hereafter existing, whether or not such Obligations may be contingent or unmatured or are owed to a branch or office of such Lender or the Issuing Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the

Administrative Agent for further application in accordance with the provisions of **Section 2.21** and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lender and the Lenders (including the Swingline Lender), and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the Issuing Lender and their respective Affiliates under this **Section 9.3** are in addition to other rights and remedies (including other rights of setoff) that such Lender, the Issuing Lender or their respective Affiliates may have. Each Lender and the Issuing Lender. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

ARTICLE X

THE ADMINISTRATIVE AGENT

10.1 Appointment and Authority. Each of the Lenders (for purposes of this ARTICLE, references to the Lenders shall also mean the Issuing Lender and the Swingline Lender) hereby irrevocably appoints Wells Fargo to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as set forth in **Section 10.6**, the provisions of this ARTICLE are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any of its Subsidiaries shall have rights as a third party beneficiary of any of such provisions.

10.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

10.3 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed

in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Sections 11.5** and **9.2**) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Administrative Agent by the Borrower or a Lender.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in **ARTICLE IV** or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

10.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or the Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

10.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this ARTICLE shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facility provided for herein as well as activities as Administrative Agent.

10.6 Resignation of Administrative Agent. The Administrative 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, in consultation with the Borrower, 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 thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Credit Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this **Section 10.6**. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative 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 10.6**). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Credit Documents, the provisions of this ARTICLE and **Section 11.1** shall continue in effect for the benefit of such retiring Administrative 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 Administrative Agent was acting as Administrative Agent.

10.7 Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance

upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

10.8 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Book Runner, Arrangers, Syndication Agent, **[Documentation Agent]** or other agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

10.9 Guaranty Matters. The Lenders hereby authorize the Administrative Agent, at its option and in its discretion, to release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty if such Person ceases to be a Subsidiary Guarantor as a result of a transaction permitted hereunder. Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty, pursuant to this **Section 10.9**.

10.10 Issuing Lender and Swingline Lender. The provisions of this ARTICLE (other than **Section 10.2**) shall apply to the Issuing Lender and the Swingline Lender mutatis mutandis to the same extent as such provisions apply to the Administrative Agent.

ARTICLE XI

MISCELLANEOUS

11.1 Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facility provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Credit Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the Issuing Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the Issuing Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Credit Documents, including its rights under this **Section 11.1(a)**, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, and (iv) any civil penalty or fine assessed by OFAC against, and all reasonable costs and expenses (including counsel fees and disbursements) incurred in connection with defense thereof by, the Administrative Agent or any

Lender as a result of conduct of the Borrower that violates a sanction enforced by OFAC. Amounts owing in respect of the expenses describe in this **Section 11.1(a)**, shall become due thirty (30) days after receipt by the Borrower of a reasonably detailed invoice therefor.

(b) The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender, and each Related Party of any of the foregoing persons (each such person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any of its Subsidiaries arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Substances on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Claim related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of its Subsidiaries, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any of its Subsidiaries against an Indemnitee for material breach of such Indemnitee’s obligations hereunder or under any other Credit Document, if the Borrower or any of its Subsidiaries has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under **Section 11.1(a)** or **Section 11.1(b)** to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Issuing Lender or such Related Party, as the case may be, such Lender’s proportion (based on the percentages as used in determining the Required Lenders as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the Issuing Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or the Issuing Lender in connection with such capacity. The obligations of the Lenders under this **Section 11.1(c)** are subject to the provisions of **Section 2.3(c)**.

(d) To the fullest extent permitted by applicable law, the Parent, the Borrower, each of its Subsidiaries and each Related Party of any of the foregoing persons and each Indemnitee shall not assert, and each hereby waives, any claim against the Parent, the Borrower, each of its Subsidiaries and each Related Party or any Indemnitee, as applicable, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in **Section 11.1(b)** shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems (including Intralinks, SyndTrak or similar systems) in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby.

(e) All amounts due under this **Section 11.1** shall be payable by the Borrower upon demand therefor.

11.2 Governing Law; Submission to Jurisdiction; Waiver of Venue; Service of Process.

(a) This Agreement and the other Credit Documents shall (except as may be expressly otherwise provided in any Credit Document) be governed by, and construed in accordance with, the law of the State of North Carolina (without regard to the conflicts of law provisions thereof); provided that each Letter of Credit shall be governed by, and construed in accordance with, the laws or rules designated in such Letter of Credit or application therefor or, if no such laws or rules are designated, the International Standby Practices of the International Chamber of Commerce, as in effect from time to time (the “ISP”), and, as to matters not governed by the ISP, the laws of the State of North Carolina (without regard to the conflicts of law provisions thereof).

(b) The Borrower irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of North Carolina sitting in Mecklenburg County and of the United States District Court of the Western District of North Carolina, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Credit Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such state court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Credit Document shall affect any right that the Administrative Agent, any Lender or the Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Document against the Borrower or any of its Subsidiaries or its properties in the courts of any jurisdiction.

(c) The Borrower irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of

venue of any action or proceeding arising out of or relating to this Agreement or any other Credit Document in any court referred to in **Section 11.2(b)**. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party hereto irrevocably consents to service of process in the manner provided for notices in **Section 11.4**. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

11.3 Arbitration; Preservation and Limitation of Remedies.

(a) Upon demand of any party hereto, whether made before or after institution of any judicial proceeding, any dispute, claim or controversy arising out of, connected with or relating to this Agreement or any other Credit Document (“**Disputes**”) between or among the Borrower, its Subsidiaries, the Administrative Agent and the Lenders, or any of them, shall be resolved by binding arbitration as provided herein. Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, claims brought as class actions, claims arising from documents executed in the future, disputes as to whether a matter is subject to arbitration, or claims arising out of or connected with the transactions contemplated by this Agreement and the other Credit Documents. Arbitration shall be conducted under and governed by the Commercial Financial Disputes Arbitration Rules (the “**Arbitration Rules**”) of the American Arbitration Association (the “**AAA**”), as in effect from time to time, and the Federal Arbitration Act, Title 9 of the U.S. Code, as amended. All arbitration hearings shall be conducted in the city in which the principal office of the Administrative Agent is located. A hearing shall begin within ninety (90) days of demand for arbitration and all hearings shall be concluded within 120 days of demand for arbitration. These time limitations may not be extended unless a party shows cause for extension and then for no more than a total of sixty (60) days. The expedited procedures set forth in Rule 51 et seq. of the Arbitration Rules shall be applicable to claims of less than \$1,000,000. All applicable statutes of limitation shall apply to any Dispute. A judgment upon the award may be entered in any court having jurisdiction. The panel from which all arbitrators are selected shall be comprised of licensed attorneys selected from the Commercial Financial Dispute Arbitration Panel of the AAA. The single arbitrator selected for expedited procedure shall be a retired judge from the highest court of general jurisdiction, state or federal, of the state where the hearing will be conducted. The parties do not waive applicable federal or state substantive law except as provided herein. Notwithstanding the foregoing, this arbitration provision does not apply to Disputes under or related to any Hedge Agreement. The parties do not waive applicable federal or state substantive law except as provided herein.

(b) Notwithstanding the preceding binding arbitration provisions, the parties hereto agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, either alone, in conjunction with or during a Dispute. Any party hereto shall have the right to proceed in any court of proper jurisdiction or by self-help to exercise or prosecute the following remedies, as applicable: (i) obtaining provisional or ancillary remedies, including injunctive relief, sequestration, garnishment, attachment, appointment of a receiver and filing an involuntary bankruptcy proceeding; and (ii) when applicable, a judgment by confession of judgment. Any claim or controversy with regard to any party’s entitlement to such remedies

is a Dispute. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in a Dispute. The parties hereto agree that no party shall have a remedy of punitive or exemplary damages against any other party in any Dispute, and each party hereby waives any right or claim to punitive or exemplary damages that it has now or that may arise in the future in connection with any Dispute, whether such Dispute is resolved by arbitration or judicially. The parties acknowledge that by agreeing to binding arbitration they have irrevocably waived any right they may have to a jury trial with regard to a Dispute. The Borrower agrees to pay the reasonable fees and expenses of counsel to the Administrative Agent and the Lenders in connection with any Dispute subject to arbitration as provided herein.

11.4 Notices; Effectiveness; Electronic Communication.

(a) Except in the cases of notices and other communications expressly permitted to be given by telephone (and except as provided in **Section 11.4(b)**), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows:

(i) if to the Borrower, the Administrative Agent, the Issuing Lender or the Swingline Lender, to it at the address (or telecopier number) specified for such Person on **Schedule 1.1**; and

(ii) if to any Lender, to it at its address (or telecopier number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in **Section 11.4(b)** shall be effective as provided in **Section 11.4(b)**.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication including e-mail or by posting such notices or communications on internet or intranet websites such as SyndTrak or a substantially similar electronic transmission system (the "Platform") pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to **ARTICLE II** if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such **ARTICLE** by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communication pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such

notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or other communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” The Agent Parties (as defined below) do not warrant the adequacy of the platform and expressly disclaim liability for errors or omissions in the communications effected thereby. 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 any such communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower or any of its Subsidiaries, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower’s, any of the Borrower’s Subsidiary’s or the Administrative Agent’s transmission of any notices or communications through the Platform other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Agent Party as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(c) Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto (except that each Lender need not give notice of any such change to the other Lenders in their capacities as such).

11.5 Amendments, Waivers, etc. No amendment, modification, waiver or discharge or termination of, or consent to any departure by the Borrower from, any provision of this Agreement or any other Credit Document, shall be effective unless in a writing signed by the Required Lenders (or by the Administrative Agent at the direction or with the consent of the Required Lenders), and then the same shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, modification, waiver, discharge, termination or consent shall:

(a) unless agreed to by each Lender directly affected thereby, (i) reduce or forgive the principal amount of any Loan or Reimbursement Obligation, reduce the rate of or forgive any interest thereon (provided the consent of the Required Lenders shall be required to (A) waive the applicability of any additional interest payable under **Section 2.8(b)** at the election of the Required Lenders and (B) change financial covenant provisions and related definitions which may affect the Applicable Margin Percentage), or reduce or forgive any fees hereunder or other Obligations (other than fees payable to the Administrative Agent, the Arrangers or the Issuing Lender for its own account), (ii) extend the Maturity Date or any other scheduled date for the payment of any principal of any Loan (including any scheduled date for the mandatory reduction or termination of any Commitments), any interest on any Loan (other than additional interest payable under **Section 2.8(b)** at the election of the Required Lenders, as provided therein), any fees (other than fees payable to the Administrative Agent, the Arrangers or the Issuing Lender for its own account) or any other Obligations, or extend the expiry date of any Letter of Credit in a manner not permitted under **ARTICLE III**, or extend the time of payment of any Reimbursement Obligation or any interest thereon, (iii) increase or extend any Commitment of

any such Lender (it being understood that a waiver of any condition precedent set forth in **Section 4.2** or of any Default or Event of Default or mandatory reduction in the Commitments, if agreed to by the Required Lenders, Required Revolving Lenders or all Lenders (as may be required hereunder with respect to such waiver), shall not constitute such an increase) or (iv) change the percentage of the aggregate Commitments or of the aggregate unpaid principal amount of the Loans, or the number or percentage of Lenders, that shall be required for the Lenders or any of them to take or approve, or direct the Administrative Agent to take, any action hereunder or under any other Credit Document (including as set forth in the definition of “Required Lenders”);

(b) unless agreed to in writing by all of the Lenders, except as may be otherwise specifically provided in this Agreement or in any other Credit Document, release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty (other than (A) as may be otherwise specifically provided in this Agreement or in any other Credit Document or (B) in connection with the sale or other disposition of all of the capital stock of such Subsidiary Guarantor in a transaction expressly permitted under or pursuant to this Agreement);

(c) unless agreed to in writing by the Issuing Lender, the Swingline Lender or the Administrative Agent in addition to the Lenders required as provided hereinabove to take such action, affect the respective rights or obligations of the Issuing Lender, the Swingline Lender or the Administrative Agent, as applicable, hereunder or under any of the other Credit Documents;

(d) unless agreed to in writing by each Hedge Party and Cash Management Bank affected thereby in its capacity as such (i) amend any provision regarding priority of payments in this Agreement or any other Credit Document or (ii) release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty (other than (A) as may be otherwise specifically provided in this Agreement or in any other Credit Document or (B) in connection with the sale or other disposition of all of the capital stock of such Subsidiary Guarantor in a transaction expressly permitted under or pursuant to this Agreement);

and provided further that the Wells Fargo Fee Letter may be amended or modified, and any rights thereunder waived, in a writing signed by the parties thereto.

Notwithstanding the fact that the consent of all Lenders is required in certain circumstances as set forth above, each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein.

Notwithstanding anything to the contrary herein, (i) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender

and (ii) if the Administrative Agent and the Borrower shall have jointly identified (each in its sole discretion) an obvious error or omission of a technical or immaterial nature, in each case, in any provision of the Credit Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Credit Document.

Notwithstanding anything in this Agreement to the contrary, each Lender hereby irrevocably authorizes the Administrative Agent on its behalf, and without further consent, to enter into amendments or modifications to this Agreement (including, without limitation, amendments to this **Section 11.5**) or any of the other Credit Documents or to enter into additional Credit Documents as the Administrative Agent reasonably deems appropriate in order to effectuate the terms of **Section 2.20** (including, without limitation, as applicable, (1) to permit the Commitment Increase to share ratably in the benefits of this Agreement and the other Credit Documents and (2) to include the Commitment Increase or outstanding Commitment Increase, in any determination of (i) Required Lenders (ii) similar required lender terms applicable thereto); provided that no amendment or modification shall result in any increase in the amount of any Lender's Commitment without the written consent of such affected Lender if the same is not objected to in writing by the Required Lenders within five (5) Business Days following the posting of such amendment to the Lenders.

11.6 Successors and Assigns.

(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 neither the Borrower nor any Subsidiary Guarantor 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 no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Assignee in accordance with the provisions of **Section 11.6(b)** (an "Assignee"), (ii) by way of participation in accordance with the provisions of **Section 11.6(e)** or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **Section 11.6(f)** (and any other attempted assignment or transfer by any party hereto shall be null and void). 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 **Section 11.6(e)** and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) 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 (including for purposes of this **Section 11.6(b)**, participations in Letters of Credit and in Swingline Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) (A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned, and (B) in any case not described in clause (A) above, the

aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if another date is specified in the Assignment and Assumption, as of the such date) shall not be less than (x) \$5,000,000, in the case of any assignment in respect of a Commitment (which for this purpose includes Revolving Loans outstanding) or (y) the entire Swingline Commitment and the full amount of the outstanding Swingline Loans, in the case of Swingline Loans, or unless each of the Administrative Agent and, so long as no Default or Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) 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 with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not apply to rights in respect of Swingline Loans;

(iii) no consent shall be required for any assignment except to the extent required by clause (B) of **Section 11.6(b)(i)** and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (y) a Default or Event of Default has occurred and is continuing at the time of such assignment or (z) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for any assignment made to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of the Issuing Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the Assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of a Commitment;

(iv) the Lenders and Assignee to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 for each assignment and the Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire;

(v) no such assignment shall be made to a Person who has a significant line of business that involves trucking or freight shipping (or any Person that is an Affiliate of such a Person), unless a Default or Event of Default has occurred and is continuing at the time of such assignment;

(vi) no such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries or (B) any Defaulting Lender or any of its Subsidiaries, or any Person, who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B); and

(vii) no such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to **Section 11.6(c)**, from and after the effective date specified in each Assignment and Assumption, the Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, 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 Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption 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 2.16(a), 2.16(b), 2.17, 2.18 and 11.1** with respect to facts and circumstances occurring prior to the effective date of such assignment. If requested by or on behalf of the Assignee, the Borrower, at its own expense, will execute and deliver to the Administrative Agent a new Note or Notes to the order of the Assignee (and, if the assigning Lender has retained any portion of its rights and obligations hereunder, to the order of the assigning Lender), prepared in accordance with the applicable provisions of **Section 2.4** as necessary to reflect, after giving effect to the assignment, the Commitments and/or outstanding Loans, as the case may be, of the Assignee and (to the extent of any retained interests) the assigning Lender, in substantially the form of **Exhibits A-1** and/or **A-2**, as applicable. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this **Section 11.6** 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 **Section 11.6(e)**.

(c) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance

with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(d) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at its address for notices referred to in **Schedule 1.1** a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may 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. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by each of the Borrower and the Issuing Lender, at any reasonable time and from time to time upon reasonable prior notice.

(e) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitments and/or the Loans (including such Lender's participations in Letters of Credit and Swingline Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders, the Issuing Lender and the Swingline Lender 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; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in **Sections 11.5(a) and (b)** that affects such Participant. Subject to **Section 11.6(f)**, the Borrower agrees that each Participant shall be entitled to the benefits of **Sections 2.16(a), 2.16(b), 2.17 and 2.18** to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **Section 11.6(b)**. To the extent permitted by law, each Participant also shall be entitled to the benefits of **Section 9.3** as though it were a Lender; provided such Participant agrees to be subject to **Section 2.15(a)** as though it were a Lender.

(f) A Participant shall not be entitled to receive any greater payment under **Sections 2.16(a), 2.16(b) or 2.17** 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. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 2.17** unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with **Section 2.17(e)** as though it were a Lender.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(h) The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption 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 or any state laws based on the Uniform Electronic Transactions Act.

(i) Any Lender or Participant may, in connection with any assignment, participation, pledge or proposed assignment, participation or pledge pursuant to this **Section 11.6**, disclose to the Assignee, Participant or pledgee or proposed Assignee, Participant or pledgee any information relating to the Borrower and its Subsidiaries furnished to it by or on behalf of any other party hereto, provided that such Assignee, Participant or pledgee or proposed Assignee, Participant or pledgee agrees in writing to keep such information confidential to the same extent required of the Lenders under **Section 11.11**.

(j) Notwithstanding anything to the contrary contained herein, if Wells Fargo assigns all of its Commitments and Revolving Loans in accordance with this **Section 11.6**, Wells Fargo may resign as Issuing Lender upon written notice to the Borrower and the Lenders. Upon any such notice of resignation, the Borrower shall have the right to appoint from among the Lenders a successor Issuing Lender; provided that no failure by the Borrower to make such appointment shall affect the resignation of Wells Fargo as Issuing Lender. Wells Fargo shall retain all of the rights and obligations of the Issuing Lender hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation and all obligations of the Borrower and the Lenders with respect thereto (including the right to require the Lenders to make Revolving Loans or fund participation interests pursuant to **ARTICLE III**).

11.7 No Waiver. The rights and remedies of the Administrative Agent and the Lenders expressly set forth in this Agreement and the other Credit Documents are cumulative and in addition to, and not exclusive of, all other rights and remedies available at law, in equity or otherwise. No failure or delay on the part of the Administrative Agent or any Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude other or further exercise thereof or the exercise of any other right, power or privilege or be construed to be a waiver of any Default or Event of Default. No course of dealing between any of the Borrower and the Administrative Agent or the Lenders or their agents or employees shall be effective to amend, modify or discharge any provision of this Agreement or any other Credit Document or to constitute a waiver of any Default or Event of Default. No notice to or demand upon the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Administrative Agent or any Lender to

exercise any right or remedy or take any other or further action in any circumstances without notice or demand.

11.8 Survival. All representations, warranties and agreements made by or on behalf of the Borrower or any of its Subsidiaries in this Agreement and in the other Credit Documents shall survive the execution and delivery hereof or thereof, the making and repayment of the Loans and the issuance and repayment of the Letters of Credit. In addition, notwithstanding anything herein or under applicable law to the contrary, the provisions of this Agreement and the other Credit Documents relating to indemnification or payment of fees, costs and expenses, including, without limitation, the provisions of **Sections 2.8(f), 2.16(a), 2.16(b), 2.17, 2.18, and 11.1**, shall survive the payment in full of all Loans and Letters of Credit, the termination of the Commitments and all Letters of Credit, and any termination of this Agreement or any of the other Credit Documents; provided that such survival shall remain subject to any notice requirements that may be provided in such sections.

11.9 Severability. To the extent any provision of this Agreement is prohibited by or invalid under the applicable law of any jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity and only in such jurisdiction, without prohibiting or invalidating such provision in any other jurisdiction or the remaining provisions of this Agreement in any jurisdiction. Without limiting the foregoing provisions of this **Section 11.9**, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by the Bankruptcy Code or similar debtor relief laws, as determined in good faith by the Administrative Agent, the Issuing Lender or the Swingline Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

11.10 Construction. The headings of the various articles, sections and subsections of this Agreement and the table of contents have been inserted for convenience only and shall not in any way affect the meaning or construction of any of the provisions hereof. Except as otherwise expressly provided herein and in the other Credit Documents, in the event of any inconsistency or conflict between any provision of this Agreement and any provision of any of the other Credit Documents, the provision of this Agreement shall control. Any Hedge Agreement between the Borrower and any Hedge Party is an independent agreement governed by the writing provisions of such Hedge Agreement, which shall remain in full force and effect, unaffected by any repayment, prepayment, acceleration, reduction, increase or change in the terms applicable to the Loans under this Agreement, except as otherwise expressly provided in such Hedge Agreement, and any payoff statement from the Administrative Agent relating to this Agreement shall not apply to such Hedge Agreement except as expressly provided therein. Any Cash Management Agreement between the Borrower and any Cash Management Bank is an independent agreement governed by the written provisions of such Cash Management Agreement, which shall remain in full force and effect, unaffected by any repayment, prepayment, acceleration, reduction, increase or change in the terms applicable to the Loans under this Agreement, except as otherwise expressly provided in such Cash Management Agreement, and any payoff statement from the Administrative Agent relating to this Agreement shall not apply to such Cash Management Agreement except as expressly provided therein.

11.11 Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Lender agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority), (c) to the extent required by applicable Requirements of Law or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any Hedge Agreement or any Cash Management Agreement or any Cash Management Agreement or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this **Section 11.11**, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) subject to each such Person being informed of the confidential nature of the Information and to its agreement to keep such Information confidential, (i) to an investor or prospective investor in an Approved Fund that also agrees that Information shall be used solely for the purpose of evaluating an investment in such Approved Fund, (ii) to a trustee, collateral manager, servicer, backup servicer, noteholder or secured party in an Approved Fund in connection with the administration, servicing and reporting on the assets serving as collateral for an Approved Fund, or (iii) to a nationally recognized rating agency that requires access to information regarding the Borrower and its Subsidiaries, the Loans and Credit Documents in connection with ratings issued with respect to an Approved Fund, (h) with the consent of the Borrower or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this **Section 11.11** or (y) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower or any of its Subsidiaries or Affiliates.

For purposes of this **Section 11.11**, "Information" shall mean all information received from the Borrower and its Subsidiaries relating to such parties or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this **Section 11.11** shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

11.12 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Credit Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and

understandings, oral or written, relating to the subject matter hereof (except for the Wells Fargo Fee Letter). Except as provided in **Section 4.1**, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic transmission (such as pdf) shall be effective as delivery of a manually executed counterpart of this Agreement.

11.13 Disclosure of Information. The Borrower agrees and consents to the Administrative Agent's and Wells Fargo Securities' disclosure of information relating to this transaction to Gold Sheets and other similar bank trade publications. Such information will consist of deal terms and other information customarily found in such publications.

11.14 USA Patriot Act Notice. Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the PATRIOT Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

OLD DOMINION FREIGHT LINE, INC., as
Borrower

By: /s/ J. Wes Frye
Name: J. Wes Frye
Title: Senior Vice President – Finance and Chief
Financial Officer

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**, as Administrative Agent, Swingline
Lender, Issuing Lender and as a Lender

By: /s/ Andrea S. Chen

Name: Andrea S. Chen

Title: Director

BRANCH BANKING AND TRUST COMPANY, as
Syndication Agent and as a Lender

By: _____ /s/ Preston W. Bergen

Name: Preston W. Bergen

Title: Senior Vice President

BANK OF AMERICA, N.A., as a Lender

By: _____ /s/ John L. Mercuri

Name: John L. Mercuri

Title: Senior Vice President

U.S. BANK NATIONAL ASSOCIATION, as a
Lender

By: _____ /s/ Edward Hanson

Name: Edward Hanson

Title: Vice President

ROYAL BANK OF CANADA, as a Lender

By: _____ /s/ James F. Disher

Name: James F. Disher

Title: Authorized Signatory

HIGH POINT BANK AND TRUST COMPANY, as
a Lender

By: _____ /s/ David G. Black

Name: David G. Black

Title: EVP

EXHIBITS TO
SECOND AMENDED AND RESTATED CREDIT AGREEMENT

among

OLD DOMINION FREIGHT LINE, INC.,

THE LENDERS NAMED HEREIN,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent

and

BRANCH BANKING AND TRUST COMPANY,
as Syndication Agent

\$200,000,000 Senior Unsecured Revolving Credit Facility

Lead Arrangers:
WELLS FARGO SECURITIES, LLC
BB&T CAPITAL MARKETS

Sole Book-Runner:
WELLS FARGO SECURITIES, LLC

Dated as of August 10, 2011

**FORM OF
REVOLVING NOTE**

\$

, 20
Charlotte, North Carolina

FOR VALUE RECEIVED, OLD DOMINION FREIGHT LINE, INC., a Virginia corporation (the "Borrower"), hereby promises to pay to the order of _____ (the "Lender"), at the offices of Wells Fargo Bank, National Association (the "Administrative Agent") located at 1525 W. W.T. Harris Blvd., Charlotte, North Carolina 28262 (or at such other place or places as the Administrative Agent may designate), at the times and in the manner provided in the Second Amended and Restated Credit Agreement, dated as of August 10, 2011 (as amended, modified or supplemented from time to time, the "Credit Agreement"), among the Borrower, the Lenders from time to time parties thereto, and Wells Fargo Bank, National Association, as Administrative Agent, the principal sum of **DOLLARS** (\$ _____), or such lesser amount as may constitute the unpaid principal amount of the Revolving Loans made by the Lender, under the terms and conditions of this promissory note (this "Revolving Note") and the Credit Agreement. The defined terms in the Credit Agreement are used herein with the same meaning. The Borrower also promises to pay interest on the aggregate unpaid principal amount of this Revolving Note at the rates applicable thereto from time to time as provided in the Credit Agreement.

This Revolving Note is one of a series of Revolving Notes referred to in the Credit Agreement and is issued to evidence the Revolving Loans made by the Lender pursuant to the Credit Agreement. All of the terms, conditions and covenants of the Credit Agreement are expressly made a part of this Revolving Note by reference in the same manner and with the same effect as if set forth herein at length, and any holder of this Revolving Note is entitled to the benefits of and remedies provided in the Credit Agreement and the other Credit Documents. Reference is made to the Credit Agreement for provisions relating to the interest rate, maturity, payment, prepayment and acceleration of this Revolving Note.

In the event of an acceleration of the maturity of this Revolving Note, this Revolving Note shall become immediately due and payable, without presentation, demand, protest or notice of any kind, all of which are hereby waived by the Borrower.

In the event this Revolving Note is not paid when due at any stated or accelerated maturity, the Borrower agrees to pay, in addition to the principal and interest, all costs of collection, including reasonable attorneys' fees.

This Revolving Note shall be governed by and construed in accordance with the internal laws and judicial decisions of the State of North Carolina. The Borrower hereby submits to the nonexclusive jurisdiction and venue of the federal and state courts located in Mecklenburg County, North Carolina, although neither the Borrower nor the Lender shall be limited to bringing an action in such courts.

IN WITNESS WHEREOF, the Borrower has caused this Revolving Note to be executed under seal by its duly authorized corporate officer as of the day and year first above written.

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: J. Wes Frye
Title: Senior Vice President—Finance and Chief
Financial Officer

EXHIBIT A-2

Borrower's Taxpayer Identification No. 56-0751714

**FORM OF
SWINGLINE NOTE**

\$20,000,000.00

, 20
Charlotte, North Carolina

FOR VALUE RECEIVED, OLD DOMINION FREIGHT LINE, INC., a Virginia corporation (the "Borrower"), hereby promises to pay to the order of **WELLS FARGO BANK, NATIONAL ASSOCIATION** (the "Swingline Lender"), at the offices of Wells Fargo Bank, National Association (the "Administrative Agent") located at 1525 W. W.T. Harris Blvd., Charlotte, North Carolina 28262 (or at such other place or places as the Administrative Agent may designate), at the times and in the manner provided in the Second Amended and Restated Credit Agreement, dated as of August 10, 2011 (as amended, modified or supplemented from time to time, the "Credit Agreement"), among the Borrower, the Lenders from time to time parties thereto, and Wells Fargo Bank, National Association, as Administrative Agent, the principal sum of **TWENTY MILLION AND NO/100 DOLLARS** (\$20,000,000.00), or such lesser amount as may constitute the unpaid principal amount of the Swingline Loans made by the Swingline Lender, under the terms and conditions of this promissory note (this "Swingline Note") and the Credit Agreement. The defined terms in the Credit Agreement are used herein with the same meaning. The Borrower also promises to pay interest on the aggregate unpaid principal amount of this Swingline Note at the rates applicable thereto from time to time as provided in the Credit Agreement.

This Swingline Note is issued to evidence the Swingline Loans made by the Swingline Lender pursuant to the Credit Agreement. All of the terms, conditions and covenants of the Credit Agreement and the Sweep Agreement are expressly made a part of this Swingline Note by reference in the same manner and with the same effect as if set forth herein at length, and any holder of this Swingline Note is entitled to the benefits of and remedies provided in the Credit Agreement and the other Credit Documents. Reference is made to the Credit Agreement for provisions relating to the interest rate, maturity, payment, prepayment and acceleration of this Swingline Note.

In the event of an acceleration of the maturity of this Swingline Note, this Swingline Note shall become immediately due and payable, without presentation, demand, protest or notice of any kind, all of which are hereby waived by the Borrower.

In the event this Swingline Note is not paid when due at any stated or accelerated maturity, the Borrower agrees to pay, in addition to the principal and interest, all costs of collection, including reasonable attorneys' fees.

This Swingline Note shall be governed by and construed in accordance with the internal laws and judicial decisions of the State of North Carolina. The Borrower hereby submits to the nonexclusive jurisdiction and venue of the federal and state courts located in Mecklenburg County, North Carolina, although neither the Borrower nor the Swingline Lender shall be limited to bringing an action in such courts.

IN WITNESS WHEREOF, the Borrower has caused this Swingline Note to be executed under seal by its duly authorized corporate officer as of the day and year first above written.

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: J. Wes Frye
Title: Senior Vice President—Finance and Chief
Financial Officer

EXHIBIT B-1

**FORM OF
NOTICE OF BORROWING**

[Date]

Wells Fargo Bank, National Association
1525 W. W.T. Harris Blvd
Building 3A2, Mailcode NC 0680
Charlotte, North Carolina 28262
Attention: Syndication Agency Services

Ladies and Gentlemen:

The undersigned, **OLD DOMINION FREIGHT LINE, INC.** (the "Borrower"), refers to the Second Amended and Restated Credit Agreement, dated as of August 10, 2011, among the Borrower, certain banks and other financial institutions from time to time parties thereto, and you, as Administrative Agent for the Lenders (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to **Section 2.2(b)** of the Credit Agreement, hereby gives you, as Administrative Agent, irrevocable notice that the Borrower requests a Borrowing of Revolving Loans under the Credit Agreement, and to that end sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by **Section 2.2(b)** of the Credit Agreement:

(i) The aggregate principal amount of the Proposed Borrowing is \$.¹

(ii) The Loans comprising the Proposed Borrowing shall be initially made as [Base Rate Loans] [LIBOR Loans][LIBOR Market Index Loans].²

(iii) [The initial Interest Period for the LIBOR Loans comprising the Proposed Borrowing shall be [one/two/three/six months].]³

(iv) The Proposed Borrowing is requested to be made on (the "Borrowing Date").⁴

¹ Amount of Proposed Borrowing must comply with Section 2.2(b) of the Credit Agreement.

² Select the applicable Type of Loans.

³ Include this clause in the case of a Proposed Borrowing comprised of LIBOR Loans, and select the applicable Interest Period.

⁴ Shall be a Business Day at least one (1) Business Day after the date hereof (in the case of Base Rate Loans and LIBOR Market Index Loans) or at least three (3) Business Days after the date hereof (in the case of LIBOR Loans).

The Borrower hereby certifies that the following statements are true on and as of the date hereof and will be true on and as of the Borrowing Date:

A. Each of the representations and warranties contained in **Article V** of the Credit Agreement and in the other Credit Documents is and will be true and correct on and as of each such date in all material respects (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date) both immediately before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom;

B. No Default or Event of Default has occurred and is continuing or would result from the Proposed Borrowing or from the application of the proceeds therefrom; and

C. After giving effect to the Proposed Borrowing, the sum of (i) the aggregate principal amount of Revolving Loans outstanding at such time, (ii) the aggregate Letter of Credit Exposure of all Lenders at such time, and (iii) the aggregate principal amount of Swingline Loans outstanding at such time (excluding the aggregate amount of any Swingline Loans to be repaid with proceeds of Revolving Loans made pursuant to the Proposed Borrowing), will not exceed the aggregate Commitments at such time.

Very truly yours,

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: _____
Title: _____

EXHIBIT B-2

**FORM OF
NOTICE OF SWINGLINE BORROWING**

[Date]

Wells Fargo Bank, National Association
1525 W. W.T. Harris Blvd
Building 3A2, Mailcode NC 0680
Charlotte, North Carolina 28262
Attention: Syndication Agency Services

Wells Fargo Bank, National Association, as
Swingline Lender
One Wells Fargo Center
301 South College Street
Charlotte, North Carolina 28288-0737

Ladies and Gentlemen:

The undersigned, **OLD DOMINION FREIGHT LINE, INC.** (the "Borrower"), refers to the Second Amended and Restated Credit Agreement, dated as of August 10, 2011, among the Borrower, certain banks and other financial institutions from time to time parties thereto, and you, as Administrative Agent for the Lenders (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to **Section 2.2(d)** of the Credit Agreement, hereby gives you, as Administrative Agent and as Swingline Lender, irrevocable notice that the Borrower requests a Borrowing of a Swingline Loan under the Credit Agreement, and to that end sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by **Section 2.2(d)** of the Credit Agreement:

- (i) The principal amount of the Proposed Borrowing is \$.¹
- (ii) The Proposed Borrowing is requested to be made on (the "Borrowing Date").

¹ Amount of Proposed Borrowing must comply with Section 2.2(d) of the Credit Agreement.

The Borrower hereby certifies that the following statements are true on and as of the date hereof and will be true on and as of the Borrowing Date:

A. Each of the representations and warranties contained in **Article V** of the Credit Agreement and in the other Credit Documents is and will be true and correct on and as of each such date in all material respects (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date) both immediately before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom;

B. No Default or Event of Default has occurred and is continuing or would result from the Proposed Borrowing or from the application of the proceeds therefrom; and

C. After giving effect to the Proposed Borrowing, the sum of (i) the aggregate principal amount of Revolving Loans outstanding at such time, (ii) the aggregate Letter of Credit Exposure of all Lenders at such time, and (iii) the aggregate principal amount of Swingline Loans outstanding at such time, will not exceed the aggregate Commitments at such time.

Very truly yours,

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: _____
Title: _____

EXHIBIT B-3

**FORM OF
NOTICE OF CONVERSION/CONTINUATION**

[Date]

Wells Fargo Bank, National Association, as Administrative Agent
1525 W. W.T. Harris Blvd
Building 3A2, Mailcode NC 0680
Charlotte, North Carolina 28262
Attention: Syndication Agency Services

Ladies and Gentlemen:

The undersigned, **OLD DOMINION FREIGHT LINE, INC.** (the "Borrower"), refers to the Second Amended and Restated Credit Agreement, dated as of August 10, 2011, among the Borrower, certain banks and other financial institutions from time to time parties thereto, and you, as Administrative Agent for the Lenders (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to **Section 2.11(b)** of the Credit Agreement, hereby gives you, as Administrative Agent, irrevocable notice that the Borrower requests a [conversion] [continuation]¹ of Loans under the Credit Agreement, and to that end sets forth below the information relating to such [conversion] [continuation] (the "Proposed [Conversion] [Continuation]") as required by **Section 2.11(b)** of the Credit Agreement:

(i) The Proposed [Conversion] [Continuation] is requested to be made on _____ .²

(ii) The Proposed [Conversion] [Continuation] involves \$ _____³ in aggregate principal amount of Revolving Loans made pursuant to a Borrowing on _____,⁴ which Loans are presently maintained as [Base Rate] [LIBOR] [LIBOR Market Index] Loans and are proposed hereby to be [converted into Base Rate Loans] [converted into LIBOR

¹ Insert "conversion" or "continuation" throughout the notice, as applicable.

² Shall be a Business Day at least one (1) Business Day after the date hereof (in the case of any conversion of LIBOR Loans into Base Rate Loans or LIBOR Market Index Loans) or at least three (3) Business Days after the date hereof (in the case of any conversion of Base Rate Loans or LIBOR Market Index Loans into, or continuation of, LIBOR Loans), and additionally, in the case of any conversion of LIBOR Loans into Base Rate Loans, or continuation of LIBOR Loans, shall be the last day of the Interest Period applicable to such LIBOR Loans.

³ Amount of Proposed Conversion or Continuation must comply with Section 2.11(b) of the Credit Agreement.

⁴ Insert the applicable Borrowing Date for the Loans being converted or continued.

Loans] [converted into LIBOR Market Index Loans] [continued as LIBOR Loans].⁵

(iii) [The initial Interest Period for the Loans being [converted into] [continued as] LIBOR Loans pursuant to the Proposed [Conversion] [Continuation] shall be [one/two/three/six months].]⁶

Very truly yours,

OLD DOMINION FREIGHT LINE, INC.

By: _____

Name: _____

Title: _____

⁵ Complete with the applicable bracketed language.

⁶ Include this clause in the case of a Proposed Conversion or Continuation involving a conversion of [Base Rate Loans] [LIBOR Market Index Loans] into, or continuation of, LIBOR Loans, and select the applicable Interest Period.

EXHIBIT B-4

**FORM OF
LETTER OF CREDIT NOTICE**

[Date]

Wells Fargo Bank, National Association, as Administrative Agent
1525 W. W.T. Harris Blvd
Building 3A2, Mailcode NC 0680
Charlotte, North Carolina 28262
Attention: Syndication Agency Services

Wells Fargo Bank, National Association, as
Issuing Lender
One Wells Fargo Center
301 South College Street
Charlotte, North Carolina 28288-0737

Ladies and Gentlemen:

The undersigned, **OLD DOMINION FREIGHT LINE, INC.** (the "Borrower"), refers to the Second Amended and Restated Credit Agreement, dated as of August 10, 2011, among the Borrower, certain banks and other financial institutions from time to time parties thereto, and you, as Administrative Agent for the Lenders (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), and, pursuant to **Section 3.2** of the Credit Agreement, hereby gives you, as Issuing Lender, irrevocable notice that the Borrower requests the issuance of a Letter of Credit for its account under the Credit Agreement, and to that end sets forth below the information relating to such Letter of Credit (the "Requested Letter of Credit") as required by **Section 3.2** of the Credit Agreement:

- (i) The Business Day on which the Requested Letter of Credit is requested to be issued is _____ .¹
- (ii) The Stated Amount of the Requested Letter of Credit is \$ _____ .
- (iii) The expiry date of the Requested Letter of Credit is _____ .

¹ Shall be at least three (3) Business Days (or such shorter period as is acceptable to the Issuing Lender in any given case) after the date hereof.

(iv) The name and address of the beneficiary of the Requested Letter of Credit is .

The undersigned agrees to complete all application procedures and documents required by you in connection with the Requested Letter of Credit.

The undersigned hereby certifies that the following statements are true on the date hereof and will be true on the date of issuance of the Requested Letter of Credit:

A. Each of the representations and warranties contained in **Article V** of the Credit Agreement and in the other Credit Documents is and will be true and correct on and as of each such date in all material respects (except to the extent such representation and warranty is qualified by materiality, in which case, such representation and warranty shall be true and correct in all respects or except to the extent that such representation and warranty is made as of a specific date, in which case, such representation and warranty shall be true and correct as of such date) both immediately before and after giving effect to the issuance of the Requested Letter of Credit;

B. No Default or Event of Default has occurred and is continuing or would result from the issuance of the Requested Letter of Credit; and

C. After giving effect to the issuance of the Requested Letter of Credit, the sum of (i) the aggregate principal amount of Revolving Loans outstanding at such time, (ii) the aggregate Letter of Credit Exposure of all Lenders at such time, and (iii) the aggregate principal amount of Swingline Loans outstanding at such time, will not exceed the aggregate Commitments at such time.

Very truly yours,

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: _____
Title: _____

EXHIBIT C

**FORM OF
COMPLIANCE CERTIFICATE**

THIS CERTIFICATE is given pursuant to **Section 6.2(a)** of the Second Amended and Restated Credit Agreement, dated as of August 10, 2011 (as amended, modified or supplemented from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among **OLD DOMINION FREIGHT LINE, INC.** (the "Borrower"), certain banks and other financial institutions from time to time parties thereto, and Wells Fargo Bank, National Association, as Administrative Agent for the Lenders.

The undersigned hereby certifies that:

1. He is a duly elected Financial Officer of the Borrower.

2. Enclosed with this Certificate are copies of the financial statements of the Borrower and its Subsidiaries as of _____, and for the [_____ -month period] [year] then ended, required to be delivered under **Section [6.1(a)][6.1(b)]** of the Credit Agreement. Such financial statements have been prepared in accordance with GAAP [(subject to the absence of notes required by GAAP and subject to normal year-end adjustments)]¹³ and fairly present the financial condition of the Borrower and its Subsidiaries on a consolidated basis as of the date indicated and the results of operation of the Borrower and its Subsidiaries on a consolidated basis for the period covered thereby.

3. The undersigned has reviewed the terms of the Credit Agreement and has made, or caused to be made under the supervision of the undersigned, a review in reasonable detail of the transactions and condition of the Borrower and its Subsidiaries during the accounting period covered by such financial statements.

4. The examination described in paragraph 3 above did not disclose, and the undersigned has no knowledge of the existence of, any Default or Event of Default during or at the end of the accounting period covered by such financial statements or as of the date of this Certificate. [, except as set forth below.

Describe here or in a separate attachment any exceptions to paragraph 4 above by listing, in reasonable detail, the nature of the Default or Event of Default, the period during which it existed and the action that the Borrower has taken or proposes to take with respect thereto.]

5. Attached to this Certificate as Attachment A is a covenant compliance worksheet reflecting the computation of the financial covenants set forth in **Article VII** of the Credit Agreement as of the last day of the period covered by the financial statements enclosed herewith.

¹³ Insert in the case of quarterly financial statements.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of the day of , 20 .

OLD DOMINION FREIGHT LINE, INC.

By: _____
Name: J. Wes Frye
Title: Senior Vice President—Finance and Chief
Financial Officer

**ATTACHMENT A
COVENANT COMPLIANCE WORKSHEET**

To the extent terms and definitions in the worksheet are inconsistent with corresponding terms and definitions in the Credit Agreement, the terms and definitions in the Credit Agreement shall be controlling.

Section 7.1

1. Consolidated Debt to Consolidated Total Capitalization. Borrower will not permit the ratio of Consolidated Debt to Consolidated Total Capitalization to be greater than 0.60 to 1.0 at anytime.	
A. Consolidated Debt of the Borrower and its Subsidiaries determined on a consolidated basis in accordance with GAAP	\$
B. Consolidated Net Worth (the consolidated stockholders' equity of the Borrower and its Subsidiaries, determined in accordance with GAAP)	\$
C. Consolidated Debt to Consolidated Total Capitalization (Line A to the <u>sum</u> of Lines A and B)	to 1.00

Section 7.2

2. Fixed Charge Coverage Ratio. Borrower shall not permit the Fixed Charge Coverage Ratio as of the last day of any fiscal quarter to be less than 2.00 to 1.0 at any time	
A. EBIT for the period of last four consecutive quarters	\$
B. <u>Plus:</u> Gross Rents for the period of last four consecutive quarters	\$
C. <u>Sum</u> of lines 2(A) and 2(B)	\$
D. Consolidated Net Interest Expense for the period of last four consecutive quarters	\$
E. <u>Plus:</u> Gross Rents for the period of last four consecutive quarters	\$
F. <u>Sum</u> of Lines 2(D) and 2(E)	\$
G. Fixed Charge Coverage Ratio (Line 2(C) to Line 2(F))	to 1.00

EXHIBIT D

ASSIGNMENT AND ASSUMPTION

THIS ASSIGNMENT AND ASSUMPTION (this "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below, receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto (the "Standard Terms and Conditions") are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any Letters of Credit, guarantees, and Swingline Loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
[and is an Affiliate/Approved Fund of [*identify Lender*]¹⁴]

3. Borrower: Old Dominion Freight Line, Inc.

4. Administrative Agent: Wells Fargo Bank, National Association, as the Administrative Agent under the Credit Agreement.

¹⁴ Select as applicable.

5. Credit Agreement: Credit Agreement, dated as of August 10, 2011 (as amended, modified, restated or supplemented from time to time, the "Credit Agreement"), among the Borrower, certain lenders from time to time parties thereto (the "Lenders"), Wells Fargo Bank, National Association, as Administrative Agent.

6. Assigned Interest:

<u>Commitment Assigned</u>	<u>Aggregate Amount of Commitment/Loans for all Lenders¹⁵</u>	<u>Amount of Commitment/Loans Assigned²</u>	<u>Percentage Assigned of Commitment/Loans¹⁶</u>	<u>CUSIP Number¹⁷</u>
	\$	\$	%	

[7. Trade Date:]¹⁸

8. Effective Date: [TO BE INSERTED BY THE ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

¹⁵ Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

¹⁶ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

¹⁷ Insert if applicable.

¹⁸ To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR:

[NAME OF ASSIGNOR]

By: _____
Name: _____
Title: _____

ASSIGNEE:

[NAME OF ASSIGNEE]

By: _____
Name: _____
Title: _____

[Consented to and]¹⁹ Accepted:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: _____
Name: _____
Title: _____

[Consented to:]²⁰

[NAME OF RELEVANT PARTY]

By: _____
Name: _____
Title: _____

¹⁹ To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

²⁰ To be added only if the consent of the Borrower and/or other parties (e.g. Swingline Lender, Issuing Lender) is required by the terms of the Credit Agreement.

Second Amended and Restated Credit Agreement, dated as of August 10, 2011 among Old Dominion Freight Line, Inc., as Borrower, certain Lenders from time to time parties thereto, and Wells Fargo Bank, National Association, as Administrative Agent

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Credit Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Credit Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Credit Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 6.1 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor 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 decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations that by the terms of the Credit Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts that have accrued to but excluding the Effective Date and to the Assignee for amounts that have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the laws of the State of North Carolina (without regard to the conflicts of law provisions thereof).

EXHIBIT E

**FORM OF
SUBSIDIARY GUARANTY**

THIS SUBSIDIARY GUARANTY, dated as of the day of , 20 (this "Guaranty"), is made by the undersigned Subsidiary of **OLD DOMINION FREIGHT LINE, INC.**, a Virginia corporation (the "Borrower"), and each other Subsidiary of the Borrower that, after the date hereof, executes an instrument of accession hereto substantially in the form of Exhibit A (a "Guarantor Accession"; the undersigned and such other Subsidiaries of the Borrower, collectively, the "Guarantors"), in favor of the Guaranteed Parties (as hereinafter defined). Capitalized terms used herein without definition shall have the meanings given to them in the Credit Agreement referred to below.

RECITALS

A. The Borrower, certain banks and other financial institutions, and Wells Fargo Bank, National Association, as administrative agent for the Lenders, are parties to the Second Amended and Restated Credit Agreement, dated as of August 10, 2011 (as amended, modified or supplemented from time to time, the "Credit Agreement"), providing for the availability of certain credit facilities to the Borrower upon the terms and conditions set forth therein.

B. It is a condition to the extension of credit to the Borrower under the Credit Agreement that each Guarantor shall have agreed, by executing and delivering this Guaranty, to guarantee to the Guaranteed Parties the payment in full of the Guaranteed Obligations (as hereinafter defined). The Guaranteed Parties are relying on this Guaranty in their decision to extend credit to the Borrower under the Credit Agreement, and would not enter into the Credit Agreement without this Guaranty.

C. The Borrower and the Guarantors are engaged in related businesses and undertake certain activities and operations on an integrated basis. As part of such integrated operations, the Borrower, among other things, will advance to the Guarantors from time to time certain proceeds of the Loans made to the Borrower by the Lenders under the Credit Agreement. Each Guarantor will therefore obtain benefits as a result of the extension of credit to the Borrower under the Credit Agreement, which benefits are hereby acknowledged, and, accordingly, desires to execute and deliver this Guaranty.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to induce the Guaranteed Parties to enter into the Credit Agreement and to induce the Lenders to extend credit to the Borrower thereunder, each Guarantor hereby agrees as follows:

1. Guaranty.

(a) Each Guarantor hereby irrevocably, absolutely and unconditionally, and jointly and severally:

(i) guarantees (A) to the Lenders (including the Issuing Lender and the Swingline Lender in their capacities as such) and the Administrative Agent (together with any Hedge Party described in clause)B) below and any Cash Management Bank described in clause (C) below, collectively, the "Guaranteed Parties") the full and prompt payment, at any time and from time to time as and when due (whether at the stated maturity, by acceleration or otherwise), of all Obligations of the Borrower under the Credit Agreement and the other Credit Documents, including, without limitation, all principal of and interest on the Loans, all Reimbursement Obligations in respect of Letters of Credit, all fees, expenses, indemnities and other amounts payable by the Borrower under the Credit Agreement or any other Credit Document (including interest accruing after the filing of a petition or commencement of a case by or with respect to the Borrower seeking relief under any Insolvency Laws (as hereinafter defined), whether or not the claim for such interest is allowed in such proceeding), and all Obligations that, but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, would become due, (B) to each Hedge Party under any Hedge Agreement that is required or permitted by the Credit Agreement to be entered into by the Borrower (a "Permitted Hedge Agreement"), all obligations of the Borrower under such Permitted Hedge Agreement, and (C) to each Cash Management Bank under any Cash Management Agreement, in each case under clauses (A) through (C) whether now existing or hereafter created or arising and whether direct or indirect, absolute or contingent, due or to become due (all liabilities and obligations described in this clause (i), collectively, the "Guaranteed Obligations"); and

(ii) agrees to pay or reimburse upon demand all reasonable fees, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred or paid by (y) any Guaranteed Party in connection with any suit, action or proceeding to enforce or protect any rights of the Guaranteed Parties hereunder and (z) the Administrative Agent in connection with any amendment, modification or waiver hereof or consent pursuant hereto, and to indemnify and hold each Guaranteed Party and its directors, officers, employees, agents and Affiliates harmless from and against any and all claims, losses, damages, obligations, liabilities, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) of any kind or nature whatsoever, whether direct, indirect or consequential, that may at any time be imposed on, incurred by or asserted against any such indemnified party as a result of, arising from or in any way relating to this Guaranty or the collection or enforcement of the Guaranteed Obligations; provided, however, that no indemnified party shall have the right to be indemnified hereunder for any such claims, losses, costs and expenses to the extent determined by a final and nonappealable judgment of a court of competent jurisdiction or pursuant to arbitration as set forth herein to have resulted from the gross negligence or willful misconduct of such indemnified party (all liabilities and obligations described in this clause (ii), collectively, the "Other Obligations"); and the Other Obligations, together with the Guaranteed Obligations, the "Total Obligations").

(b) Notwithstanding the provisions of subsection (a) above and notwithstanding any other provisions contained herein or in any other Credit Document:

(i) no provision of this Guaranty shall require or permit the collection from any Guarantor of interest in excess of the maximum rate or amount that such Guarantor may be required or permitted to pay pursuant to applicable law; and

(ii) the liability of each Guarantor under this Guaranty as of any date shall be limited to a maximum aggregate amount (the "Maximum Guaranteed Amount") equal to the greatest amount that would not render such Guarantor's obligations under this Guaranty subject to avoidance, discharge or reduction as of such date as a fraudulent transfer or conveyance under applicable federal and state laws pertaining to bankruptcy, reorganization, arrangement, moratorium, readjustment of debts, dissolution, liquidation or other debtor relief, specifically including, without limitation, the Bankruptcy Code and any fraudulent transfer and fraudulent conveyance laws (collectively, "Insolvency Laws"), in each instance after giving effect to all other liabilities of such Guarantor, contingent or otherwise, that are relevant under applicable Insolvency Laws (specifically excluding, however, any liabilities of such Guarantor in respect of intercompany indebtedness to the Borrower or any of its Affiliates to the extent that such indebtedness would be discharged in an amount equal to the amount paid by such Guarantor hereunder, and after giving effect as assets to the value (as determined under applicable Insolvency Laws) of any rights to subrogation, contribution, reimbursement, indemnity or similar rights of such Guarantor pursuant to (y) applicable law or (z) any agreement (including this Guaranty) providing for an equitable allocation among such Guarantor and other Affiliates of the Borrower of obligations arising under guaranties by such parties).

(c) The Guarantors desire to allocate among themselves, in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made hereunder on any date by a Guarantor (a "Funding Guarantor") that exceeds its Fair Share (as hereinafter defined) as of such date, that Funding Guarantor shall be entitled to a contribution from each of the other Guarantors in the amount of such other Guarantor's Fair Share Shortfall (as hereinafter defined) as of such date, with the result that all such contributions will cause each Guarantor's Aggregate Payments (as hereinafter defined) to equal its Fair Share as of such date. "Fair Share" means, with respect to a Guarantor as of any date of determination, an amount equal to (i) the ratio of (x) the Adjusted Maximum Guaranteed Amount (as hereinafter defined) with respect to such Guarantor to (y) the aggregate of the Adjusted Maximum Guaranteed Amounts with respect to all Guarantors, multiplied by (ii) the aggregate amount paid or distributed on or before such date by all Funding Guarantors hereunder in respect of the obligations guaranteed. "Fair Share Shortfall" means, with respect to a Guarantor as of any date of determination, the excess, if any, of the Fair Share of such Guarantor over the Aggregate Payments of such Guarantor. "Adjusted Maximum Guaranteed Amount" means, with respect to a Guarantor as of any date of determination, the Maximum Guaranteed Amount of such Guarantor, determined in accordance with the provisions of subsection (b) above; provided that, solely for purposes of calculating the Adjusted Maximum Guaranteed Amount with respect to any Guarantor for purposes of this subsection (c), any assets or liabilities arising by virtue of any rights to subrogation, reimbursement or indemnity or any rights to or obligations of

contribution hereunder shall not be considered as assets or liabilities of such Guarantor. “Aggregate Payments” means, with respect to a Guarantor as of any date of determination, the aggregate amount of all payments and distributions made on or before such date by such Guarantor in respect of this Guaranty (including, without limitation, in respect of this subsection (c)). The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. Each Funding Guarantor’s right of contribution under this subsection (c) shall be subject to the provisions of **Section 4**. The allocation among Guarantors of their obligations as set forth in this subsection (c) shall not be construed in any way to limit the liability of any Guarantor hereunder to the Guaranteed Parties.

(d) The guaranty of each Guarantor set forth in this Section is a guaranty of payment as a primary obligor, and not a guaranty of collection. Each Guarantor hereby acknowledges and agrees that the Guaranteed Obligations, at any time and from time to time, may exceed the Maximum Guaranteed Amount of such Guarantor and may exceed the aggregate of the Maximum Guaranteed Amounts of all Guarantors, in each case without discharging, limiting or otherwise affecting the obligations of any Guarantor hereunder or the rights, powers and remedies of any Guaranteed Party hereunder or under any other Credit Document.

2. Guaranty Absolute. Each Guarantor agrees that its obligations hereunder and under the other Credit Documents to which it is a party are irrevocable, absolute and unconditional, are independent of the Guaranteed Obligations or any collateral or other security therefor or other guaranty or liability in respect thereof, whether given by such Guarantor or any other Person, and shall not be discharged, limited or otherwise affected by reason of any of the following, whether or not such Guarantor has notice or knowledge thereof:

(i) any change in the time, manner or place of payment of, or in any other term of, any Guaranteed Obligations or any guaranty or other liability in respect thereof, or any amendment, modification or supplement to, restatement of, or consent to any rescission or waiver of or departure from, any provisions of the Credit Agreement, any other Credit Document or any agreement or instrument delivered pursuant to any of the foregoing;

(ii) the invalidity or unenforceability of any Guaranteed Obligations, any guaranty or other liability in respect thereof or any provisions of the Credit Agreement, any other Credit Document or any agreement or instrument delivered pursuant to any of the foregoing;

(iii) the addition or release of Guarantors hereunder or the taking, acceptance or release of other guarantees of any Guaranteed Obligations or additional collateral or other security for any Guaranteed Obligations or for any guaranty or other liability in respect thereof;

(iv) any discharge, modification, settlement, compromise or other action in respect of any Guaranteed Obligations or any guaranty or other liability in respect thereof, including any acceptance or refusal of any offer or performance with respect to the same or the subordination of the same to the payment of any other obligations;

(v) any agreement not to pursue or enforce or any failure to pursue or enforce (whether voluntarily or involuntarily as a result of operation of law, court order or otherwise) any right or remedy in respect of any Guaranteed Obligations, any guaranty or other liability in respect thereof or any collateral or other security for any of the foregoing; any sale, exchange, release, substitution, compromise or other action in respect of any such collateral or other security; or any failure to create, protect, perfect, secure, insure, continue or maintain any Liens in any such collateral or other security;

(vi) the exercise of any right or remedy available under the Credit Documents, at law, in equity or otherwise in respect of any collateral or other security for any Guaranteed Obligations or for any guaranty or other liability in respect thereof, in any order and by any manner thereby permitted, including, without limitation, foreclosure on any such collateral or other security by any manner of sale thereby permitted, whether or not every aspect of such sale is commercially reasonable;

(vii) any bankruptcy, reorganization, arrangement, liquidation, insolvency, dissolution, termination, reorganization or like change in the corporate structure or existence of the Borrower or any other Person directly or indirectly liable for any Guaranteed Obligations;

(viii) any manner of application of any payments by or amounts received or collected from any Person, by whomsoever paid and howsoever realized, whether in reduction of any Guaranteed Obligations or any other obligations of the Borrower or any other Person directly or indirectly liable for any Guaranteed Obligations, regardless of what Guaranteed Obligations may remain unpaid after any such application; or

(ix) any other circumstance that might otherwise constitute a legal or equitable discharge of, or a defense, set-off or counterclaim available to, the Borrower, any Guarantor or a surety or guarantor generally, other than the occurrence of all of the following: (x) the payment in full of the Total Obligations in existence on the date the event discussed in (y) occurs (other than contingent and indemnification obligations not then due and payable), (y) the termination of the Commitments and the termination or expiration of all Letters of Credit under the Credit Agreement and (z) the termination of, and settlement of all obligations of the Borrower, under each permitted Hedge Agreement to which any Hedge Party is a party (the events in clauses (x), (y) and (z) above, collectively, the "Termination Requirements").

3. Certain Waivers. Each Guarantor hereby knowingly, voluntarily and expressly waives:

(i) presentment, demand for payment, demand for performance, protest and notice of any other kind, including, without limitation, notice of nonpayment or other nonperformance (including notice of default under any Credit Document with respect to any Guaranteed Obligations), protest, dishonor, acceptance hereof, extension of additional credit to the Borrower and of any of the matters referred to in **Section 2** and of any rights to consent thereto;

(ii) any right to require the Guaranteed Parties or any of them, as a condition of payment or performance by such Guarantor hereunder, to proceed against, or to exhaust or have resort to any collateral or other security from or any deposit balance or other credit in favor of, the Borrower, any other Guarantor or any other Person directly or indirectly liable for any Guaranteed Obligations, or to pursue any other remedy or enforce any other right; and any other defense based on an election of remedies with respect to any collateral or other security for any Guaranteed Obligations of for any guaranty or other liability in respect thereof, notwithstanding that any such election (including any failure to pursue or enforce any rights or remedies) may impair or extinguish any right of indemnification, contribution, reimbursement or subrogation or other right or remedy of any Guarantor against the Borrower, any other Guarantor or any other Person directly or indirectly liable for any Guaranteed Obligations or any such collateral or other security; and, without limiting the generality of the foregoing, each Guarantor hereby specifically waives the benefits of Sections 26-7 through 26-9, inclusive, of the General Statutes of North Carolina, as amended from time to time, and any similar statute or law of any other jurisdiction, as the same may be amended from time to time;

(iii) any right or defense based on or arising by reason of any right or defense of the Borrower or any other Person, including, without limitation, any defense based on or arising from a lack of authority or other disability of the Borrower or any other Person, the invalidity or unenforceability of any Guaranteed Obligations, any collateral or other security therefor or any Credit Document or other agreement or instrument delivered pursuant thereto, or the cessation of the liability of the Borrower for any reason other than the satisfaction of the Termination Requirements;

(iv) any defense based on any Guaranteed Party's acts or omissions in the administration of the Guaranteed Obligations, any guaranty or other liability in respect thereof or any collateral or other security for any of the foregoing, and promptness, diligence or any requirement that any Guaranteed Party create, protect, perfect, secure, insure, continue or maintain any Liens in any such collateral or other security;

(v) any right to assert against any Guaranteed Party, as a defense, counterclaim, crossclaim or set-off, any defense, counterclaim, claim, right of recoupment or set-off that it may at any time have against any Guaranteed Party (including, without limitation, failure of consideration, fraud, fraudulent inducement, statute of limitations, payment, accord and satisfaction and usury), other than compulsory counterclaims and other than the payment in full in cash of the Guaranteed Obligations; and

(vi) any defense based on or afforded by any applicable law that limits the liability of or exonerates guarantors or sureties or that may in any other way conflict with the terms of this Guaranty.

4. No Subrogation. Each Guarantor hereby waives and agrees that, until satisfaction of the Termination Requirements, it will not exercise or seek to exercise any claim or right that it may have against the Borrower or any other Guarantor at any time as a result of any payment

made under or in connection with this Guaranty or the performance or enforcement hereof, including any right of subrogation to the rights of any of the Guaranteed Parties against the Borrower or any other Guarantor, any right of indemnity, contribution or reimbursement against the Borrower or any other Guarantor (including rights of contribution as set forth in **Section 1(c)**), any right to enforce any remedies of any Guaranteed Party against the Borrower or any other Guarantor, or any benefit of, or any right to participate in, any collateral or other security held by any Guaranteed Party to secure payment of the Guaranteed Obligations, in each case whether such claims or rights arise by contract, statute (including without limitation the Bankruptcy Code), common law or otherwise; provided, however, that a Guarantor may enforce the rights of contribution set forth in **Section 1(c)** after satisfaction of the Termination Requirements. Each Guarantor further agrees that all indebtedness and other obligations, whether now or hereafter existing, of the Borrower or any other Subsidiary of the Borrower to such Guarantor, including, without limitation, any such indebtedness in any proceeding under the Bankruptcy Code and any intercompany receivables, together with any interest thereon, shall be, and hereby are, subordinated and made junior in right of payment to the Total Obligations in accordance with the following sentence. Each Guarantor further agrees that if any amount shall be paid to or any distribution received by any Guarantor (i) on account of any such indebtedness at any time after the occurrence and during the continuance of an Event of Default, or (ii) on account of any such rights of subrogation, indemnity, contribution or reimbursement at any time prior to the satisfaction of the Termination Requirements, such amount or distribution shall be deemed to have been received and to be held in trust for the benefit of the Guaranteed Parties, and shall forthwith be delivered to the Administrative Agent in the form received (with any necessary endorsements in the case of written instruments), to be applied against the Guaranteed Obligations, whether or not matured, in accordance with the terms of the applicable Credit Documents and without in any way discharging, limiting or otherwise affecting the liability of such Guarantor under any other provision of this Guaranty. Additionally, in the event the Borrower or any Subsidiary of the Borrower becomes a “debtor” within the meaning of the Bankruptcy Code, the Administrative Agent shall be entitled, at its option, on behalf of the Guaranteed Parties and as attorney-in-fact for each Guarantor, and is hereby authorized and appointed by each Guarantor, to file proofs of claim on behalf of each relevant Guarantor and vote the rights of each such Guarantor in any plan of reorganization, and to demand, sue for, collect and receive every payment and distribution on any indebtedness of the Borrower or such Subsidiary to any Guarantor in any such proceeding, each Guarantor hereby assigning to the Administrative Agent all of its rights in respect of any such claim, including the right to receive payments and distributions in respect thereof. Notwithstanding anything contained herein to the contrary, so long as no Event of Default has occurred and is continuing, each Guarantor may receive and collect all indebtedness and other obligations, whether now or hereafter existing, of the Borrower or any other Subsidiary of the Borrower owing to such Guarantor including without limitation intercompany receivables.

5. Representations and Warranties. Each Guarantor hereby represents and warrants to the Guaranteed Parties as follows:

(a) Such Guarantor is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has the full corporate power and authority to execute, deliver and perform this Guaranty and the other Credit Documents to

which it is or will be a party, to own and hold its property and to engage in its business as presently conducted.

(b) Such Guarantor has taken all necessary corporate action to execute, deliver and perform this Guaranty and each of the other Credit Documents to which it is or will be a party, and has, or on any later date of execution and delivery will have, validly executed and delivered each of the Credit Documents to which it is or will be a party. This Guaranty constitutes, and each of such other Credit Documents upon execution and delivery will constitute, the legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or by general equitable principles or by principles of good faith and fair dealing (regardless of whether enforcement is sought in equity or at law).

(c) The execution, delivery and performance by such Guarantor of this Guaranty and the other Credit Documents to which it is a party, and compliance by it with the terms hereof and thereof, do not and will not (i) violate any provision of its articles or certificate of incorporation or bylaws, (ii) contravene any Requirement of Law applicable to it, (iii) conflict with, result in a breach of or constitute (with notice, lapse of time or both) a default under any indenture, contract agreement, or other instrument to which it is a party, by which it or any of its properties is bound or to which it is subject except where such conflict, breach or default would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, or (iv) result in or require the creation or imposition of any Lien upon any of its properties, other than Liens created pursuant to the Credit Documents.

(d) No consent, approval, authorization or other action by, notice to, or registration or filing with, any Governmental Authority is or will be required as a condition to or otherwise in connection with the due execution, delivery and performance by such Guarantor of this Guaranty and the other Credit Documents to which it is a party or the legality, validity or enforceability hereof or thereof other than consents and filings, the failure to obtain or make would not, individually or in the aggregate, have a Material Adverse Effect.

(e) There are no actions, investigations, suits or proceedings pending or, to the knowledge of such Guarantor, threatened, at law, in equity or in arbitration, before any court, other Governmental Authority or other Person, (i) against or affecting such Guarantor or any of its properties that could reasonably be expected to have a Material Adverse Effect or (ii) with respect to this Guaranty or any of the other Credit Documents to which such Guarantor is a party.

(f) Such Guarantor has been provided with a true and complete copy of the executed Credit Agreement, as in effect as of the date it became a party hereto, and its principal officers are familiar with the contents thereof, particularly insofar as the contents thereof relate or apply to such Guarantor.

6. Financial Condition of Borrower. Each Guarantor represents that it has knowledge of the Borrower's financial condition and affairs and that it has adequate means to obtain from the Borrower on an ongoing basis information relating thereto and to the Borrower's ability to pay and perform the Guaranteed Obligations, and agrees to assume the responsibility

for keeping, and to keep, so informed for so long as this Guaranty is in effect with respect to such Guarantor. Each Guarantor agrees that the Guaranteed Parties shall have no obligation to investigate the financial condition or affairs of the Borrower for the benefit of any Guarantor nor to advise any Guarantor of any fact respecting, or any change in, the financial condition or affairs of the Borrower that might become known to any Guaranteed Party at any time, whether or not such Guaranteed Party knows or believes or has reason to know or believe that any such fact or change is unknown to any Guarantor, or might (or does) materially increase the risk of any Guarantor as guarantor, or might (or would) affect the willingness of any Guarantor to continue as a guarantor of the Guaranteed Obligations.

7. Payments; Application; Set-Off.

(a) Each Guarantor agrees that, upon the failure of the Borrower to pay any Guaranteed Obligations when and as the same shall become due (whether at the stated maturity, by acceleration or otherwise), and without limitation of any other right or remedy that any Guaranteed Party may have at law, in equity or otherwise against such Guarantor, such Guarantor will, subject to the provisions of **Section 1(b)**, forthwith pay or cause to be paid to the Administrative Agent, for the benefit of the Guaranteed Parties, an amount equal to the amount of the Guaranteed Obligations then due and owing as aforesaid.

(b) All payments made by each Guarantor hereunder will be made in Dollars to the Administrative Agent, without set-off, counterclaim or other defense and, in accordance with Section 2.17 of the Credit Agreement, free and clear of and without deduction for any Taxes, each Guarantor hereby agreeing to comply with and be bound by the provisions of Section 2.17 of the Credit Agreement in respect of all payments made by it hereunder and the provisions of which Section are hereby incorporated into and made a part of this Guaranty by this reference as if set forth herein at length.

(c) All payments made hereunder shall be applied in accordance with the provisions of Section 2.12 of the Credit Agreement. For purposes of applying amounts in accordance with this **Section 7(c)**, the Administrative Agent shall be entitled to rely upon any Guaranteed Party that has entered into a Permitted Hedge Agreement or Cash Management Agreement with the Borrower for a determination (which such Guaranteed Party agrees to provide or cause to be provided upon request of the Administrative Agent) of the outstanding Guaranteed Obligations owed to such Guaranteed Party under any such Permitted Hedge Agreement or Cash Management Agreement. Unless it has actual knowledge (including by way of written notice from any such Guaranteed Party) to the contrary, the Administrative Agent, in acting hereunder, shall be entitled to assume that no Permitted Hedge Agreements or Cash Management Agreements, or Guaranteed Obligations in respect thereof are in existence between any Guaranteed Party and the Borrower. If any Lender or Affiliate thereof that is a party to a Permitted Hedge Agreement or Cash Management Agreement with the Borrower (the obligations of the Borrower under which are Guaranteed Obligations) ceases to be a Lender or Affiliate thereof, such former Lender or Affiliate thereof shall nevertheless continue to be a Guaranteed Party hereunder with respect to the Guaranteed Obligations under such Permitted Hedge Agreement or Cash Management Agreement.

(d) In the event that the proceeds of any such sale, disposition or realization are insufficient to pay all amounts to which the Guaranteed Parties are legally entitled, the Guarantors shall be jointly and severally liable for the deficiency, together with interest thereon at the highest rate specified in any applicable Credit Document for interest on overdue principal or such other rate as shall be fixed by applicable law, together with the costs of collection and all other fees, costs and expenses payable hereunder.

(e) In addition to all other rights and remedies available under the Credit Documents or applicable law or otherwise, upon and at any time after the occurrence and during the continuance of any Event of Default, each Guaranteed Party may, and each of their respective Affiliates is hereby authorized by each Guarantor, at any such time and from time to time, to the fullest extent permitted by applicable law, without presentment, demand, protest or other notice of any kind, all of which are hereby knowingly and expressly waived by each Guarantor, to set off and to apply any and all deposits (general or special, time or demand, provisional or final) and any other property at any time held (including at any branches or agencies, wherever located), and any other indebtedness at any time owing, by such Guaranteed Party or any such Affiliate to or for the credit or the account of such Guarantor against any or all of the obligations of such Guarantor may be contingent or unmatured or are owed to a branch or office of such Guaranteed Party different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Guaranteed Party and their respective Affiliates under this subsection are in addition to other rights and remedies (including other rights of setoff) that such Guaranteed Parties or their respective Affiliates may have. Each Guaranteed Party agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

8. No Waiver. The rights and remedies of the Guaranteed Parties expressly set forth in this Guaranty and the other Credit Documents are cumulative and in addition to, and not exclusive of, all other rights and remedies available at law, in equity or otherwise. No failure or delay on the part of any Guaranteed Party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or be construed to be a waiver of any Default or Event of Default. No course of dealing between any of the Guarantors and the Guaranteed Parties or their agents or employees shall be effective to amend, modify or discharge any provision of this Guaranty or any other Credit Document or to constitute a waiver of any Default or Event of Default. No notice to or demand upon any Guarantor in any case shall entitle such Guarantor or any other Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of any Guaranteed Party to exercise any right or remedy or take any other or further action in any circumstances without notice or demand.

9. Enforcement. The Guaranteed Parties agree that, except as provided in **Section 7(c)**, this Guaranty may be enforced only by the Administrative Agent, acting upon the instructions or with the consent of the Required Lenders as provided for in the Credit Agreement, and that no Guaranteed Party shall have any right individually to enforce or seek to enforce this Guaranty or to realize upon any collateral or other security given to secure the payment and performance of the Guarantors' obligations hereunder. The obligations of each Guarantor

hereunder are independent of the Guaranteed Obligations, and a separate action or actions may be brought against each Guarantor whether or not action is brought against the Borrower or any other Guarantor and whether or not the Borrower or any other Guarantor is joined in any such action. Each Guarantor agrees that to the extent all or part of any payment of the Guaranteed Obligations made by any Person is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid by or on behalf of any Guaranteed Party to a trustee, receiver or any other party under any Insolvency Laws (the amount of any such payment, a “Reclaimed Amount”), then, to the extent of such Reclaimed Amount, this Guaranty shall continue in full force and effect or be revived and reinstated, as the case may be, as to the Guaranteed Obligations intended to be satisfied as if such payment had not been received; and each Guarantor acknowledges that the term “Guaranteed Obligations” includes all Reclaimed Amounts that may arise from time to time.

10. Amendments, Waivers, etc. No amendment, modification, waiver, discharge or termination of, or consent to any departure by any Guarantor from, any provision of this Guaranty, shall be effective unless in a writing signed by the Administrative Agent and such of the Lenders as may be required under the provisions of the Credit Agreement to concur in the action then being taken, and then the same shall be effective only in the specific instance and for the specific purpose for which given.

11. Addition, Release of Guarantors. Each Guarantor recognizes that the provisions of the Credit Agreement require Persons that become Subsidiaries of the Borrower and that are not already parties hereto to become Guarantors hereunder by executing a Guarantor Accession, and agrees that its obligations hereunder shall not be discharged, limited or otherwise affected by reason of the same, or by reason of the Administrative Agent’s actions in effecting the same or in releasing any Guarantor hereunder, in each case without the necessity of giving notice to or obtaining the consent of any other Guarantor.

12. Continuing Guaranty; Term; Successors and Assigns; Assignment; Survival. This Guaranty is a continuing guaranty and covers all of the Guaranteed Obligations as the same may arise and be outstanding at any time and from time to time from and after the date hereof, and shall (i) remain in full force and effect until satisfaction of all of the Termination Requirements (provided that the provisions of clause (ii) of **Section 1(a)** shall survive any termination of this Guaranty), (ii) be binding upon and enforceable against each Guarantor and its successors and assigns (provided, however, that no Guarantor may sell, assign or transfer any of its rights, interests, duties or obligations hereunder without the prior written consent of the Lenders) and (iii) inure to the benefit of and be enforceable by each Guaranteed Party and its successors and assigns. Without limiting the generality of clause (iii) above, any Guaranteed Party may, in accordance with the provisions of the Credit Agreement, assign all or a portion of the Guaranteed Obligations held by it (including by the sale of participations), whereupon each Person that becomes the holder of any such Guaranteed Obligations shall (except as may be otherwise agreed between such Guaranteed Party and such Person) have and may exercise all of the rights and benefits in respect thereof granted to such Guaranteed Party under this Guaranty or otherwise. Each Guarantor hereby irrevocably waives notice of and consents in advance to the assignment as provided above from time to time by any Guaranteed Party of all or any portion of the Guaranteed Obligations held by it and of the corresponding rights and interests of such Guaranteed Party hereunder in connection therewith. All representations, warranties, covenants

and agreements herein shall survive the execution and delivery of this Guaranty and any Guarantor Accession.

13. Governing Law; Submission to Jurisdiction; Waiver of Venue; Service of Process.

(a) This Guaranty and the other Credit Documents shall (except as may be expressly otherwise provided in any Credit Document) be governed by, and construed in accordance with, the law of the State of North Carolina (without regard to the conflicts of law provisions thereof); provided that each Letter of Credit shall be governed by, and construed in accordance with, the laws or rules designated in such Letter of Credit or application therefor or, if no such laws or rules are designated, the International Standby Practices of the International Chamber of Commerce, as in effect from time to time (the "ISP"), and, as to matters not governed by the ISP, the laws of the State of North Carolina (without regard to the conflicts of law provisions thereof).

(b) The Borrower irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of North Carolina sitting in Mecklenburg County and of the United States District Court of the Western District of North Carolina, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Guaranty or any other Credit Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such state court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Guaranty or in any other Credit Document shall affect any right that the Administrative Agent, any Lender or the Issuing Lender may otherwise have to bring any action or proceeding relating to this Guaranty or any other Credit Document against the Borrower or any of its Subsidiaries or its properties in the courts of any jurisdiction.

(c) The Borrower irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Guaranty or any other Credit Document in any court referred to in Section 11.2(b). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 11.4. Nothing in this Guaranty will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

14. Arbitration; Preservation and Limitation of Remedies.

Upon demand of any party hereto, whether made before or after institution of any judicial proceeding, any dispute, claim or controversy arising out of, connected with or relating to this Guaranty or any other Credit Document ("Disputes") between or among the Guarantors and the Guaranteed Parties, or any of them, shall be resolved by binding arbitration as provided herein.

Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, claims brought as class actions, claims arising from documents executed in the future, disputes as to whether a matter is subject to arbitration, or claims arising out of or connected with the transactions contemplated by this Guaranty, the Credit Agreement and the other Credit Documents. Arbitration shall be conducted under and governed by the Commercial Financial Disputes Arbitration Rules (the "Arbitration Rules") of the American Arbitration Association (the "AAA"), as in effect from time to time, and the Federal Arbitration Act, Title 9 of the U.S. Code, as amended. All arbitration hearings shall be conducted in the city in which the principal office of the Administrative Agent is located. A hearing shall begin within ninety (90) days of demand for arbitration and all hearings shall be concluded within 120 days of demand for arbitration. These time limitations may not be extended unless a party shows cause for extension and then for no more than a total of sixty (60) days. The expedited procedures set forth in Rule 51 et seq. of the Arbitration Rules shall be applicable to claims of less than \$1,000,000. All applicable statutes of limitation shall apply to any Dispute. A judgment upon the award may be entered in any court having jurisdiction. The panel from which all arbitrators are selected shall be comprised of licensed attorneys selected from the Commercial Financial Dispute Arbitration Panel of the AAA. The single arbitrator selected for expedited procedure shall be a retired judge from the highest court of general jurisdiction, state or federal, of the state where the hearing will be conducted. Notwithstanding the foregoing, this arbitration provision does not apply to Disputes under or related to any Hedge Agreement. The parties do not waive applicable federal or state substantive law except as provided herein.

Notwithstanding the preceding binding arbitration provisions, the parties hereto agree to preserve, without diminution, certain remedies that any party hereto may employ or exercise freely, either alone, in conjunction with or during a Dispute. Any party hereto shall have the right to proceed in any court of proper jurisdiction or by self-help to exercise or prosecute the following remedies, as applicable: (i) obtaining provisional or ancillary remedies, including injunctive relief, sequestration, garnishment, attachment, appointment of a receiver and filing an involuntary bankruptcy proceeding; and (ii) when applicable, a judgment by confession of judgment. Any claim or controversy with regard to any party's entitlement to such remedies is a Dispute. Preservation of these remedies does not limit the power of an arbitrator to grant similar remedies that may be requested by a party in a Dispute. The parties hereto agree that no party shall have a remedy of punitive or exemplary damages against any other party in any Dispute, and each party hereby waives any right or claim to punitive or exemplary damages that it has now or that may arise in the future in connection with any Dispute, whether such Dispute is resolved by arbitration or judicially. The parties acknowledge that by agreeing to binding arbitration they have irrevocably waived any right they may have to a jury trial with regard to a Dispute. The Guarantors agree, jointly and severally, to pay the reasonable fees and expenses of counsel to the Guaranteed Parties in connection with any Dispute subject to arbitration as provided herein.

15. Notices. All notices and other communications provided for hereunder shall be in writing (including telegraphic, telex, facsimile transmission or cable communication) and mailed, telegraphed, telexed, telecopied, cabled or delivered (a) if to any Guarantor, in care of the Borrower and at the Borrower's address for notices set forth in the Credit Agreement and (b) if to any Guaranteed Party, at its address for notices set forth in the Credit Agreement; or to

such other address as any of the Persons listed above may designate for itself by like notice to the other Persons listed above; and in each case, with copies to such other Persons as may be specified under the provisions of the Credit Agreement. All such notices and communications shall be deemed to have been given (i) if mailed as provided above by any method other than overnight delivery service, on the third Business Day after deposit in the mails, (ii) if mailed by overnight delivery service, telegraphed, telexed, telecopied or cabled, when delivered for overnight delivery, delivered to the telegraph company, confirmed by telex answerback, transmitted by telecopier or delivered to the cable company, respectively, or (iii) if delivered by hand, upon delivery; provided that notices and communications to the Administrative Agent shall not be effective until received by the Administrative Agent.

16. Severability. To the extent any provision of this Guaranty is prohibited by or invalid under the applicable law of any jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity and only in such jurisdiction, without prohibiting or invalidating such provision in any other jurisdiction or the remaining provisions of this Guaranty in any jurisdiction.

17. Construction. The headings of the various sections and subsections of this Guaranty have been inserted for convenience only and shall not in any way affect the meaning or construction of any of the provisions hereof. Unless the context otherwise requires, words in the singular include the plural and words in the plural include the singular.

18. Counterparts; Effectiveness. This Guaranty may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. This Guaranty shall become effective, as to any Guarantor, upon the execution and delivery by such Guarantor of a counterpart hereof or a Guarantor Accession.

[Signatures on the following pages]

IN WITNESS WHEREOF, each Guarantor has caused this Guaranty to be executed by its duly authorized officers as of the date first above written.

[NAME OF GUARANTOR]

By: _____
Name: _____
Title: _____

Accepted and agreed to:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: _____
Name: _____
Title: _____

(signatures continued)

The Borrower hereby joins in this Guaranty for purposes of evidencing its consent to, and agreement to perform, the provisions of **Section (b)**.

OLD DOMINION FREIGHT LINE, INC.

By: _____

Title: _____

EXHIBIT A

GUARANTOR ACCESSION

THIS GUARANTOR ACCESSION (this "Accession"), dated as of _____, _____, is executed and delivered by [NAME OF NEW GUARANTOR], a _____ corporation (the "Company"), pursuant to the Subsidiary Guaranty referred to hereinbelow.

Reference is made to the Second Amended and Restated Credit Agreement, dated as of August _____, 2011, among Old Dominion Freight Line, Inc. (the "Borrower"), the Lenders party thereto, and the Administrative Agent (as amended, modified or supplemented from time to time, the "Credit Agreement"). In connection with and as a condition to the initial and continued extensions of credit under the Credit Agreement, the Borrower and certain of its subsidiaries have executed and delivered a Subsidiary Guaranty, dated as of _____, _____ (as amended, restated, modified or supplemented from time to time, the "Subsidiary Guaranty"), pursuant to which such subsidiaries have guaranteed the payment in full of the obligations of the Borrower under the Credit Agreement and the other Credit Documents (as defined in the Credit Agreement). Capitalized terms used herein without definition shall have the meanings given to them in the Subsidiary Guaranty.

The Borrower has agreed under the Credit Agreement to cause each of its future subsidiaries to become a party to the Subsidiary Guaranty as a guarantor thereunder. The Company is a subsidiary of the Borrower. The Company will obtain benefits as a result of the continued extension of credit to the Borrower under the Credit Agreement, which benefits are hereby acknowledged, and, accordingly, desires to execute and deliver this Accession. Therefore, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the Lenders to continue to extend credit to the Borrower under the Credit Agreement, the Company hereby agrees as follows:

1. The Company hereby joins in and agrees to be bound by each and all of the provisions of the Subsidiary Guaranty as a Guarantor thereunder. In furtherance (and without limitation) of the foregoing, pursuant to Section 1 of the Subsidiary Guaranty, the Company hereby irrevocably, absolutely and unconditionally, and jointly and severally with each other Guarantor, guarantees to the Guaranteed Parties the full and prompt payment, at any time and from time to time as and when due (whether at the stated maturity, by acceleration or otherwise), of all of the Guaranteed Obligations, and agrees to pay or reimburse upon demand all Other Obligations, all on the terms and subject to the conditions set forth in the Subsidiary Guaranty.

2. The Company hereby represents and warrants that after giving effect to this Accession, each representation and warranty contained in Section 5 of the Subsidiary Guaranty is true and correct with respect to the Company as of the date hereof, as if such representations and warranties were set forth at length herein.

3. This Accession shall be a Credit Document (within the meaning of such term under the Credit Agreement), shall be binding upon and enforceable against the Company and its successors and assigns, and shall inure to the benefit of and be enforceable by each Guaranteed Party and its successors and assigns. This Accession and its attachments are hereby incorporated into the Subsidiary Guaranty and made a part thereof.

IN WITNESS WHEREOF, the Company has caused this Accession to be executed under seal by its duly authorized officer as of the date first above written.

[NAME OF COMPANY]

By: _____
Name: _____
Title: _____

SCHEDULE 1.1

COMMITMENTS AND NOTICE ADDRESSES

<u>Lender</u>	<u>Commitment</u>	<u>Notice Address</u>
Wells Fargo Bank, National Association	\$ 48,000,000	1525 W. W.T. Harris Blvd. Building 3A2, Mailcode NC 0680 Charlotte, North Carolina 28262 Attn: Syndication Agency Services
Branch Banking and Trust Company	\$ 48,000,000	200 West 2 nd Street Winston Salem, NC 27101 Attn: Preston Bergen
Bank of America, N.A.	\$ 43,000,000	101 S. Tryon Street, NC1-002-03-10 Charlotte, NC 28255-0001 Attn: John Mercuri
U.S. Bank National Association	\$ 28,000,000	800 Nicollet Mall Minneapolis, MN 55402 Attn: Edward Hanson
Royal Bank of Canada	\$ 28,000,000	One Liberty Plaza, 3 rd Floor 165 Broadway New York, NY 10006-1404 Attn: Manager, Loans Administration
High Point Bank	\$ 5,000,000	300 N. Main Street High Point, NC 27260 Attn: David G. Black
Total	\$200,000,000	

SCHEDULE 3.1

EXISTING LETTERS OF CREDIT

<u>LOC NUMBER</u>	<u>BENEFICIARY</u>	<u>PURPOSE</u>	<u>AMOUNT</u>
S034701	GA SI Guaranty Trust	Workers' Comp.	\$ 1,920,000
S039135	Utica Mutual Ins. Co.	Workers' Comp.	500,000
SO36413	Pacific Emp. Ins. Co.	Workers' Comp.	1,452,399
SM421252	U.S. Fidelity & Guaranty	Workers' Comp.	2,120,000
SO36416	Van Liner Ins. Co.	Auto Liability	500,000
SM422162	St. Paul Fire & Marine Ins. Co.	Auto Liability	200,000
SM408316C	Protective Ins. Co.	Auto Liability	19,712,000
SM202865	National Union Fire Ins.	Workers' Comp.	<u>24,436,267</u>
Total			<u>\$50,840,666</u>

Schedule 5.4

CONSENTS AND APPROVALS

None.

Schedule 5.7

SUBSIDIARIES

None.

Schedule 5.17

INSURANCE

Automobile and General Liability Coverage Summary

Insurer: Protective Insurance Company
Expiration: March 30, 2013
Coverage Type: Personal Injury Liability and Property Damage Liability; Physical Damage – Comprehensive and Collision, and Employers' Liability
Coverage Amount: \$2,250,000 Combined Single Limit per occurrence excess of a self retention of \$2,750,000 per occurrence

Workers' Compensation and Employer's Liability (Deductible Policy)

Insurers: New Hampshire Insurance Company and National Union Fire Insurance Company of Pittsburgh, PA
Expiration: March 30, 2012
Coverage Type: Workers' Compensation and Employer's Liability, subject to a \$1,000,000 deductible per accident for Workers' Compensation and \$1,000,000 deductible per claim for Employer's Liability
Coverage Amount: Workers' Compensation – Statutory Limits
Employer's Liability - \$1,000,000
States Applicable: Workers' Compensation – all states except WY, ND, WA, OH, FL, GA, NC, SC, TN, and VA

Workers' Compensation and Employer's Liability (Retention Policy)

Insurer: National Union Fire Insurance Company of Pittsburgh, PA
Expiration: March 30, 2012
Coverage Type: Workers' Compensation and Employer's Liability, subject to a \$1,000,000 retention per accident for Workers' Compensation and \$1,000,000 retention per claim for Employer's Liability
Coverage Amount: Workers' Compensation – Statutory Limits
Employer's Liability - \$1,000,000
States Applicable: Self Insured States of OH, FL, GA, NC, SC, TN, and VA

Umbrella and Excess Liability

Insurers: Lexington Insurance Company; National Union Fire Insurance Company of Pittsburgh, PA; Liberty Insurance Underwriters, Inc.; Fireman's Fund Insurance Company; RSUI Indemnity Company
Expiration: March 30, 2012
Coverage Type: Umbrella and Excess Liability
Coverage Amount: \$145,000,000 excess of the primary \$5,000,000, excess of deductibles/retentions, subject to policy aggregates

Schedule 5.17

Commercial Property

Insurer: Hartford Fire Insurance Company
Expiration: April 1, 2012
Coverage Type: Real and Personal Property
Coverage Amount: \$30,000,000 Per Occurrence, subject to various sub limits
Deductible: \$10,000 Per Loss, subject to various deductibles for other perils

Motor Truck Cargo

Insurer: Hartford Fire Insurance Company
Expiration: April 1, 2012
Coverage Type: Motor Truck Cargo Liability (Property in your care, custody, or control for transportation)
Coverage Amount: \$1,000,000 any one vehicle, subject to various sub limits
Deductible: \$100,000 per Occurrence

Schedule 5.18

MATERIAL CONTRACTS

1. Amended and Restated Articles of Incorporation (as amended July 30, 2004)
2. Amended and Restated Bylaws of Old Dominion Freight Line, Inc.
3. Specimen certificate of Common Stock
4. Note Purchase Agreement among Old Dominion Freight Line, Inc. and the Purchasers set forth in Schedule A thereto, dated as of February 25, 2005
5. Note Purchase Agreement among Old Dominion Freight Line, Inc. and the Purchasers set forth in Schedule A thereto, dated as of April 25, 2006
6. Note Purchase Agreement by and among Old Dominion Freight Line, Inc. and the Purchasers set forth in Schedule A thereto, dated as of January 3, 2011
7. Amended and Restated Credit Agreement among Wachovia Bank, National Association, as Administrative Agent; the Lenders named therein; and Old Dominion Freight Line, Inc., dated as of August 10, 2006
8. Amendment No. 1 to Amended and Restated Credit Agreement among Old Dominion Freight Line, Inc., the Lenders named therein and Wells Fargo Bank, National Association, as Agent, dated as of December 31, 2010
9. Amended and Restated Employment Agreement between Old Dominion Freight Line, Inc. and Earl E. Congdon, effective as of June 1, 2008
10. Amended and Restated Employment Agreement between Old Dominion Freight Line, Inc. and John R. Congdon, effective as of June 1, 2008
11. Amended and Restated Employment Agreement between Old Dominion Freight Line, Inc. and David S. Congdon, effective as of June 1, 2008
12. First Amendment to Amended and Restated Employment Agreement, effective as of May 31, 2010, by and between Old Dominion Freight Line, Inc. and Earl E. Congdon
13. First Amendment to Amended and Restated Employment Agreement, effective as of May 31, 2010, by and between Old Dominion Freight Line, Inc. and John R. Congdon
14. Old Dominion Freight Line, Inc. Director Phantom Stock Plan, as amended through April 1, 2011
15. Form of Old Dominion Freight Line, Inc. Director Phantom Stock Plan Award Agreement

Schedule 5.18

16. Old Dominion Freight Line, Inc. Phantom Stock Plan, effective as of January 1, 2009
17. Amendment to Old Dominion Freight Line, Inc. Phantom Stock Plan, effective as of May 18, 2009
18. Form of Old Dominion Freight Line, Inc. Phantom Stock Award Agreement
19. Old Dominion Freight Line, Inc. Change in Control Severance Plan for Key Executives, effective as of January 1, 2009
20. 2006 Nonqualified Deferred Compensation Plan of Old Dominion Freight Line, Inc., as amended, effective January 1, 2010
21. Form of Annual Salary and Bonus Deduction Agreement
22. Old Dominion Freight Line, Inc. Performance Incentive Plan
23. Non-Executive Director Compensation Structure, effective January 1, 2011
24. At-The-Market Equity Offering Sales Agreement, dated February 2, 2011, between Old Dominion Freight Line, Inc. and Stifel, Nicolaus & Company, Incorporated

Schedule 8.2

INDEBTEDNESS

IBM Credit Corp. (Capitalized leases respecting computer equipment and maintenance)	\$2,385,000
Total Indebtedness as of July 31, 2011	<u>\$2,385,000</u>

See Schedule 8.3 Liens

Schedule 8.3

LIENS

IBM Credit Corp. (Capitalized leases respecting computer equipment)

Schedule 8.5A

EXISTING INVESTMENTS

None.

Schedule 8.5B

BORROWER'S INVESTMENT POLICY

See Attached.

Schedule 8.5B

**OLD DOMINION FREIGHT LINE, INC.
INVESTMENT POLICY**

July 31, 2006

Purpose:

The purpose of this Investment policy is to provide objectives and guidelines to the Treasury function for investing excess cash generated by the Company. Priorities for the use of cash, in order, are:

- Purchase of operating assets,
- Pay down current debt where debt cost is higher than current yields on temporary investments including any prepayment penalty, and
- Invest in short term, low risk financial instruments.

Investing opportunities that are not within the scope of this policy must have written approval of the Executive Committee.

Investment Objectives:

The investment objectives are to maximize after-tax income, preserve principal value and maintain adequate liquidity to meet account demands.

Investment Goals:

The investment goal is to provide a competitive investment return consistent with the objectives outlined in this policy. Limits on liquidity and risk within this policy may limit the return that can be expected on investment. However, it should be expected that the tax-equivalent yields should at least be equal to or higher than six-month certificate of deposit yields as published daily in the Wall Street Journal.

Investment Guidelines:

The investment guidelines are to invest in U.S. dollar denominated taxable and tax-free fixed income securities.

At the time of purchase, no one issuer will be more than 10% of the account's market value at time of purchase. This rule excludes obligations of the U.S. Government and U.S. Government sponsored agencies and enterprises, money market funds, and securities that have an effective maturity no longer than the next business day. Obligations of U.S. Government sponsored agencies and enterprises are limited to 40% of the account's market value at time of purchase, per issuer.

Issuer Credit Quality Guidelines:

Since the Company is in the business of transporting goods and not finance, the investing of excess cash should be accomplished with minimum risk. Risk is defined as the probability of loss of principal. To be considered an eligible investment, issuers must meet the credit quality criteria outlined below.

- A. Obligations of the U.S. Government and of U.S. Government sponsored agencies are approved securities.
1. U.S. Treasury Bills, Notes, Bonds and Strips and other obligations whose principal and interest is fully guaranteed by the United States of America.
 2. Federal Agencies and Government Sponsored Enterprises: Government National Mortgage Association (GNMA), Tennessee Valley Authority (TVA), World Bank, Federal Farm Credit Bank (FFCB), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Federal Home Loan Bank (FHLB), Student Loan Marketing Association (SLMA), Financing Corporation (FICO), The Resolution Funding Corporation (REFCO), Farm Credit System Financial Assistance Corporation, the Federal Housing Finance Board and all other government sponsored agencies and enterprises.

Schedule 8.5B

- B. Money Market Instruments: securities rated “A1, P1, F1, D1, MIG-1/VMIG-1, SP-1” or the equivalent (Tier I as defined by 2(a) 7 money market funds) at the time of purchase. Included but not limited to commercial paper, banker’s acceptances, time deposits, certificates of deposit, taxable municipal securities, money market preferreds, dutch auction securities and unconditional demand floating rate securities.
- C. Money Market Mutual Funds and Mutual Funds comprised of the listed eligible investments.
- D. Corporate obligations: Corporate Bonds and Medium Term Notes (MTN’s) with long-term debt ratings of at least “Investment Grade”.
- E. Taxable and Tax Exempt Municipal Bonds: included but not limited to unconditional demand and put securities, commercial paper and notes and other obligations of indebtedness, rated “A” or better.
- F. Auction Rate Preferred Stocks: Dutch auction preferred securities, which have various reset dates and are rated “A” or better.
- G. Asset-Backed Securities: rated “AAA”.
- H. Mortgage-Backed Securities and Collateralized Mortgage Obligations: rated “AAA”.
- I. Repurchase agreements:
 - 1. Must be collateralized by obligations of the U.S. Government or U.S. Government sponsored agencies.
 - 2. Must be collateralized at 102% of market value including accrued interest.
 - 3. Broker/dealers must be primary dealers as recognized by the Federal Reserve.
- J. All securities purchased will be rated by at least one of the following nationally recognized ratings agency: Standard & Poor’s, Moody’s, Duff & Phelps, Fitch IBCA, or Thompson BankWatch.
- K. Hold/sell discipline:

In the event that any issuers or securities that are held, have been subsequently downgraded to below their specified purchase criteria, Treasury management shall determine whether the security should be held to maturity or sold at the earliest convenient time.

Liquidity:

Old Dominion is in the business of transporting goods of general commodities within its service area. In providing this service, the Company feels it can achieve the highest return on its cash by investing in the replacement of or addition to operating assets. As such, excess cash investments should generally have staggered maturity dates not to exceed one year.

Excess cash can be invested for periods longer than one year if it can be clearly demonstrated by the treasury function that the invested cash will not be needed for operating cash requirements before the extended maturity horizon and the rate of return is materially greater than the short term rates without increased risk.

Put and/or Reset Dates will be used in lieu of final maturity for the purpose of maturity acceptability. Market accepted average life at time of purchase shall be used in lieu of final maturity for the purpose of maturity acceptability of asset-backed and mortgage-backed securities.

Schedule 8.7

TRANSACTIONS WITH AFFILIATES

Any transaction with Old Dominion Truck Leasing, Inc., which include:

- Combining requirements for the purchase of tractors, trailers, equipment, parts, tires and fuel;
- Vehicle repair, maintenance and other related services charged by Old Dominion Freight Line, Inc. to Old Dominion Truck Leasing, Inc.;
- Vehicle repair, maintenance and other related services charged by Old Dominion Truck Leasing, Inc. to Old Dominion Freight Line, Inc.;
- Equipment purchases between Old Dominion Freight Line, Inc. and Old Dominion Truck Leasing, Inc.;
- Equipment leased by Old Dominion Freight Line, Inc., for use by either Old Dominion Freight Line, Inc. or its customers, from Old Dominion Truck Leasing, Inc.;
- Freight services provided to customers of, but billed to, Old Dominion Truck Leasing, Inc.; and
- Rental of real estate by and between Old Dominion Truck Leasing, Inc. and Old Dominion Freight Line, Inc.

Two split-dollar life insurance policies insuring the life of John R. Congdon

Employment agreements between Old Dominion Freight Line, Inc. and each of Earl E. Congdon, John R. Congdon and David S. Congdon

Compensation arrangements between Old Dominion Freight Line, Inc. and each of Earl E. Congdon, John R. Congdon, David S. Congdon, John R. Congdon Jr. or other members of the Control Group in their capacity as employee and/or member of the Old Dominion Freight Line, Inc. Board of Directors