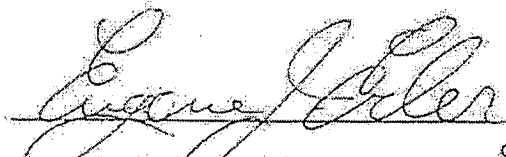


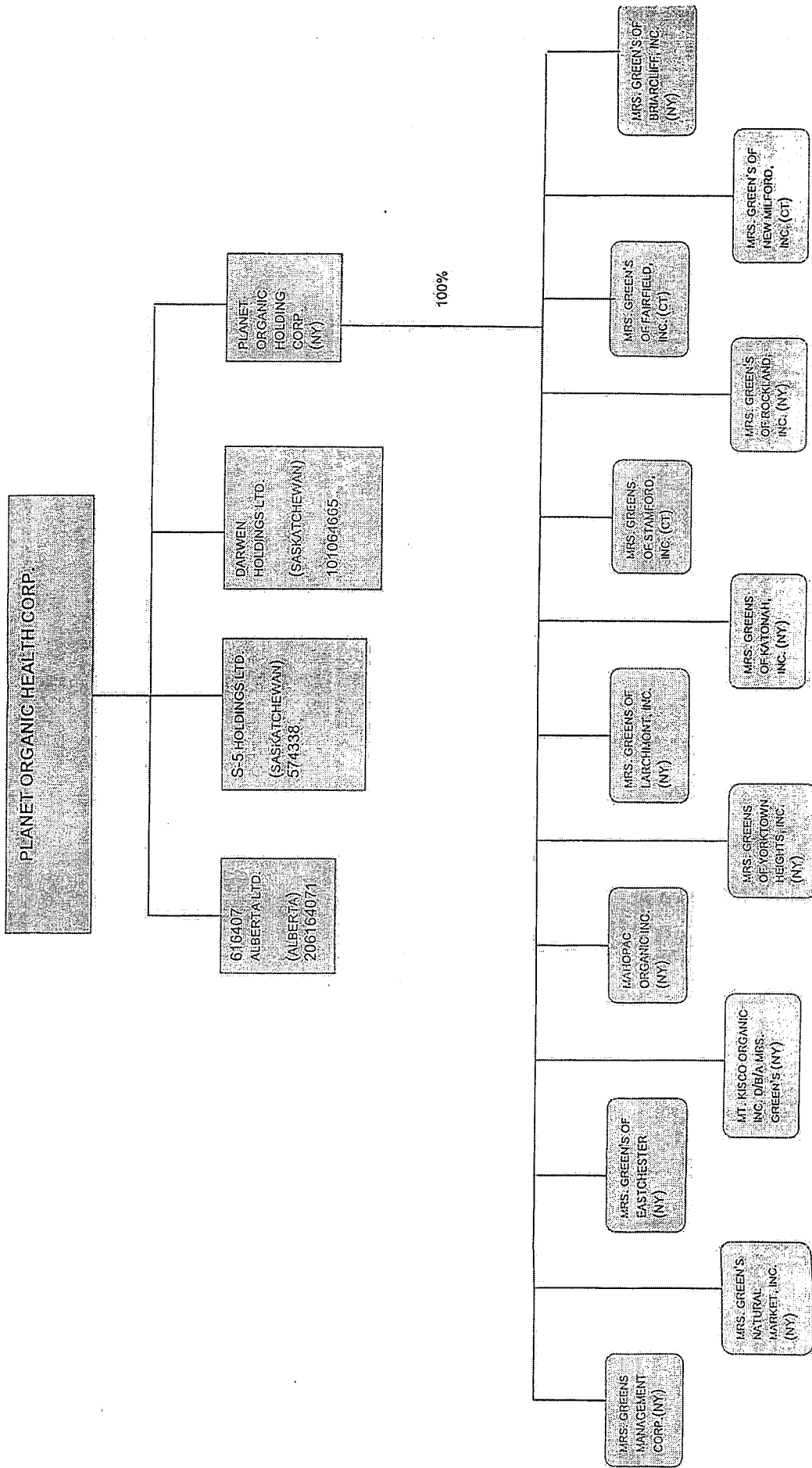
This is Exhibit "A" referred to in
the Affidavit of Darren Krissie
sworn before me this 29th day of April, 2010



Commissioner for Taking Affidavits, Province of Ontario
(or as may be)

Alberta

EUGENE J. ERLER
BARRISTER AND SOLICITOR
AND NOTARY PUBLIC





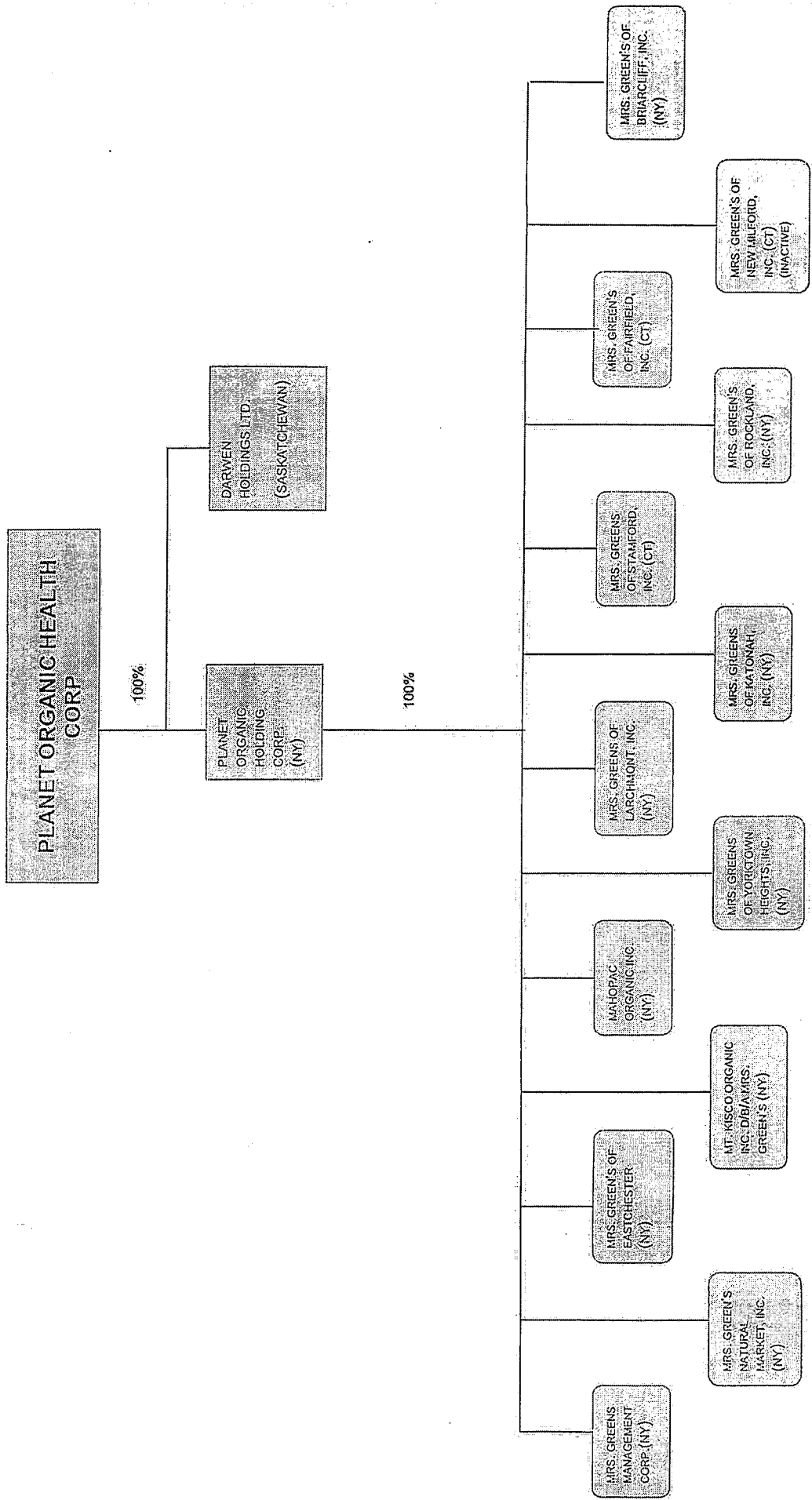
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This is Exhibit "B" referred to in
the Affidavit of Darren Krissie
sworn before me this 29th day of April, 2010

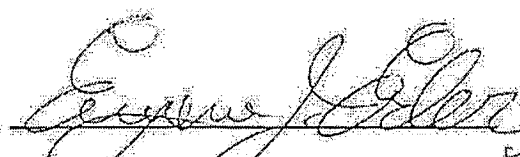
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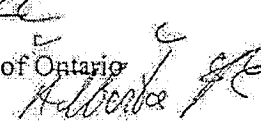
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BARRISTER AND SOLICITOR
AND NOTARY PUBLIC



This is Exhibit "C" referred to in
the Affidavit of Darren Krissie
sworn before me this 29th day of April, 2010



Commissioner for Taking Affidavits, Province of Ontario
(or as may be)



EUGENE J. ERLER
BARRISTER AND SOLICITOR
AND NOTARY PUBLIC

EXECUTION VERSION

AMENDED AND RESTATED TERM LOAN AGREEMENT

by and among

PLANET ORGANIC HEALTH CORP.

as Parent Guarantor,

certain Subsidiaries thereof, as Guarantors,

PLANET ORGANIC HOLDING CORP.

as Borrower and a Guarantor,

The Lenders

from time to time party hereto,

and

ARES CAPITAL CORPORATION,

as Lead Arranger, Administrative Agent, Second Lien Collateral Agent
and Documentation Agent

Dated as of November 30, 2007

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EXHIBITS

Exhibit A	Form of Assignment and Acceptance
Exhibit B	Form of Compliance Certificate
Exhibit I	Form of Notice of Borrowing
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AMENDED AND RESTATED TERM LOAN AGREEMENT

THIS AMENDED AND RESTATED TERM LOAN AGREEMENT, dated as of November 30, 2007, is among PLANET ORGANIC HEALTH CORP., an Alberta corporation (the "*Parent Guarantor*"), its Subsidiaries signatory hereto as guarantors or hereafter designated as Guarantors pursuant to Section 8.10, PLANET ORGANIC HOLDING CORP., a New York corporation (the "*Borrower*" and a guarantor hereunder), the lenders from time to time party hereto (each a "*Lender*" and, collectively, the "*Lenders*") and ARES CAPITAL CORPORATION, a Maryland corporation ("*ARCC*"), as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "*Administrative Agent*") and as collateral agent for the Second Lien Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "*Second Lien Collateral Agent*" and together with the Administrative Agent, collectively, the "*Agents*" and each an "*Agent*").

RECITALS

WHEREAS, Borrower, Guarantors, Administrative Agent, Second Lien Collateral Agent, The Toronto-Dominion Bank and certain of the Lenders are parties to that certain credit agreement dated as of July 3, 2007 (such credit agreement, as in effect immediately prior to giving effect to this Agreement, hereinafter referred to as the "*Original Credit Agreement*");

WHEREAS, Borrower, Guarantors, Administrative Agent, Second Lien Collateral Agent and Lenders have agreed to enter into this Agreement in order to, among other things, (a) amend and restate the Original Credit Agreement in its entirety (except to the extent it relates to the Credit Agreement Obligations); (b) re-evidence, ratify, confirm and reaffirm all of the "Obligations" (as such term is defined in the Original Credit Agreement other than the Credit Agreement Obligations) outstanding or otherwise existing on and as of the Closing Date (the "*Original Obligations*"); and (c) set forth the terms and conditions under which the Agents and Lenders will continue outstanding hereunder certain Loans made under the Original Credit Agreement and outstanding on the date hereof for the account of the Borrower;

WHEREAS, it is the intention of the respective parties hereto that this Agreement not constitute a novation of the Original Credit Agreement, any of the Original Obligations or any agreement, document or instrument evidencing the same;

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.01 unless the context otherwise requires:

"*ABR*" shall mean, for any day, a fluctuating rate of interest per annum (rounded upward, if necessary, to the next highest 1/16 of 1%) equal to the higher of: (a) the New York Prime Rate in effect on such day; and (b) the Federal Funds Rate in effect on such day plus ½ of 1%. Changes in the rate of interest on that portion of any Loans maintained as ABR Loans will take effect simultaneously with each change in the applicable ABR.

"*ABR Loan*" shall mean each Loan bearing interest at ABR, as provided in Section 2.08(a).

"*Accounts Receivable*" shall mean all rights of any Credit Party to payment for goods sold, leased or otherwise disposed of in the ordinary course of business and all rights of any Credit Party to payment for services rendered in the ordinary course of business and all sums of money or other proceeds due thereon pursuant to transactions with account debtors.

"*Acquisition*" shall mean the transactions contemplated by the Acquisition Agreement.

"*Acquisition Agreement*" shall mean that certain Equity Purchase Agreement, dated as of July 3, 2007, among the Borrower, as purchaser, and the sellers party thereto (the "*Sellers*"), pursuant to which the Borrower acquired all of the issued and outstanding Capital Stock of each company listed on Schedule A thereto (collectively, the "*Target Companies*").

"*Acquisition Documents*" shall mean, collectively, the Acquisition Agreement, and all other documents, agreements and instruments executed or delivered in connection with the Acquisition.

"*Administrative Agent*" shall have the meaning set forth in the preamble to this Agreement.

"*Affiliate*" shall mean, with respect to any Person, another Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. The term "*Control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms "*Controlling*" and "*Controlled*" have meanings correlative thereto.

"*Agents*" shall have the meaning set forth in the preamble to this Agreement.

"*Agreement*" shall mean this Amended and Restated Term Loan Agreement, as the same may be further amended, amended and restated, supplemented, or otherwise modified from time to time.

"*Amended and Restated Term Loan Documents*" shall have the meaning ascribed to such term in Section 5.01.

"*Applicable Laws*" shall mean, as to any Person, any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed to by any Governmental Authority, in each case applicable to or binding on such

Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"Applicable Margin" shall mean a percentage per annum equal to:

with respect to Term B Loans (i) that are LIBOR Loans, 5.50 percentage points and (ii) that are ABR Loans, 4.50 percentage points.

"Approved Fund" shall mean any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"ARCC" shall have the meaning set forth in the preamble to this Agreement.

"Assignment and Acceptance" shall mean an assignment and acceptance substantially in the form of Exhibit A.

"Attributable Indebtedness" shall mean, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

"Authorized Officer" shall mean, with respect to any Credit Party, the Chairman of the Board, the President, the Chief Financial Officer, the Chief Operating Officer, the Treasurer or any other senior officer (to the extent that such senior officer is designated as such in writing to the Agents by such Credit Party) of such Credit Party.

"Available Revolving Loan Amount" shall have the meaning set forth in the Credit Agreement.

"Bank Product Obligations" shall have the meaning set forth in the Intercreditor Agreement.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Bankruptcy Law" means the Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada) and any similar federal, state or foreign law for the relief of debtors.

"Blockage Notice" shall have the meaning set forth in Section 13.03(b).

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

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

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

"*Budget*" shall have the meaning set forth in Section 8.01(e).

"*Build-Out Capital Expenditures*" shall mean capital expenditures made by the Borrower or the Parent Guarantor with proceeds of the Term A Loans or the Term B Loans made during the Delayed Draw Period, as applicable, for (i) certain growth initiatives such as new stores and a new commissary kitchen and (ii) for certain maintenance and renovation projects and the expansion of existing and new stores, provided, however, that in the case of clause (ii) hereof, such capital expenditures shall not exceed an aggregate amount of \$500,000.

"*Business Day*" shall mean (a) any day excluding Saturday, Sunday and any day that shall be in the City of New York or the City of Vancouver, British Columbia, a legal holiday or a day on which banking institutions are authorized by law or other governmental actions to close, and (b) with respect to the LIBOR Loans, any day that is also a day for trading by and between banks in Dollar deposits in the applicable interbank LIBOR market.

"*Canada*" means the Dominion of Canada.

"*Canadian Benefit Plan*" means all plans arrangements, agreements, programs, policies, practices or undertakings, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, registered or unregistered to which any Canadian Credit Party is a party or bound or in which their employees participate or under which such Person has, or will have, any liability or contingent liability, or pursuant to which payments are made, or benefits are provided to, or an entitlement to payments or benefits may arise with respect to any of their employees or former employees, directors or officers, individuals working on contract with such Person or other individuals providing services to such Person of a kind normally provided by employees (or any spouses, dependants, survivors or beneficiaries of any such persons), excluding statutory plans.

"*Canadian Overdraft Facility*" shall have the meaning set forth in the Credit Agreement.

"*Canadian Pension Plans*" means all Canadian Benefit Plans which are required to be registered under Canadian provincial or federal pension benefits standards legislation.

"*Canadian Revolving Credit Facility*" shall mean a U.S.\$4,000,000 revolving credit facility made available to the Canadian Borrower (as defined in the Credit Agreement) by the Lenders (as defined in the Credit Agreement) pursuant to the terms of the Credit Agreement.

"*Canadian Security Pledge Agreement*" shall mean a Security Pledge Agreement, by and among each Canadian Credit Party and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit G-2 to the Original Credit Agreement or otherwise in form and substance satisfactory to Collateral Agent.

"Capital Stock" shall mean any and all shares, interests, participations, units or other equivalents (however designated) of capital stock of a corporation, membership interests in a limited liability company, partnership interests of a limited partnership, any and all equivalent ownership interests in a Person and any and all warrants, rights or options to purchase any of the foregoing.

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

"Capitalized Leases" shall mean, as applied to any Person, all leases of property that have been or should be, in accordance with GAAP, recorded as capitalized leases on the balance sheet of such Person or any of its Subsidiaries, on a consolidated basis; provided, that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability on the balance sheet of such Person in accordance with GAAP.

"Carryover Amount" shall have the meaning set forth in Section 9.14(d).

"Cash Equivalents" shall mean:

(a) any direct obligation of (or unconditional guarantee by) the United States (or any agency or political subdivision thereof, to the extent such obligations are supported by the full faith and credit of the United States) or the Government of Canada (or any agency or political subdivision thereof to the extent such obligations are supported by the full faith and credit of the Government of Canada) maturing not more than one year after the date of acquisition thereof;

(b) commercial paper maturing not more than one hundred eighty (180) days from the date of issue and issued by (i) a corporation (other than an Affiliate of any Credit Party) organized under the laws of any state of the United States or of the District of Columbia or under the federal laws of Canada or the laws of any province of Canada and, at the time of acquisition thereof, rated A-1 or higher by S&P or P-1 or higher by Moody's, or (ii) any Lender (or its holding company);

(c) any certificate of deposit, time deposit or bankers acceptance, maturing not more than one hundred eighty (180) days after its date of issuance, which is issued by either: (i) a bank organized under the laws of the United States (or any state thereof) or Canada which has, at the time of acquisition thereof, (A) a credit rating of A2 or higher from Moody's or A or higher from S&P and (B) a combined capital and surplus greater than \$500,000,000, or (ii) a Lender;

(d) any repurchase agreement having a term of thirty (30) days or less entered into with any Lender or any commercial banking institution satisfying, at the time of acquisition thereof, the criteria set forth in clause (c) which (i) is secured by a fully perfected security interest in any obligation of the type described in clause (a), and (ii) has a market value at the time such repurchase agreement is entered into of not less than 100% of the repurchase obligation of such commercial banking institution thereunder; and

(e) mutual funds investing primarily in assets described in clauses (a) through (d) of this definition.

"*Casualty Event*" shall mean the damage, destruction or condemnation, as the case may be, of property of any Person or any of its Subsidiaries.

"*CERCLA*" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"*CERCLIS*" shall mean the Comprehensive Environmental Response, Compensation and Liability Information System.

"*Change of Control*" shall mean an event or series of events by which: (a) any person or group of persons shall have acquired beneficial ownership, directly or indirectly, of thirty percent (30%) or more of the outstanding shares of Capital Stock of the Parent Guarantor and during any period of twelve (12) consecutive calendar months, any two (2) individuals who were directors of the Parent Guarantor on the first day of such period shall cease to be members of the board of directors of the Parent Guarantor; (b) Ron Francisco, his spouse, his lineal descendants, the estates of one or more of the foregoing individuals, or trusts established for the benefit of one or more of the foregoing individuals, shall at any time fail to have exclusive voting power with respect to 51% or more of the outstanding voting stock of the Parent Guarantor; (c) the Parent Guarantor shall at any time fail to own directly, beneficially and of record, on a fully diluted basis, 100% or more of the outstanding Capital Stock of the Borrower, free and clear of all Liens other than Liens in favor of the Collateral Agent, or (d) other than as a result of a liquidation or dissolution of a Subsidiary of any Credit Party or the merger of any Subsidiary into another Credit Party permitted under Section 9.03, any Credit Party shall at any time, directly or indirectly, own beneficially and of record, on a fully diluted basis, less than 100% of the Capital Stock (other than directors' qualifying shares) of any of their respective Subsidiaries, free and clear of all Liens other than Liens in favor of the Collateral Agent.

"*CNDS*" shall mean dollars in lawful currency of Canada.

"*Closing Date*" shall mean the first date on which all definitive Amended and Restated Term Loan Documents are executed by the Borrower, the Guarantors, the Lenders, the Agents and others party thereto and on which all conditions set forth in Article V hereof have been satisfied or waived.

"*Code*" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to the Code are to the Code, as in effect at the date of this Agreement, and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.

"*Collateral*" shall mean any assets of any Credit Party or other collateral upon which Collateral Agent has been granted a Lien in connection with this Agreement.

"*Collateral Agent*" shall mean individually, the First Lien Collateral Agent or the Second Lien Collateral Agent, and collectively, the First Lien Collateral Agent and the Second Collateral Agent, as the context may require.

"*Collections*" shall mean all cash, checks, credit card slips or receipts, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds) of the Credit Parties.

"*Commitment*" shall mean, with respect to each Lender, such Lender's Term B Loan Commitment.

"*Compliance Certificate*" shall mean a certificate duly completed and executed by an Authorized Officer of the Borrower substantially in the form of Exhibit B, together with such changes thereto or departures therefrom as the Collateral Agent may from time to time reasonably request or approve for the purpose of monitoring the Credit Parties' compliance with the financial covenants contained herein, certain other calculations or as otherwise agreed to by the Collateral Agent.

"*Confidential Information*" shall have the meaning set forth in Section 12.17.

"*Consolidated Adjusted EBITDA*" shall mean, as of any date of determination, an amount determined for the Parent Guarantor and its Subsidiaries on a consolidated basis equal to (a) Consolidated Net Income, plus (b) to the extent reducing Consolidated Net Income, the sum of, without duplication, amounts for (i) Consolidated Interest Expense, (ii) provisions for Taxes based on income, (iii) total depreciation expense, (iv) total amortization expense, (v) other non-cash charges reducing Consolidated Net Income (excluding any such non-cash item to the extent that it represents an accrual or reserve for potential cash items in any future period or amortization of a prepaid cash item that was paid in a prior period) including, without limitation, non-cash compensation expense in respect of stock option plans, (vi) the items set forth on Schedule I and (viii) fees and expenses incurred in connection with the consummation of the Transactions in an aggregate amount not to exceed U.S.\$2,000,000, minus (c) other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash item in any prior period), in each case, for the most recently completed Test Period; provided, however, Consolidated Adjusted EBITDA shall be deemed to be U.S.\$1,911,083, U.S.\$2,096,866, and U.S.\$2,117,424, respectively, for the fiscal quarters ended June 30, 2007, March 31, 2007, and December 31, 2006.

"*Consolidated EBITDAR*" shall mean, as of any date of determination, Consolidated Adjusted EBITDA plus, to the extent reducing Consolidated Net Income, Consolidated Rental Expense, in each case, for the most recently completed Test Period.

"*Consolidated Capital Expenditures*" shall mean, as of any date of determination, the sum of, without duplication, all expenditures made, directly or indirectly, by the Parent Guarantor and its Subsidiaries during such period, determined on a consolidated basis in accordance with GAAP, that are or should be reflected as additions to property, plant or equipment or similar items reflected in the consolidated statement of cash flows of the Parent Guarantor and its Subsidiaries, or have a useful life of more than one year for the most recently completed Test Period, provided, however, that solely for the purposes of demonstrating compliance with Section 9.14(d), Consolidated Capital Expenditures shall not include expenditures made to consummate Permitted Acquisitions during such Test Period.

"*Consolidated Excess Cash Flow*" shall mean, as of any date of determination, the excess (if any), for the most recently completed Test Period of: (a) Consolidated Adjusted EBITDA for such period, less (b) the sum for such period (without duplication and to the extent that the following amounts have not already been deducted in determining Consolidated Adjusted EBITDA for such period) of (i) Consolidated Interest Expense paid in cash, (ii) scheduled principal payments and optional prepayments of the Term Loans made during such period, (iii) Taxes based on income paid in cash by the Parent Guarantor and its Subsidiaries, (iv) Consolidated Capital Expenditures made in cash during such period (and not financed by Indebtedness or purchased with the proceeds of equity issued by the Parent Guarantor to the extent permitted by this Agreement) as permitted hereunder and (v) increases (or minus decreases) in Consolidated Working Capital for such period.

"*Consolidated Interest Coverage Ratio*" means, as of any date of determination, the ratio of (a) Consolidated Adjusted EBITDA to (b) Consolidated Interest Expense, in each case, of Parent Guarantor and its Subsidiaries on a consolidated basis and for the most recently completed Test Period; provided, that for the three fiscal quarters ending September 30, 2007, December 31, 2007 and March 31, 2008, clause (b) of the Consolidated Interest Coverage Ratio shall be determined as follows: (x) for the fiscal quarter ending September 30, 2007, clause (b) of the Consolidated Interest Coverage Ratio shall be the Consolidated Interest Expense paid in cash for such fiscal quarter multiplied by 4; (y) for the fiscal quarter ending December 31, 2007, clause (b) of the Consolidated Interest Coverage Ratio shall be the Consolidated Interest Expense paid in cash for the two fiscal quarters ending on such date multiplied by 2; and (z) for the fiscal quarter ending March 31, 2008, clause (b) of the Consolidated Interest Coverage Ratio shall be the Consolidated Interest Expense paid in cash for the three fiscal quarters ending on such date multiplied by 4/3.

"*Consolidated Interest Expense*" shall mean, as of any date of determination, for the Parent Guarantor and its Subsidiaries, determined on a consolidated basis in accordance with GAAP, the sum of: (a) all interest in respect of Indebtedness (including, without limitation, the interest component of any payments in respect of Capitalized Lease Obligations) accrued or capitalized during such period (whether or not actually paid during such period) plus (b) the net amount payable (or minus the net amount receivable) in respect of Hedging Obligations relating to interest during such period (whether or not actually paid or received during such period), in each case, for the most recently completed Test Period (or other applicable period, as the case may be).

"*Consolidated Net Income*" shall mean, for any date of determination, the consolidated net income (or deficit) of Parent Guarantor and its Subsidiaries, after deduction of all expenses, taxes, and other proper charges, determined in accordance with GAAP, after eliminating therefrom all extraordinary nonrecurring items of income for the most recently completed Test Period.

"*Consolidated Rental Expense*" means, for any date of determination, all cash rental expense of the Parent Guarantor and its Subsidiaries for the most recently completed Test Period, determined on a consolidated basis in accordance with GAAP, incurred under any rental agreements or leases of Real Property, including space leases and ground leases; provided, however, Consolidated Rental Expense shall be deemed to be U.S.\$1,300,900, U.S.\$1,175,103

and U.S.\$1,058,174, respectively for the fiscal quarters ended June 30, 2007, March 31, 2007 and December 31, 2006.

"Consolidated Senior Debt" means, on any date of determination, Consolidated Total Debt minus the principal amount of all Consolidated Subordinated Indebtedness.

"Consolidated Subordinated Indebtedness" means the Convertible Senior Secured Notes and any other debt of the Borrower or the Parent Guarantor that is contractually subordinated to the Indebtedness of the Borrower and the Parent Guarantor under this Agreement and the Credit Agreement on terms satisfactory to the Agents and the First Lien Collateral Agent, it being understood that such definition cannot be amended or otherwise modified except in accordance with the Intercreditor Agreement.

"Consolidated Total Debt" shall mean, as of any date of determination, the outstanding principal amount of all Funded Debt (which, in the case of the Revolving Credit Loans, shall be deemed to equal the average daily amount of the Revolving Credit Loans outstanding for the period of the then-current fiscal quarter of the Borrower and the Parent Guarantor elapsed to such date of determination).

"Consolidated Working Capital" shall mean, as of any date of determination, the excess of (a) the sum of all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of Parent Guarantor and its Subsidiaries at such date over (b) the sum of all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of Parent Guarantor and its Subsidiaries on such date, including deferred revenue but excluding, without duplication, (i) the current portion of any Funded Debt, (ii) all Indebtedness consisting of the Revolving Credit Loans, (iii) the current portion of interest and (iv) the current portion of current and deferred income Taxes.

"Contingent Liability" shall mean, for any Person, any agreement, undertaking or arrangement by which such Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the Indebtedness of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the Capital Stock of any other Person. The amount of any Person's obligation under any Contingent Liability shall be deemed to be the outstanding principal amount of the debt, obligation or other liability guaranteed thereby or, if less, the maximum principal amount guaranteed by such person.

"Contractual Obligation" shall mean, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound other than the Obligations.

"Control Agreement" shall mean a pledge, collateral assignment and control agreement, in form and substance reasonably satisfactory to Collateral Agent, executed and delivered by the applicable Credit Party, Collateral Agent, and the applicable securities intermediary or bank.

which agreement is sufficient to give Collateral Agent "control" over each of such Credit Party's securities accounts, deposit accounts or investment property, as the case may be.

"*Controlled Affiliates*" shall mean Affiliates of the Parent Guarantor who are under the control of the Parent Guarantor, or with respect to which, by contract or otherwise, the Parent Guarantor has the right to control the voting of all Capital Stock of the Borrower held, directly or indirectly, by such Affiliate.

"*Convertible Senior Secured Note Documents*" shall mean the Convertible Senior Secured Notes, the Note Purchase Agreement and any other agreement, document, certificate entered into now, or in the future in connection therewith.

"*Convertible Senior Secured Notes*" shall have the meaning set forth in the definition of the term "Note Purchase Agreement".

"*Credit Agreement*" shall mean that certain Amended and Restated Credit Agreement, dated as of November 15, 2007, by and among the Borrower, the Canadian Borrower (as defined therein), the Guarantors, the lenders from time to time party thereto and The Toronto-Dominion Bank, as administrative agent and collateral agent for the First Lien Secured Parties.

"*Credit Agreement Obligations*" shall mean the Obligations (as such term is defined in the Credit Agreement) under the Credit Agreement.

"*Credit Documents*" shall have the meaning set forth in the Credit Agreement.

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

"*Credit Facility*" shall have the meaning set forth in the Credit Agreement.

"*Credit Party*" shall mean the Borrower, each of the Guarantors and each other Person that becomes a Credit Party hereafter pursuant to the execution of joinder documents.

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

"*Delayed Draw Period*" shall mean the period commencing on the Original Closing Date and ending on the date that is eighteen (18) months from and after the Original Closing Date.

"*Depository Bank*" shall mean each bank, financial institution, securities intermediary or other such Person party to a Control Agreement.

"*Disposition*" shall mean, with respect to any Person, any sale, transfer, lease, contribution or other conveyance (including by way of merger or amalgamation) of, or the granting of options, warrants or other rights to, any of such Person's or their respective Subsidiaries' assets (including Accounts Receivable and Capital Stock of Subsidiaries) to any other Person in a single transaction or series of transactions.

"Disqualified Capital Stock" shall mean any Capital Stock that, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is exchangeable) or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise (except as a result of a Change of Control or asset sale so long as any rights of the holders thereof upon the occurrence of a Change of Control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock) (except as a result of a Change of Control or asset sale so long as any rights of the holders thereof upon the occurrence of a Change of Control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provides for the scheduled payment of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is ninety-one (91) days after the latest Maturity Date; provided, that if such Capital Stock is issued pursuant to a plan for the benefit of employees of Parent Guarantor or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by Parent Guarantor or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"Documentation Agent" shall mean ARCC, as documentation agent for the First Lien Secured Parties and the Lenders.

"Dollars" and *"\$"* and *"U.S.\$"* shall mean dollars in lawful currency of the United States of America.

"Domestic Subsidiary" shall mean each Subsidiary of the Parent Guarantor that is organized under the Applicable Laws of the United States, any state, territory, protectorate or commonwealth thereof, or the District of Columbia.

"Environmental Law" shall mean any and all requirements under or prescribed by any applicable federal, provincial, state, foreign or local statute, law, rule, regulation, ordinance, code, guideline, permit, concession, grant, franchise, license, agreement, government restriction and rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating in any way to the environment or the release, emission, deposit, discharge, leaching, migration or spill of any substance into the environment, both in Canada and the United States, and the protection of the environment or human health or safety (to the extent relating to exposure to Hazardous Materials).

"Equity Documents" shall mean the Subscription for Units dated as of June 28, 2007 between Horizon Distributors Ltd. and Parent Guarantor providing for the issuance of 1,800,000 Units (as defined therein) and all other documents, certificates and resolutions related thereto and in connection therewith.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time. Section references to ERISA are to ERISA as in effect at the date of this Agreement and any subsequent provisions of ERISA amendatory thereof, supplemental thereto or substituted therefor.

“ERISA Affiliate” shall mean each person (as defined in Section 3(9) of ERISA) that, together with the Credit Parties or a Subsidiary thereof, is treated as a “single employer” within the meaning of Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

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

“Excluded Taxes” shall mean with respect to any Agent, any Lender or any other recipient of any payment to be made by or on account of any Obligation of the Borrower hereunder, (a) income, franchise or similar Taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction 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, (b) any branch profits Taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Borrower is located, (c) in respect of the Borrower, in the case of a Non-U.S. Lender (other than an assignee pursuant to a request by the Borrower under Section 2.12 or 12.07), any withholding tax that is imposed on amounts payable to such Non-U.S. Lender at the time such Non-U.S. Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Non-U.S. 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 4.04(a) and (d) Taxes imposed by reason of the failure of such Agent or such Lender to comply with its obligations under Section 4.04(d) and Section 4.04(e).

“Federal Funds Rate” shall mean, for any day, a fluctuating interest rate per annum equal to: (a) 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 succeeding Business Day) by the Federal Reserve Bank of New York; or (b) if such rate is not so published for any day which 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 it.

“Fee Letter” shall mean the Fee Letter dated as of the date hereof among the Borrower, ARCC and The Toronto-Dominion Bank, among others.

“Fees” shall mean all amounts payable pursuant to, or referred to in, Section 3.01 or the Fee Letter.

“Financial Performance Covenants” shall mean the covenants set forth in Section 9.13.

“First Lien Agent” shall have the meaning set forth in the Intercreditor Agreement.

“First Lien Collateral Agent” shall have the meaning set forth in the Credit Agreement.

"*First Lien Lender*" shall have the meaning set forth in the Credit Agreement.

"*First Lien Non-Payment Default*" means an "Event of Default" under the Credit Agreement other than a First Lien Payment Default, that would entitle the First Lien Lenders or the First Lien Agent to accelerate maturity of the First Lien Obligations.

"*First Lien Obligations*" shall have the meaning set forth in the Intercreditor Agreement it being understood that such definition cannot be amended or otherwise modified except in accordance with the Intercreditor Agreement.

"*First Lien Payment Default*" means any default in any payment in respect of the First Lien Obligations (other than expenses and indemnification payments in an amount not to exceed \$250,000) when due, whether on a scheduled payment date, at stated maturity, by mandatory prepayment, by acceleration or otherwise.

"*First Lien Secured Parties*" shall have the meaning set forth in the Credit Agreement.

"*Fixed Charge Coverage Ratio*" shall mean, as of the last day of any specified Test Period, the ratio of: (a) (i) Consolidated EBITDAR for the Test Period ending on such date minus (ii) Consolidated Capital Expenditures made for such period in cash (and not financed, or purchased with the proceeds of equity issued by the Parent Guarantor to the extent permitted by this Agreement) and (iii) Taxes based on income paid in cash during such period to (b) the sum (for such period) of (i) Consolidated Interest Expense paid in cash for such period plus (ii) principal payments of Indebtedness, scheduled to have been made during such period plus (iii) Consolidated Rental Expense for such period; provided, that for the three fiscal quarters ending September 30, 2007, December 31, 2007 and March 31, 2008, clause (b) of the Fixed Charge Coverage Ratio shall be calculated as follows: (x) for the fiscal quarter ending September 30, 2007, clause (b) of the Fixed Charge Coverage Ratio shall be the result of the sum, without duplication, of (A) Consolidated Interest Expense paid in cash for such fiscal quarter multiplied by 4 plus (B) principal payments of Indebtedness scheduled to have been made during such fiscal quarter multiplied by 4 plus (C) Consolidated Rental Expense as of the last day of the Test Period ending on September 30, 2007; (y) for the fiscal quarter ending December 31, 2007, clause (b) of the Fixed Charge Coverage Ratio shall be the result of (i) the sum, without duplication, of (A) Consolidated Interest Expense paid in cash for the two fiscal quarters ending on such date multiplied by 2 plus (B) principal payments of Indebtedness scheduled to have been made during the period of the two fiscal quarters ending on such date multiplied by 2 plus (C) Consolidated Rental Expense as of the last day of the Test Period ending on December 31, 2007, and (z) for fiscal quarter ending March 31, 2008, clause (b) of the Fixed Charge Coverage Ratio shall be the result of (i) the sum, without duplication, of (A) Consolidated Interest Expense paid in cash for the three fiscal quarters ending on such date multiplied by 4/3 plus (B) principal payments of Indebtedness scheduled to have been made during the period of the three fiscal quarters ending on such date multiplied by 4/3 plus (C) Consolidated Rental Expense as of the last day of the Test Period ending on March 31, 2008; and provided, further that in the event a Permitted Acquisition occurs during such Test Period, Consolidated EBITDAR shall be adjusted on a pro forma basis to include the Consolidated EBITDAR of the acquired entity or associated with such acquired assets as if such Permitted Acquisition occurred on the first day of such Test Period.

"*Foreign Subsidiary*" shall mean each Subsidiary of a Credit Party that is not a Domestic Subsidiary.

"*Full Payment Promptly*" means that all payments that must be made under PACA or any similar law enacted by any other state or jurisdiction to preclude any PACA Claim in respect of non-payment thereof (as further defined, in the case of PACA, in 7 C.F.R. Section 46.2(aa)) have been made on or before the date required to preclude such claim.

"*Funded Debt*" shall mean, as of any date of determination, all then outstanding Indebtedness of Parent Guarantor and its Subsidiaries, on a consolidated basis, for borrowed money including Indebtedness in respect of the Canadian Overdraft Facility and the Loans.

"*GAAP*" shall mean generally accepted accounting principles in Canada, as in effect from time to time; provided, that if the Borrower notifies the Collateral Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Original Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Collateral Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then the Agents, the Lenders and the Credit Parties shall negotiate in good faith to effect such amendment and such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

"*Governmental Authority*" shall mean the government of the United States, any foreign country or any multinational authority, or any state, commonwealth, protectorate or political subdivision thereof, and any entity, body or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including the PBGC and other quasi-governmental entities established to perform such functions.

"*Guarantee Agreement*" shall mean a Guarantee Agreement, executed and delivered by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit C to the Original Credit Agreement or otherwise in form and substance satisfactory to Collateral Agent.

"*Guarantee Obligations*" shall mean, as to any Person, any Contingent Liability of such Person or other obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any other Person (the "*primary obligor*") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such Indebtedness or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness or (d) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, that the term "Guarantee Obligations" shall not include endorsements of instruments for deposit or collection

in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Original Closing Date, entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

"Guarantors" shall mean (a) Parent Guarantor in respect of the Senior U.S. Credit Facility, (b) the Borrower in respect of the Senior Canadian Credit Facility, (c) each Person that is a Subsidiary on the Original Closing Date (including the Target Companies) and (d) each Person that becomes a party to the Guarantee Agreement after the Original Closing Date pursuant to Section 8.10.

"Hazardous Materials" shall mean (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea, formaldehyde, foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances", "hazardous waste", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", "toxic substances", "toxic pollutants", "contaminants", "dangerous good" or "pollutants", or words of similar import, under any applicable Environmental Law; (c) any other chemical, material or substance, which is prohibited, limited or regulated by any Environmental Law and (d) any contaminant, pollutant or hazardous substance that is likely to cause immediately, or at some future time, harm to or have an adverse effect on, the environment or risk to human health or safety, and without restricting the generality of the foregoing, includes without limitation any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in any Environmental Law and which is present in the environment in such quantity or state that it contravenes any Environmental Law.

"Hedging Agreement" shall mean (a) any and all agreements or documents not entered into for speculative purposes that provide for an interest rate, credit, commodity or equity swap, cap, floor, collar, forward foreign exchange transaction, currency swap, cross currency rate swap, currency option, or any combination of, or option with respect to, these or similar transactions, for the purpose of hedging exposure to fluctuations in interest or exchange rates, loan, credit exchange, security, or currency valuations or commodity prices, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a *"Master Agreement"*), including any such obligations or liabilities under any Master Agreement.

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

"*Historical Financial Statements*" shall mean (a) audited consolidated financial statements of the Target Companies for the fiscal year ended December 31, 2006, and (b) audited consolidated financial statements of the Parent Guarantor and its Subsidiaries for the fiscal year ended June 30, 2006.

"*Incremental Term Facility*" shall have the meaning set forth in Section 2.01(b) hereof it being understood that such definition cannot be amended or otherwise modified except in accordance with the Intercreditor Agreement.

"*Indebtedness*" shall mean, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all indebtedness of such Person for borrowed money and all indebtedness of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), bankers' acceptances, bank guarantees, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(c) all Hedging Obligations of such Person;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and (ii) to the extent such obligation is not due at any time prior to the date that is six months after the latest Maturity Date, any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP);

(e) without duplication indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness;

(g) all obligations of such Person in respect of Disqualified Capital Stock; and

(h) all Guarantee Obligations of such Person in respect of any of the foregoing,

provided, that Indebtedness shall not include (i) prepaid or deferred revenue arising in the ordinary course of business, (ii) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warranties or other unperformed obligations of the seller of such asset, (iii) endorsements of checks or drafts arising in the ordinary course of business and (iv) preferred Capital Stock to the extent not constituting Disqualified Capital Stock.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt. The amount of any Hedging Obligations on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) above that has not been assumed by such Person or is limited in recourse shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith.

"Insolvency or Liquidation Proceeding" shall mean (a) any voluntary or involuntary case or proceeding under the Bankruptcy Code with respect to any Credit Party, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding under any Bankruptcy Law or otherwise, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Credit Party or with respect to a material portion of any Credit Party's assets, (c) any liquidation, dissolution, reorganization or winding up of any Credit Party whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Guarantor.

"Intercompany Subordination Agreement" shall mean a subordination agreement executed and delivered by each Credit Party, each of its Subsidiaries and the Collateral Agent, substantially in the form of Exhibit E to the Original Credit Agreement or otherwise in form and substance satisfactory to Collateral Agent.

"Intercreditor Agreement" shall mean that certain Intercreditor Agreement dated as of July 3, 2007, as amended pursuant to an amendment agreement of even date herewith (and as may be further amended or modified by the parties thereto from time to time), by and among, among others, the First Lien Collateral Agent, the Second Lien Collateral Agent, the Collateral Agent (as defined in the Note Purchase Agreement) and the Borrower.

"Interest Period" shall mean, with respect to any LIBOR Loan, the interest period applicable thereto, as determined pursuant to Section 2.09.

"Investment" shall mean, relative to any Person, (a) any loan, advance or extension of credit made by such Person to any other Person, including the purchase by such first Person of any bonds, notes, debentures or other debt securities of any such other Person; (b) Contingent Liabilities in favor of any other Person; and (c) any Capital Stock or other investment held by such Person in any other Person. The amount of any Investment at any time shall be the original principal or capital amount thereof less all returns of principal or equity thereon made on or before such time and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the fair market value of such property at the time of such Investment.

"Lead Arranger" shall mean ARCC, as lead arranger for the First Lien Secured Parties and the Lenders.

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

"LIBOR Loan" shall mean any LIBOR Term Loan.

"LIBOR Rate" shall mean, for each Interest Period for each LIBOR Loan, the interest rate expressed as a percentage rate per annum calculated on the basis of a 360 day year, equal to:

(a) the simple average (rounded upward, if necessary, to the nearest whole multiple of 1/16 of one percent per annum of the rates per annum) of the rates per annum for deposits in US Dollars in the London England inter-bank market for a period equal to such Interest Period which appears on Telerate Screen, page 3750 (or such other page as the Lenders will nominate which replaces that page for the purpose of displaying offered rates of leading banks for London inter-bank deposits in US Dollars) for a period equal to such Interest Period and in an amount comparable to the amount of the LIBOR Loan to be outstanding during such Interest Period as of 11:00 a.m. London, England time on the second Business Day preceding the first day of such Interest Period; or

(b) if a rate is not determinable pursuant to clause (a) of this definition at the relevant time, as determined by the Lenders, such rate, as determined by the Lenders, to be the average (rounded upward, if necessary, to the nearest whole multiple of 1/16 of one percent per annum of the rates per annum) of the rates per annum at which deposits in US Dollars are offered by the principal lending office in London, England of the Administrative Agent to leading banks in the London inter-bank market at approximately 11:00 a.m. London, England time on the second Business Day preceding the first day of such Interest Period for a period comparable to the Interest Period and in an amount comparable to the amount of the LIBOR Loan to be outstanding during such Interest Period.

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

"Lien" shall mean any mortgage, pledge, security interest, hypothecation, assignment for collateral purposes, lien (statutory or other) or similar encumbrance, and any easement, right-of-way, license, restriction (including zoning restrictions), defect, exception or irregularity in title or similar charge or encumbrance (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof); provided, that in no event shall an operating lease entered into in the ordinary course of business or any precautionary UCC filings made pursuant thereto by an applicable lessor or lessee, be deemed to be a Lien.

"Loan" shall mean, individually, any Term B Loan made by any Lender hereunder, and collectively, the Term B Loans made by the Lenders hereunder.

"Master Agreement" shall have the meaning set forth in the definition of the term "Hedging Agreement".

"Material Adverse Effect" shall mean a material adverse effect on (a) the business, assets, liabilities (actual or contingent), operations, condition (financial or otherwise), results of operations or prospects of the Parent Guarantor and its Subsidiaries taken as a whole, (b) the

validity or enforceability of this Agreement or any of the other Term Loan Documents, (c) the rights or remedies of the Secured Parties or the Lenders hereunder or thereunder, or (d) the priority of any Liens granted to Collateral Agent by any Credit Party.

"*Material Contracts*" shall mean those contracts listed on Schedule 1.01(b).

"*Maturity Date*" shall mean the Term B Loan Maturity Date.

"*Minimum Borrowing Amount*" shall mean with respect to delayed draws on Term B Loans during the Delayed Draw Period, U.S.\$500,000.

"*Moody's*" shall mean Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"*Mortgage*" shall mean a mortgage or a deed of trust, debenture, hypothec, deed to secure debt, trust deed or other security document entered into by any applicable Credit Party and the Collateral Agent for the benefit of the Secured Parties in respect of any Real Property owned by such Credit Party, in such form as agreed between such Credit Party and the Collateral Agent.

"*Mortgaged Property*" shall mean each parcel of Real Property and improvements thereto with respect to which a Mortgage is granted pursuant to Section 8.13(b).

"*Net Casualty Proceeds*" shall mean, with respect to any Casualty Event, the amount of any insurance proceeds or condemnation awards received by any Credit Party or any of its Subsidiaries in connection with such Casualty Event (net of all reasonable and customary collection expenses thereof (including, without limitation, any legal or other professional fees)), but excluding any proceeds or awards required to be paid to a creditor (other than the Lenders) which holds a first priority Lien permitted by Section 9.02(d) on the property which is the subject of such Casualty Event, and less any Taxes payable by such Person on account of such insurance proceeds or condemnation award, actually paid, assessed or estimated by such Person (in good faith) to be payable within the next 12 months in cash in connection with such Casualty Event; provided, that if, after the expiration of such 12-month period, the amount of such estimated or assessed Taxes, if any, exceeded the Taxes actually paid in cash in respect of proceeds from such Casualty Event, the aggregate amount of such excess shall constitute Net Casualty Proceeds under Section 4.02(a)(iv) and be immediately applied to the prepayment of the Obligations pursuant to Section 4.02(a)(vii).

"*Net Debt Proceeds*" shall mean, with respect to the sale or issuance by any Credit Party or any of its Subsidiaries of any Indebtedness, the excess of: (a) the gross cash proceeds received by the issuer of such Indebtedness from such sale or issuance, over (b) all reasonable and customary underwriting commissions and legal, investment banking, underwriting, brokerage, accounting and other professional fees, sales commissions and disbursements and all other reasonable fees, expenses and charges, in each case actually incurred in connection with such sale or issuance which have not been paid and are not payable to Affiliates of such Person in connection therewith.

"*Net Disposition Proceeds*" shall mean, with respect to any Disposition by any Credit Party or any of its Subsidiaries, the excess of: (a) the gross cash proceeds received by such Person from such Disposition, over (b) the sum of: (i) all reasonable and customary legal, investment banking, underwriting, brokerage and accounting and other professional fees, sales commissions and disbursements and all other reasonable fees, expenses and charges, in each case actually incurred in connection with such Disposition which have not been paid and are not payable to Affiliates of such Person, (ii) all Taxes payable by such Person on account of proceeds from such Disposition, actually paid, assessed or estimated by such Person (in good faith) to be payable in cash within the next 12 months in connection with such proceeds, and (iii) the amount of such cash or Cash Equivalents required to repay any Indebtedness (other than the Obligations and the Credit Agreement Obligations), so long as such Indebtedness is permitted under this Agreement and is permitted to be senior to or pari passu with the Obligations in right of payment) and no Event of Default shall have occurred and be continuing at the time of payment of such Indebtedness or would arise after giving effect to such payment; provided, that if, after the expiration of the twelve-month period referred to in clause (b)(ii) above, the amount of estimated or assessed Taxes, if any, pursuant to clause (b)(ii) above exceeded the Taxes actually paid in cash in respect of proceeds from such Disposition, the aggregate amount of such excess shall constitute Net Disposition Proceeds under Section 4.02(a)(iii) and be immediately applied to the prepayment of the Obligations pursuant to Section 4.02(a)(iv).

"*Net Equity Proceeds*" shall mean, with respect to the sale, issuance or exercise after the Original Closing Date by any Credit Party or any of its Subsidiaries of any Capital Stock or any capital contribution by any Person to any such Credit Party or Subsidiary, the excess of: (a) the gross cash proceeds received by such Credit Party or Subsidiary from such sale, issuance or exercise, over (b) all reasonable and customary underwriting commissions and legal, investment banking, brokerage, accounting and other professional fees, sales commissions and disbursements actually incurred in connection with such sale or issuance which have not been paid and are not payable to Affiliates of such Credit Party or Subsidiary in connection therewith.

"*New York Prime Rate*" means, at any time, the interest rate per annum (based on a 365/366 day year) most recently announced by The Toronto-Dominion Bank, New York Branch, as its prime rate for U.S. Dollar commercial loans in the United States of America for customers of varying degrees of creditworthiness.

"*Non-Consenting Lender*" shall have the meaning set forth in Section 12.07(b).

"*Non-Excluded Taxes*" shall have the meaning set forth in Section 4.04(a).

"*Non-U.S. Lender*" shall have the meaning set forth in Section 4.04(d).

"*Note*" shall mean a Term B Loan Note.

"*Note Purchase Agreement*" shall mean that certain Note Purchase Agreement, dated July 3, 2007, pursuant to which the Borrower and the Canadian Borrower (as defined therein) issued up to U.S.\$11,000,000 of convertible senior secured notes (the "*Convertible Senior Secured Notes*") in order to, among other things, fund a portion of the consideration payable to consummate the Acquisition.

"Notice of Borrowing" shall have the meaning set forth in Section 2.03.

"Notice of Control" shall have the meaning set forth in Section 8.14(b).

"Notice of Conversion or Continuation" shall have the meaning set forth in Section 2.06.

"Obligations" shall mean (a) with respect to the Borrower, all obligations (monetary or otherwise, whether absolute or contingent, matured or unmatured) of the Borrower (i) arising under or in connection with any Term Loan Document, (ii) in respect of any Hedging Obligations or (iii) in respect of any Bank Product Obligations, and including all fees payable under any Term Loan Document and the principal of and interest (including interest accruing during the pendency of any proceeding of the type described in Section 10.01(h), whether or not allowed in such proceeding) on the Loans, or (b) with respect to each Credit Party other than the Borrower, all obligations (monetary or otherwise, whether absolute or contingent, matured or unmatured) of such Credit Party arising under or in connection with any Term Loan Document.

"Organization Documents" shall mean, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and, if applicable, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Original Closing Date" shall mean July 3, 2007.

"Original Credit Agreement" shall have the meaning set forth in the recitals to this Agreement.

"Original Obligations" shall have the meaning set forth in the recitals to this Agreement.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Term Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Term Loan Document.

"PACA" means the Perishable Agricultural Commodities Act, 7 U.S.C. §§ 499a et seq. and the rules and regulations promulgated thereunder, in each case, as in effect from time to time.

"PACA Claim" means, with respect to any Person, any right or claim of or for the benefit of such Person asserted under or otherwise related to PACA, PASA, or any similar law enacted by any other state or jurisdiction including, without limitation, any right, title or interest in or to any claims, remedies or trust assets or other benefits or any proceeds thereof.

"PACA Commodities" means any perishable agricultural commodity (as defined in §499a(b)(4) of PACA) or other agricultural commodities covered by any similar law enacted by any other state or jurisdiction.

"PACA Contract" mean any contract or agreement for the purchase and sale of any PACA Commodities.

"PACA Participant" means any Person who may bring a PACA Claim or is otherwise protected by PACA or any similar law enacted by any other state or jurisdiction, including, without limitation, any "commission merchant", "dealer", "broker" or any Person "responsibility connected" therewith, any "retailer" or any "grocery wholesaler" (each such term as defined in PACA).

"PASA" means the Packers and Stockyard Act, 1921, 7 U.S.C. §§ 181 et seq. and the rules and regulations promulgated thereunder, in each case, as in effect from time to time.

"Parent Guarantor" shall have the meaning set forth in the preamble to this Agreement.

"Participant" shall have the meaning set forth in Section 12.06(e)(i).

"Patriot Act" shall have the meaning set forth in Section 12.19.

"Payment In Full" or *"Paid In Full"* means, (a) payment in full in cash of the principal of and interest (including interest accruing on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) and premium, if any, constituting First Lien Obligations, (b) payment in full in cash of all other First Lien Obligations that are outstanding and unpaid or otherwise accrued and owing at or prior to the time the First Lien Obligations are paid, (c) discharge or cash collateralization of all First Lien Obligations in respect of Specified Hedge Agreements and (d) termination or expiration of all commitments to lend under this Agreement which if loaned would constitute First Lien Obligations.

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

"Pension Act" shall mean the Pension Protection Act of 2006, as it presently exists or as it may be amended from time to time.

"Pension Plan Termination Event" means an event which would entitle a Person to wind-up or terminate a Canadian Pension Plan in full or in part, or the institution of any steps by any Person to terminate or order the termination or wind-up of, in full or in part, any Canadian Pension Plan, or the receipt by the Parent Guarantor or any Canadian Credit Party or any Affiliate of material correspondence from a Government Authority relating to a potential or actual, partial, or full, termination or wind-up of any Canadian Pension Plan, or an event respecting any Canadian Pension Plan which would result in the revocation of the registration of such Canadian Pension Plan or which could otherwise reasonably be expected to adversely affect the tax status of any such Canadian Pension Plan.

"Pension Plan Unfunded Liability" means an unfunded liability in respect of any Canadian Pension Plan, including a going concern unfunded liability, a solvency deficiency or wind-up deficiency.

"Perfection Certificate" shall mean, individually and collectively, the certificates, substantially in the form of Exhibit F to the Original Credit Agreement or otherwise in form and substance satisfactory to the Collateral Agent, delivered by the Credit Parties to the Collateral Agent.

"Permitted Acquisition" shall mean any acquisition (including by way of merger) by the Borrower of all or substantially all of the assets of another Person, or of a division or line of business of another Person, or Capital Stock of another Person, which is conducted in accordance with the following requirements:

(a) such acquisition is of a business or Person engaged in a line of business related to that of the Parent Guarantor or its Subsidiaries;

(b) if such acquisition is structured as a stock acquisition, then the Person so acquired shall either (i) become a wholly-owned Subsidiary of the Parent Guarantor or of a Subsidiary and the Parent Guarantor shall comply, or cause such Subsidiary to comply, with Section 8.10 hereof or (ii) such Person shall be merged with and into the Parent Guarantor, the Borrower or a Credit Party (with the Borrower or such Credit Party being the surviving entity);

(c) if such acquisition is structured as the acquisition of assets, such assets shall be acquired by the Parent Guarantor, the Borrower or a Credit Party;

(d) the Parent Guarantor or the Borrower shall have delivered to the Administrative Agent not less than fifteen (15) nor more than forty five (45) days prior to the date of such acquisition, notice of such acquisition together with pro forma projected financial information, copies of all material documents relating to such acquisition, and historical financial statements for such acquired entity, division or line of business, in each case in form and substance satisfactory to the Agents and the Required Lenders and demonstrating compliance with the covenants set forth in Section 9.13 hereof on a pro forma basis as if the acquisition occurred on the first day of the most recent Test Period;

(e) both immediately before and after such acquisition no Default or Event of Default shall have occurred and be continuing;

(f) the board of directors (or other Person(s) exercising similar functions) of the seller of the assets or issuer of the shares of stock or other ownership interests being acquired shall not have disapproved such transaction or recommended that such transaction be disapproved; and

(g) if the sum of the purchase price of such proposed new acquisition, computed on the basis of total acquisition consideration paid or incurred, or to be paid or incurred, by the Parent Guarantor or the Borrower with respect thereto, including the amount of Indebtedness assumed or to which such assets, businesses or business or ownership interest or shares, or any Person so acquired, is subject plus the amount of any seller notes, shall not be greater than (i).

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U.S.\$750,000 for any single acquisition or group of related acquisitions or (ii) U.S.\$4,000,000 for all such acquisitions during the term of this Agreement.

"*Permitted Liens*" shall have the meaning set forth in Section 9.02.

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

"*Personal Property Security Act*" or "*PPSA*" mean, unless otherwise provided in this Agreement, the *Personal Property Security Act* (Ontario), or, where the context requires, the legislation of other provinces or territories in Canada relating to security in personal property generally, including accounts receivable, as adopted by and in effect from time to time in such provinces or territories in Canada, as applicable.

"*Plan*" shall mean any Canadian Pension Plan or any multiemployer or single-employer plan, as defined in Section 4001 of ERISA and subject to Title IV of ERISA, that is or was within any of the preceding five plan years maintained or contributed to (or to which there is or was an obligation to contribute or to make payments to) by any Credit Party, Subsidiary of a Credit Party or an ERISA Affiliate thereof.

"*Pledged Stock*" shall have the meaning given to such term in the applicable Security Pledge Agreement.

"*Qualified Capital Stock*" shall mean any Capital Stock that is not Disqualified Capital Stock.

"*Qualified Counterparty*" shall mean, with respect to any Specified Hedging Agreement, any counterparty thereto that, at the time such Specified Hedging Agreement was entered into, was reasonably satisfactory to the Agents.

"*Rating Agencies*" shall have the meaning set forth in Section 12.08.

"*Real Property*" shall mean, with respect to any Person, all right, title and interest of such Person (including, without limitation, any leasehold estate) in and to a parcel of real property owned, leased or operated by such Person together with, in each case, all improvements and appurtenant fixtures, equipment, personal property, easements and other property and rights incidental to the ownership, lease or operation thereof.

"*Register*" shall have the meaning set forth in Section 12.06(b)(iv).

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

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

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

"Related Parties" shall mean, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"Release" shall mean a "release", as such term has the meaning set forth in CERCLA.

"Reorganization Securities" means equity or subordinated debt securities of the Parent or any of its Subsidiaries or any successor obligor with respect to Second Lien Obligations provided for by a plan of reorganization or adjustment that, in the case of any such debt securities, are subordinated in right of payment to the First Lien Obligations (or any debt securities issued in exchange for all or any portion of the First Lien Obligations) to at least the same extent as the Second Lien Obligations is subordinated to the First Lien Obligations.

"Reportable Event" shall mean an event described in Section 4043 of ERISA and the regulations thereunder.

"Required Second Lien Lenders" shall mean, at any date, the Lenders having or holding at least 67% of the Total Term B Loan Commitments or if the Total Term B Loan Commitments have been terminated or the Delayed Draw Period has expired, the aggregate outstanding principal amount of the Term B Loans.

"Required Lenders" shall mean the Required Second Lien Lenders.

"Restricted Payment" shall mean, with respect to any Person, (a) the declaration or payment of any dividend on, or the making of any payment or distribution on account of, or setting apart assets for a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of, any class of Capital Stock of such Person or any warrants or options to purchase any such Capital Stock, whether now or hereafter outstanding, or the making of any other distribution in respect thereof, either directly or indirectly, whether in cash or property, (b) any payment of a management fee (or other fee of a similar nature) by such Person to any holder of its Capital Stock or any Affiliate thereof other than payments in the ordinary course of business by such Person to its employees under employment contracts and (c) the payment or prepayment of principal of, or premium or interest on, any Indebtedness subordinate to the Obligations unless such payment is permitted under the terms of the subordination agreement applicable thereto.

"Revolving Credit Loan" shall have the meaning set forth in the Credit Agreement.

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

"Second Lien Agent" shall have the meaning set forth in the Intercreditor Agreement.

"Second Lien Cap Amount" means, as of any date of determination, the amount of \$24,000,000 plus the amount of any Incremental Term Facilities incurred in accordance with the terms of this Agreement, reduced by the amount of prepayments or repayments received by the

Second Lien Lenders which resulted in repayment of principal with respect to the Second Lien Obligations and, in the case of revolving credit, delayed draw, or similar loans, permanent reductions to the applicable commitments under this Agreement.

"*Second Lien Collateral Agent*" shall have the meaning set forth in the preamble to this Agreement.

"*Second Lien Lender*" shall mean a Term B Lender.

"*Second Lien Obligations*" shall have the meaning set forth in the Intercreditor Agreement it being understood that such definition cannot be amended or otherwise modified except in accordance with the Intercreditor Agreement.

"*Second Lien Secured Parties*" shall mean, collectively, (a) the Term B Lenders, (b) the Second Lien Collateral Agent, (c) the beneficiaries of each indemnification obligation undertaken by any Credit Party under the Term Loan Documents in respect of the Term B Lenders or the Second Lien Collateral Agent and (d) any successors, endorsees, transferees and assigns of each of the foregoing.

"*Secured Parties*" shall mean the Second Lien Secured Parties.

"*Security Documents*" shall mean, collectively, the Security Pledge Agreement, any Mortgage and each other security agreement or other instrument or document executed and delivered pursuant to Sections 8.10, 8.11 or 8.13 or pursuant to any of the Security Documents to secure any of the Obligations.

"*Security Pledge Agreement*" shall mean either the U.S. Security Pledge Agreement, or the Canadian Security Pledge Agreement and "*Security Pledge Agreements*" means both of the security pledge agreements.

"*Seller*" shall have the meaning set forth in the definition of the term "Acquisition Agreement".

"*Senior Canadian Credit Facility*" shall mean, collectively, the Term A Loan Facility and the Canadian Revolving Credit Facility.

"*Senior Leverage Ratio*" means, on any date of determination, the ratio of (a) Consolidated Senior Debt of the Parent Guarantor and its Subsidiaries on such date to (b) Consolidated Adjusted EBITDA of the Parent Guarantor and its Subsidiaries for the most recently completed Test Period ending on such date.

"*Senior US Credit Facility*" shall mean, collectively, the Term B Loan Facility and the U.S. Revolving Credit Facility (as defined in the Credit Agreement).

"*Solvency Certificate*" shall mean a solvency certificate substantially in the form of Exhibit H to the Original Credit Agreement or otherwise in form and substance satisfactory to Collateral Agent.

"*Solvent*" shall mean, with respect to any Person, at any date, that (a) the sum of such Person's debt (including Contingent Liabilities) does not exceed the present fair saleable value of such Person's present assets, (b) such Person's capital is not unreasonably small in relation to its business as contemplated on such date, (c) such Person has not incurred and does not intend to incur debts including current obligations beyond its ability to pay such debts as they become due (whether at maturity or otherwise), and (d) such Person is "solvent" within the meaning given that term and similar terms under Applicable Laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any Contingent Liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"*Specified Hedging Agreement*" shall mean any Hedging Agreement (a) entered into by (i) the Borrower and (ii) any Qualified Counterparty, as counterparty and (b) that has been designated by such Qualified Counterparty and the Borrower, as a Specified Hedging Agreement pursuant to Section 7.4 of the Security Pledge Agreements and is reasonably satisfactory to the Agents; provided, that, any release of Collateral or Guarantors effected in the manner permitted by this Agreement shall not require the consent of holders of obligations under Specified Hedging Agreements. The designation of any Hedging Agreement as a Specified Hedging Agreement shall not create in favor of any Qualified Counterparty that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Guarantor under the Guarantee Agreement.

"*Spot Rate*" for a currency means the rate determined by the Administrative Agent, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent may obtain such spot rate from another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency;

"*Statutory Reserve Rate*" shall mean, for any day as applied to any LIBOR Loan, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages that are in effect on that day (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, as prescribed by the Board and to which the Administrative Agent is subject, for Eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBOR Loans shall be deemed to constitute Eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

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

"*Swap Termination Value*" shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Agreements, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreements (which may include a Lender or any Affiliate of a Lender).

"*Target Companies*" shall have the meaning set forth in the definition of the term "Acquisition Agreement".

"*Taxes*" shall mean all income, stamp or other taxes, duties, levies, imposts, charges, assessments, fees, deductions or withholdings, now or hereafter imposed, enacted, levied, collected, withheld or assessed by any Governmental Authority, and all interest, penalties or similar liabilities with respect thereto.

"*Term A Lender*" shall have the meaning set forth in the Credit Agreement.

"*Term A Loan*" shall have the meaning set forth in the Credit Agreement.

"*Term A Loan Facility*" shall mean a U.S.\$4,000,000 term A loan facility made available to the Canadian Borrower (as defined in the Credit Agreement) by the Lenders (as defined in the Credit Agreement) pursuant to the terms of the Credit Agreement.

"*Term B Lender*" means (a) prior to the termination of the Term B Commitments, any Lender that has a Term B Commitment or holds Term B Loans at such time and (b) at any time after the termination of the Term B Commitments, any Lender that holds Term B Loans at such time.

"*Term B Loan*" shall have the meaning set forth in Section 2.01(b).

"*Term B Loan Commitment*" shall mean (a) in the case of each Lender that is a Lender on the date hereof, the amount set forth opposite such Lender's name on Schedule 1.01(a) as such Lender's "Term B Loan Commitment" and (b) in the case of any Lender that becomes a Lender after the date hereof, the amount specified as such Lender's "Term B Loan Commitment" in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total

Term B Loan Commitment, in each case as the same may be changed from time to time pursuant to the terms hereof.

"*Term B Loan Facility*" shall mean a U.S.\$20,000,000 term loan B facility made available to the Borrower by the Lenders hereunder.

"*Term B Loan Maturity Date*" shall mean the date that is six (6) years after the Original Closing Date, or if such date is not a Business Day, the next succeeding Business Day.

"*Term B Loan Note*" shall mean a promissory note made by the Borrower in favor of a Term B Lender evidencing a Term B Loan made by such Term B Lender substantially in the form of Exhibit D-1 to the Original Credit Agreement.

"*Term Loan*" shall mean any Term A Loan or any Term B Loan, and collectively, the Term A Loans and the Term B Loans.

"*Term Loan Documents*" shall mean this Agreement, the Control Agreements, the Fee Letter, the Guarantee Agreement, the Intercreditor Agreement, the Intercompany Subordination Agreement, the Security Documents, the Amended and Restated Term Loan Documents, the Specified Hedging Agreements (if any), any Notes issued by the Borrower hereunder, any subordination agreements in favor of any Agent with respect to this Agreement and any other agreement entered into now, or in the future, by any Credit Party, on the one hand, and any Agent or Lender, on the other hand, in connection with this Agreement.

"*Test Period*" shall mean, for any date of determination under this Agreement, the four consecutive fiscal quarters of Parent Guarantor most recently ended as of such date of determination.

"*Total Credit Exposure*" shall mean, as of any date of determination (a) with respect to each Lender, such Lender's Total Term B Loan Commitment or, if the Term B Loan Commitments have been terminated or the Delayed Draw Period has expired, then the aggregate outstanding principal amount of such Lender's Term B Loans and (b) with respect to all Lenders, all Lenders' Total Term B Loan Commitments or, if the Term B Loan Commitments have been terminated or the Delayed Draw Period has expired, the aggregate outstanding principal amount of all Lenders' Term B Loans.

"*Total Leverage Ratio*" shall mean, as of the last day of any Test Period, the ratio of (a) Consolidated Total Debt as of such date to (b) Consolidated Adjusted EBITDA for such Test Period.

"*Total Term B Loan Commitment*" shall mean the sum of the Term B Loan Commitments. On the Closing Date, the Total Term B Loan Commitment shall be U.S.\$20,000,000 as set forth on Schedule 1.01(a).

"*Transaction Documents*" shall mean each of the documents executed and/or delivered in connection with the Transactions, including without limitation, the Term Loan Documents, the Credit Documents, the Equity Documents, the Convertible Senior Secured Note Documents, and the Acquisition Documents.

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“*Transactions*” shall mean collectively, the Credit Facility, the Term B Loan Facility, the Acquisition and the issuance of the Convertible Senior Secured Notes.

“*Type*” shall mean, as to any Loan, its nature as an ABR Loan or LIBOR Loan.

“*UCC*” shall mean the Uniform Commercial Code as from time to time in effect in the State of New York.

“*Unasserted Contingent Obligations*” shall have the meaning given to such term in the Security Pledge Agreement.

“*Unfunded Current Liability*” of any Plan shall mean the amount, if any, by which the present value of the accrued benefits under the Plan as of the close of its most recent plan year, determined in accordance with Statement of Financial Accounting Standards No. 87 as in effect on the date hereof, based upon the actuarial assumptions that would be used by the Plan’s actuary in a termination of the Plan, exceeds the fair market value of the assets allocable thereto.

“*U.S.*” and “*United States*” means the United States of America.

“*U.S. Base Rate*” means the percentage rate per annum determined by the Administrative Agent to be the rate of interest which the Administrative Agent (rounded up to two decimal places) establishes from time to time as the reference rate of interest for determination of the interest rates it will charge for loans made in U.S. Dollars in Canada and which it refers to as its base rate (or equivalent or analogous such rate).

“*U.S. Dollar Equivalent*” shall mean, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in Canadian dollars (CND\$), the equivalent amount thereof in Dollars as determined by the Administrative Agent, at such time on the basis of the Spot Rate for the purchase of Dollars with such Canadian dollars.

“*U.S. Security Pledge Agreement*” shall mean a Security Pledge Agreement, by and among each Credit Party and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit G-1 to the Original Credit Agreement or otherwise in the form and substance satisfactory to Collateral Agent.

“*Voting Stock*” shall mean, with respect to any Person, shares of such Person’s Capital Stock having the right to vote for the election of directors (or Persons acting in a comparable capacity) of such Person under ordinary circumstances.

SECTION 1.02. Other Interpretive Provisions. With reference to this Agreement and each other Term Loan Document, unless otherwise specified herein or in such other Term Loan Document:

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

(b) The words "herein", "hereto", "hereof" and "hereunder" and words of similar import when used in any Term Loan Document shall refer to such Term Loan Document as a whole and not to any particular provision thereof.

(c) Article, Section, Exhibit and Schedule references are to the Term Loan Document in which such reference appears.

(d) The term "including" is by way of example and not limitation.

(e) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

(g) Section headings herein and in the other Term Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Term Loan Document.

SECTION 1.03. Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Historical Financial Statements of the Parent Guarantor, except as otherwise specifically permitted herein.

SECTION 1.04. Rounding. Any financial ratios required to be maintained or complied with by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.05. References to Agreements, Laws, etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Term Loan Documents) and other Contractual Obligations shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications made after the date hereof are not prohibited by any Term Loan Document; and (b) references to any Applicable Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Applicable Law.

SECTION 1.06. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.07. Timing of Payment of Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.08. Corporate Terminology. Any reference to officers, shareholders, stock, shares, directors, boards of directors, corporate authority, articles of incorporation, bylaws or any other such references to matters relating to a corporation made herein or in any other Term Loan Document with respect to a Person that is not a corporation shall mean and be references to the comparable terms used with respect to such Person.

SECTION 1.09. Amendment and Restatement of Original Credit Agreement: No Novation. Subject to the terms and provisions set forth in this Agreement, and in reliance upon the representations and warranties of the respective Credit Parties set forth herein and in the other Term Loan Documents, effective as of the Closing Date, the Original Credit Agreement is hereby amended and restated in its entirety (except to the extent it relates to the First Lien Obligations) hereby. It is expressly understood and agreed by each of the parties hereto that (i) the Obligations (as such term is defined in this Agreement) include all of the Original Obligations (other than the Credit Agreement Obligations) outstanding or otherwise existing on and as of the Closing Date, (ii) the Original Obligations (other than the Credit Agreement Obligations) shall be payable hereafter in accordance with the respective terms and provisions hereof, and (iii) this Agreement and any promissory notes from time to time issued hereunder (1) merely re-evidence, ratify, confirm and reaffirm the Original Obligations (other than the Credit Agreement Obligations) and (2) are in no way intended and shall not be deemed or construed to constitute a novation of the Original Credit Agreement (or any promissory notes issued thereunder).

SECTION 1.10. Reaffirmation of other Term Loan Documents. Each Credit Party, in its respective capacities under each of the Term Loan Documents (in each case, where applicable, as amended and restated as of the date hereof pursuant to this Agreement or otherwise), to which it is a party (including in the capacities of obligor, grantor, mortgagor, pledgor, guarantor, indemnitor and assignor, as applicable, and each other similar capacity, if any, in which such Credit Party has granted Liens on all or any part of the properties or assets of such Credit Party, or otherwise acts as an accommodation party, guarantor, indemnitor or surety with respect to all or any part of the Obligations), hereby (i) agrees that the terms and provisions hereof shall not affect in any way any payment, performance, observance or other obligations or liabilities of such Credit Party hereunder or under any of the other Term Loan Documents, all of which obligations and liabilities shall remain in full force and effect and extend to the further loans, extensions of credit and other Obligations incurred hereunder and under the Term Loan Documents, and each of which obligations and liabilities are hereby ratified, confirmed and reaffirmed in all respects, (ii) to the extent such Credit Party has granted Liens on any of its properties or assets pursuant to the Term Loan Documents to secure the prompt and complete payment, performance and/or observance of all or any part of the Obligations (as defined in the Original Credit Agreement), acknowledges, ratifies, confirms and reaffirms such grant of Liens, and acknowledges and agrees that all of such Liens are intended and shall be deemed and construed to secure to the fullest extent set forth therein all now existing and hereafter arising

Obligations under and as defined in this Agreement, as amended, restated, supplemented and otherwise modified and in effect from time to time and (iii) to the extent such Credit Party has guaranteed the Obligations under and as defined in the Original Credit Agreement does hereby consent to the amendment and restatement of the Original Credit Agreement by this Agreement and hereby confirms and agrees that (A) the Guarantee Agreement is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that on and after the date hereof each reference in the Guarantee Agreement to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Original Credit Agreement shall mean and be a reference to this Agreement and (B) the guarantee provided under the Guarantee Agreement is, and shall continue to be, an unconditional and irrevocable guarantee of all of the Guaranteed Obligations (as defined in the Guarantee Agreement).

ARTICLE II

Amount and Terms of Credit Facilities

SECTION 2.01. Loans. (a) Term B Loans. Subject to and upon the terms and conditions herein set forth, each Term B Lender severally agrees to make a loan or loans (each, a "Term B Loan" and collectively, the "Term B Loans") to the Borrower, which Term B Loans (i) shall not exceed for any such Term B Lender, the Term B Loan Commitment of such Term B Lender (ii) shall not exceed, in the aggregate, the Total Term B Loan Commitment, (iii) shall be made in the aggregate amount of \$17,500,000 on the Original Closing Date and, during the Delayed Draw Period, in an amount at least equal to the Minimum Borrowing Amount, so long as such Term B Loans shall not exceed, in the aggregate, the Total Term B Commitment, (iv) may, at the option of the Borrower, be incurred and maintained as, and/or converted into, ABR Loans or LIBOR Term Loans, provided that all such Term B Loans made by each of the Term B Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Term B Loans of the same Type, and (v) may be repaid or prepaid in accordance with the provisions hereof, but once repaid or prepaid may not be reborrowed.

(b) Incremental Term Facility. Provided that no Default or Event of Default has occurred and is continuing, and subject to pro forma compliance with all covenants set forth herein and the approval of ARCC in its sole discretion, upon notice to ARCC, the Borrower may request an uncommitted incremental term facility ("Incremental Term Facility") by an amount not exceeding \$15,000,000 at any time after the Original Closing Date. ARCC shall be under no obligation to provide such Incremental Term Facility, and each draw thereunder shall be subject to the approval of ARCC in its sole discretion. The terms and conditions of such Incremental Term Facility shall be negotiated in good faith by the Borrower and ARCC at the time of such request, such terms and conditions to be satisfactory to ARCC, so long as it is a Lender hereunder and the Term Loan Documents shall thereafter be amended accordingly. The proceeds of such Incremental Term Facility shall be used solely for funding future acquisitions.

(c) Each Lender, may at its option, make any LIBOR Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such LIBOR Loan; provided, that (i) any exercise of such option shall not affect the obligation of the Borrower to repay such LIBOR Loan

and (ii) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrower resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it.

SECTION 2.02. Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing of Term B Loans made during the Delayed Draw Period shall be in multiples of U.S.\$100,000 and shall not be less than the Minimum Borrowing Amount with respect thereto. More than one Borrowing may be incurred on any date; provided, that at no time shall there be outstanding more than seven (7) Borrowings of LIBOR Loans under this Agreement.

SECTION 2.03. Notice of Borrowing. (a) The Borrower shall give the Administrative Agent prior written notice (or telephonic notice promptly confirmed in writing) (i) prior to 1:00 p.m. (New York time) at least three Business Days' prior to each Borrowing of Term B Loans which are to be LIBOR Loans, and (ii) prior to 12:00 noon (New York time) on the date of each Borrowing of Term B Loans which are to be ABR Loans. Such notice in the form of Exhibit I (a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.10, shall be irrevocable and shall specify (A) the aggregate principal amount of the Term B Loans, as applicable, to be made, (B) the date of the Borrowing (which shall be the Original Closing Date or on any given date during the Delayed Draw Period) and (C) whether the applicable Term B Loans shall consist of ABR Loans and/or LIBOR Term Loans and, if the applicable Term B Loans are to include LIBOR Term Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing of the applicable Term B Loans of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing.

(b) Without in any way limiting the obligation of the Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of the Borrower. In each such case, Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic notice.

SECTION 2.04. Disbursement of Funds. (a) On the Original Closing Date, each Term B Lender made available its *pro rata* portion of the Term B Loans in the manner provided below. No later than 2:00 p.m. (New York time), in the case of making any additional Term B Loans during the Delayed Draw Period for which a Notice of Borrowing has been delivered prior to 10:00 a.m. (New York time) on the date specified in each Notice of Borrowing, each applicable Term B Lender will make its *pro rata* portion, if any, of each Borrowing requested to be made on such date in the manner provided below.

(b) Each Term B Lender shall provide all amounts it is to fund directly to the Borrower, by depositing in an account designated by the Borrower to it in writing, the aggregate

of the amounts so made available in Dollars; provided, that the Term B Lenders shall provide written notice of each such funding of a Term B Loan to the Administrative Agent.

(c) Nothing in this Section 2.04 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

SECTION 2.05. Payment of Loans: Evidence of Debt. (a) Term B Loans. The Borrower agrees to pay to the Term B Lenders, on each date set forth below (each, a "Term B Loan Repayment Date"), the principal of the Term B Loans in the amounts represented by the percentages of the total aggregate principal amount of such Term B Loans outstanding on the applicable Term B Loan Repayment Date (or, in the case of Term B Loan Repayment Dates occurring after the last day of the Delayed Draw Period, the amount outstanding on the last day of the Delayed Draw Period) set forth below opposite such Term B Loan Repayment Date (each a "Term B Loan Repayment Amount") (which Term B Loan Repayment Amount may be reduced as a result of, and after giving effect to, the application of prepayments in accordance with the order of priority set forth in Section 4.01 and Section 4.02(a)(vii)):

<u>Term B Loan Repayment Date</u>	<u>Term B Loan Repayment Percentage</u>
30-Jun-08	0.8
30-Sep-08	0.8
31-Dec-08	0.8
31-Mar-09	0.8
30-Jun-09	1.5
30-Sep-09	1.5
31-Dec-09	1.5
31-Mar-10	1.5
30-Jun-10	1.5
30-Sep-10	1.5
31-Dec-10	1.5
31-Mar-11	1.5
30-Jun-11	1.5
30-Sep-11	1.5
31-Dec-11	1.5
31-Mar-12	1.5
30-Jun-12	2.0
30-Sep-12	2.0
31-Dec-12	2.0
31-Mar-13	2.0
<u>Term B Loan Maturity Date</u>	<u>Remaining Balance</u>

For the avoidance of doubt, the Borrower agrees to pay to the Term B Lenders, on the Term B Loan Maturity Date, all then outstanding Term B Loans.

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

(c) Notes. The Borrower agrees that from time to time on and after the Original Closing Date, upon the request to any Agent by any Lender, at the Borrower's own expense, the Borrower will execute and deliver to such Lender a Note, evidencing the Loans made by, and payable to such Lender or registered assigns in a principal amount equal to the amount of such Lender's Term B Loan Commitment. Borrower hereby irrevocably authorizes each Lender to make (or cause to be made) appropriate notations on the grid attached to such Lender's Note (or on any continuation of such grid), which notations, if made, shall evidence, inter alia, the date of, the outstanding principal amount of, and the interest rate and Interest Period applicable to, the Loans evidenced thereby. Such notations shall, to the extent not inconsistent with notations made by the Administrative Agent in the Register, be conclusive and binding on each Credit Party absent manifest error; provided, that the failure of any Lender to make any such notations shall not limit or otherwise affect any Obligations of any Credit Party. The Administrative Agent shall maintain the Register pursuant to Section 12.06(b)(iv), and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, the Type of each Loan made and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by any Agent from the Borrower and each Lender's share thereof.

(d) Register. The entries made in the Register and accounts and subaccounts maintained pursuant to paragraph (c) of this Section 2.05 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, that the failure of any Lender or any 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 made to the Borrower by such Lender in accordance with the terms of this Agreement.

(e) Notice of Repayments. Each of the Term B Lenders shall provide written notice of any principal payments hereunder to the Administrative Agent.

SECTION 2.06. Conversions and Continuations. (a) The Borrower shall have the option on any Business Day to convert all or a portion equal to at least the Minimum Borrowing Amount of any Term B Loans (or, if less, the outstanding principal amount thereof) of one Type into a Borrowing or Borrowings of another Type and the Borrower shall have the option on any Business Day to continue the outstanding principal amount of any LIBOR Term Loans as LIBOR Term Loans, for an additional Interest Period; provided, that (i) no partial conversion of LIBOR Term Loans shall reduce the outstanding principal amount of LIBOR Term Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount, (ii) ABR Loans may not be converted into LIBOR Loans if an Event of Default is in existence on the date of the proposed conversion and the Administrative Agent has, or the Required Second Lien Lenders, have determined in its or their sole discretion not to permit such conversion; (iii) LIBOR Loans

may not be continued as LIBOR Loans for an additional Interest Period in excess of one month if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has, or the Required Second Lien Lenders, have determined in its or their sole discretion not to permit such continuation and (iv) Borrowings resulting from conversions pursuant to this Section 2.06 shall be limited in number as provided in Section 2.02. Each such conversion or continuation shall be effected by the Borrower by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) prior to 1:00 p.m. (New York time) at least three Business Days (or one Business Day in the case of a conversion into ABR Loans) (and in either case on not more than five Business Days) prior to such proposed conversion or continuation, in the form of Exhibit J (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted or continued into and, if such Loans are to be converted into or continued as LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give the Collateral Agent and each Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If any Event of Default is in existence at the time of any proposed continuation of any LIBOR Loans for an Interest Period in excess of one month and the Administrative Agent has, or the Required Second Lien Lenders, have determined in its or their sole discretion not to permit such continuation, such LIBOR Loans shall be automatically continued on the last day of the current Interest Period into LIBOR Loans with an Interest Period of one month. If, upon the expiration of any Interest Period in respect of LIBOR Loans, the Borrower has failed to elect a new Interest Period to be applicable thereto as provided in Section 2.06(a), Borrower shall be deemed to have elected to convert such Borrowing of LIBOR Loans into a Borrowing of ABR Loans effective as of the expiration date of such current Interest Period.

(c) The conversion of a Loan under this Section 2.06 shall not constitute a repayment, disposition, transfer or assignment of such Loan.

SECTION 2.07. Pro Rata Borrowings. Each Borrowing of Term B Loans under this Agreement shall be loaned by the Term B Lenders *pro rata* on the basis of their then-applicable Term B Loan Commitments. It is understood that no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder.

SECTION 2.08. Interest. (a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin plus the ABR in effect from time to time.

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

(c) From and after the occurrence and during the continuance of any Event of Default, upon notice by the Administrative Agent (which notice shall be given upon the direction of the Required Lenders) to the Borrower, Borrower shall pay interest on the principal amount of all Loans and all other due and unpaid Obligations (other than Obligations due with respect to Specified Hedging Agreements), to the extent permitted by Applicable Law, at the rate described in Section 2.08(a) or Section 2.08(b), as applicable, plus two (2) percentage points per annum. All such interest shall be payable on demand and in cash.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable (i) in respect of each ABR Loan, quarterly in arrears on the last day of each March, June, September and December, beginning with the fiscal quarter ending December 31, 2007, (ii) in respect of each LIBOR Loan, on the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (iii) in respect of each Loan, on any prepayment (on the amount prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.

(e) All computations of interest hereunder shall be made in accordance with Section 4.05.

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

SECTION 2.09. Interest Periods. At the time Borrower gives a Notice of Borrowing or a Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of LIBOR Loans (in the case of the initial Interest Period applicable thereto) or prior to 1:00 p.m. (New York time) on the third Business Day (and in any event, on not more than five Business Days' notice) prior to the expiration of an Interest Period applicable to a Borrowing of LIBOR Loans, Borrower shall have, by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) the right to elect the Interest Period applicable to such Borrowing, which Interest Period shall, at the option of the Borrower, be a one, two, three or six month period:

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

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

(c) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day, provided, that if any

Interest Period in respect of a LIBOR Loan would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day; and

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

SECTION 2.10. Increased Costs, Illegality, etc. (a) In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, any Lender, in each case, shall have reasonably determined (which determination shall, absent clearly manifest error, be final and conclusive and binding upon all parties hereto):

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

(ii) at any time, after the later of the Original Closing Date and the date such entity became a Lender hereunder, that such Lender shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any LIBOR Loans (other than any such increase or reduction attributable to Non-Excluded Taxes covered by Section 4.04) because of (A) any change since the date hereof in any Applicable Law (or in the interpretation or administration thereof and including the introduction of any new Applicable Law), such as, for example, without limitation, a change in official reserve requirements or a change in the basis of taxation of payments to such Lender (but excluding changes in the rate of tax on the overall net income of such Lender), and/or (B) other circumstances affecting the interbank LIBOR market or the position of such Lender in such market; or

(iii) at any time, that the making or continuance of any LIBOR Loan has become unlawful by compliance by such Lender in good faith with any Applicable Law (or would conflict with any such Applicable Law not having the force of law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the date hereof that materially and adversely affects the interbank LIBOR market,

then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall promptly give notice (if by telephone, confirmed in writing) to the Borrower and the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (A) in the case of clause (i) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Borrower, the Collateral Agent and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion or Continuation given by the Borrower with respect to

LIBOR Loans that have not yet been incurred shall be deemed rescinded by Borrower, (B) in the case of clause (ii) above, Borrower shall pay to such Lender, within 5 days after receipt of written demand therefor, such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender shall, absent clearly manifest error, be final and conclusive and binding upon all parties hereto) and (C) in the case of clause (iii) above, Borrower shall take one of the actions specified in Section 2.10(b) as promptly as possible and, in any event, within the time period required by law.

(b) At any time that any LIBOR Loan is affected by the circumstances described in (i) Section 2.10(a)(ii), the Borrower may either (A) if the affected LIBOR Loan is then being made pursuant to a Borrowing, cancel said Borrowing by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Borrower was notified by a Lender pursuant to Section 2.10(a)(ii) or (B) if the affected LIBOR Loan is then outstanding, upon at least three (3) Business Days' notice to the Administrative Agent, require the affected Lender to convert each such LIBOR Loan into an ABR Loan; provided, that if more than one Lender is so affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b) or (ii) Section 2.10(a)(iii), (A) if the affected LIBOR Loan is then being made pursuant to a Borrowing, such Borrowing shall automatically be deemed cancelled and rescinded and (B) if the affected LIBOR Loan is then outstanding, each such LIBOR Loan shall automatically be converted into an ABR Loan; provided, that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If, after the later of the date hereof, and that date such entity becomes a Lender hereunder, the adoption of any Applicable Law regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by a Lender or its parent with any request or directive made or adopted after such date regarding capital adequacy (whether or not having the force of law) of any such authority, association, central bank or comparable agency, has the effect of reducing the rate of return on such Lender's or its parent's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's or its parent's policies with respect to capital adequacy), then within 5 days after demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or its parent for such reduction, it being understood and agreed, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any such Applicable Law as in effect on the date hereof. Each Lender (on its own behalf), upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will, as promptly as practicable upon ascertaining knowledge thereof, give written notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts. The failure to give any

such notice, with respect to a particular event, within the time frame specified in Section 2.13, shall not release or diminish any of the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) for amounts accrued or incurred after the date of such notice with respect to such event.

(d) This Section 2.10 shall not apply to Taxes to the extent duplicative of Section 4.04. All obligations of the Credit Parties under this Section 2.10 shall survive termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

SECTION 2.11. Compensation. If (a) any payment of principal of a LIBOR Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such LIBOR Loan as a result of a payment or conversion pursuant to Sections 2.05, 2.06, 2.10, 4.01 or 4.02, as a result of acceleration of the maturity of the Loans pursuant to Article X or for any other reason, (b) any Borrowing of LIBOR Loans is not made as a result of a withdrawn Notice of Borrowing (except with respect to a revocation as provided in Section 2.10), (c) any ABR Loan is not converted into a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation, (d) any LIBOR Loan is not continued as a LIBOR Loan as a result of a withdrawn Notice of Conversion or Continuation or (e) any prepayment of principal of a LIBOR Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 4.01 or 4.02, Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to convert, failure to continue, failure to prepay, reduction or failure to reduce, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund or maintain such LIBOR Loan.

SECTION 2.12. Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Sections 2.10(a)(ii), 2.10(a)(iii), 2.10(b) or 4.04 with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided, that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.10 or 4.04.

SECTION 2.13. Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11 or 4.04 is given by any Lender more than two hundred seventy (270) days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11 or 4.04, as the case may be, for any such amounts incurred or accruing prior to the giving of such notice to the Borrower.

SECTION 2.14. Criminal Rate of Interest. Notwithstanding any other provisions of this Agreement or any other Security Document, in no event shall this Agreement or any Security Document require the payment or permit the collection of interest or other amounts in an amount or at a rate in excess of the amount or rate that is permitted by law or in an amount or at a rate that would result in the receipt by the Lenders or the Administrative Agent of interest at a criminal rate, as the terms "interest" and "criminal rate" are defined under the *Criminal Code* (Canada). Where more than one such law is applicable to any Credit Party, such Credit Party shall not be obliged to make payment in an amount calculated at a rate higher than the lowest maximum rate permitted by such law. If from any circumstances whatever, fulfillment or any provision of this Agreement or any other Security Document shall involve transcending the limit of validity prescribed by any Applicable Law for the collection or charging of interest, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstances the Administrative Agent or the Lenders shall ever receive anything of value as interest or deemed interest under this Agreement or any Security Document in an amount that would exceed the highest lawful rate of interest permitted by any Applicable Law, such amount that would be excessive interest shall be applied to the reduction of the principal amount of the relevant Commitment, and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of the relevant Commitment, the amount exceeding the unpaid balance shall be refunded to the applicable Credit Party. In determining whether or not the interest paid or payable under any specified contingency exceeds the highest lawful rate, the Credit Parties, the Administrative Agent and the Lenders shall, to the maximum extent permitted by Applicable Law (a) characterize any non-principal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, (c) amortize, prorate, allocate and spread the total amount of interest throughout the term of such indebtedness so that interest thereon does not exceed the maximum amount permitted by Applicable Law, or (d) allocate interest between portions of such indebtedness to the end that no such portion shall bear interest at a rate greater than that permitted by Applicable Law.

SECTION 2.15. Nominal Rate of Interest. The parties acknowledge and agree that all calculations of interest under this Agreement are to be made on the basis of the nominal interest rate described herein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest. The parties acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

ARTICLE III

Fees and Commitment Terminations

SECTION 3.01. Fees.

(a) Fee Letter. The Borrower agrees to pay to ARCC and the Administrative Agent, as applicable, all the Fees set forth in the Fee Letter.

(b) Unused Term B Loan Commitment Fees. The Borrower agrees to pay to the Administrative Agent for the accounts of the Term B Lenders in accordance with their respective

Term B Loan Commitments, a commitment fee (the "*Unused Term B Loan Commitment Fee*") calculated at the rate of one half of one percent (0.5%) on the average daily amount during each fiscal quarter or portion thereof from the Original Closing Date to the last day of the Delayed Draw Period, by which the applicable Term B Loan Commitment exceeds the outstanding amount of the applicable Term B Loans made to the Borrower during such fiscal quarter. The Unused Term B Loan Commitment Fee shall be payable quarterly in arrears on the first day of each fiscal quarter for the immediately preceding final quarter on the first such date following the Original Closing Date, with a final payment on the last day of the Delayed Draw Period, or any earlier date on which the Term B Loan Commitments shall terminate.

SECTION 3.02. Mandatory Termination of Commitments. (a) The Total Term B Loan Commitment shall terminate at 5:00 p.m. (New York time) on the last day of the Delayed Draw Period.

(b) Notwithstanding the foregoing, the Total Term B Loan Commitment shall terminate at the time at which the Borrower notifies the Agents in writing that the Credit Parties do not intend to consummate the Acquisition.

ARTICLE IV

Payments

SECTION 4.01. Voluntary Prepayments. The Borrower shall have the right to prepay Term B Loans without premium or penalty, in whole or in part from time to time on the following terms and conditions: (a) the applicable Borrower, shall give the Agents written notice (or telephonic notice promptly confirmed in writing) of (i) its intent to make such prepayment, (ii) the amount of such prepayment and (iii) in the case of LIBOR Loans, the specific Borrowing(s) pursuant to which made, no later than (A) in the case of LIBOR Loans, 1:00 p.m. (New York time) two Business Days prior to, and (B) in the case of ABR Loans, 1:00 p.m. (New York time) on the date of such prepayment and shall promptly be transmitted by the Administrative Agent to each of the relevant Lenders, as the case may be; (b) each partial prepayment of any Term B Loans shall be in a multiple of U.S.\$500,000 and in an aggregate principal amount of at least U.S.\$1,000,000; provided, that no partial prepayment of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding LIBOR Loans made pursuant to such Borrowing to an amount less than the Minimum Borrowing Amount for LIBOR Loans; and (c) any prepayment of LIBOR Loans pursuant to this Section 4.01 on any day other than the last day of an Interest Period applicable thereto shall be subject to compliance by the Borrower with the applicable provisions of Section 2.11. Each prepayment in respect of the Term Loans, pursuant to this Section 4.01 or Section 4.01 of the Credit Agreement shall be applied *first*, to reduce the outstanding principal amount of the Term A Loans until repaid in full, *second*, to reduce the outstanding principal amount of Term B Loans until repaid in full, and *third*, if designated by the Borrower or the Parent Guarantor, to permanently reduce the Revolving Credit Facility (as defined in the Credit Agreement) in accordance with the terms of the Credit Agreement as in effect on the Closing Date.

SECTION 4.02. Mandatory Prepayments and Commitment Reductions. (a)

(i) On or prior to the earlier of (A) the fifth (5th) day after the delivery of annual financial statements for a fiscal year in accordance with Section 8.01(c) or (B) the ninety-fifth (95th) day of each year, commencing with the fiscal year ending June 30, 2008, the Borrower and the Parent Guarantor shall prepay the Loans and the Term A Loans in an amount equal to fifty percent (50%) of Consolidated Excess Cash Flow (if any) for such fiscal year, to be applied as set forth in Section 4.02(a)(vii); provided, that if, with respect to any fiscal year in which a mandatory prepayment pursuant to this Section 4.02(a)(vii) is otherwise due, the Senior Leverage Ratio as of the end of such fiscal year is less than 2.25:1.00, then the Borrower and the Parent Guarantor shall prepay the Loans and the Term A Loans in an amount equal to twenty-five percent (25%) of Consolidated Excess Cash Flow (if any) for such fiscal year.

(ii) Concurrently with the incurrence of any Indebtedness by any Credit Party or any of its Subsidiaries (other than Indebtedness permitted under Section 9.01(a) through Section 9.01(j)), the Borrower and the Parent Guarantor shall prepay the Loans and the Term A Loans in an amount equal to one hundred percent (100%) of the Net Debt Proceeds thereof, to be applied as set forth in Section 4.02(a)(vii). Nothing in this Section 4.02(a)(ii) shall be construed to permit or waive any Default or Event of Default arising from any incurrence of Indebtedness not permitted under the terms of this Agreement.

(iii) Concurrently with the receipt by any Credit Party or any of its Subsidiaries of any proceeds from any Disposition (other than one permitted under Section 9.04(c) or Section 9.04(f)) in excess of \$200,000 in any Test Period, the Borrower shall prepay the Loans in an amount equal to one hundred percent (100%) of the Net Disposition Proceeds from such Disposition in excess of \$200,000 in any Test Period, to be applied as set forth in Section 4.02(a)(vii); provided, that the Borrower and the Parent Guarantor may, at their option by notice in writing to the Agents on or prior to the Disposition giving rise to such Net Disposition Proceeds, within ninety (90) days after such event, reinvest such Net Disposition Proceeds in assets to be used in the ordinary course of business of the Borrower so long as no Default or Event of Default shall have occurred and be continuing, in each case as certified by the Borrower and the Parent Guarantor in writing to the Agents. Nothing in this Section 4.02(a)(iii) shall be construed to permit or waive any Default or Event of Default arising from any Disposition not permitted under the terms of this Agreement.

(iv) Concurrently with the receipt by any Credit Party or any of its Subsidiaries of any proceeds from any Casualty Event, the Borrower and the Parent Guarantor shall prepay the Loans and the Term A Loans in an amount equal to one hundred percent (100%) of such Net Casualty Proceeds, to be applied as set forth in Section 4.02(a)(vii); provided, that the Borrower and the Parent Guarantor may, at their option by notice in writing to the Agents given no later than thirty (30) days following the occurrence of the Casualty Event resulting in such Net Casualty Proceeds, apply such Net Casualty Proceeds to the rebuilding or replacement of such damaged, destroyed or condemned assets or property so long as such Net Casualty Proceeds are in fact used to rebuild or replace the damaged, destroyed or condemned assets or property within one hundred eighty (180) days following the receipt of such Net Casualty Proceeds, with the amount of Net Casualty Proceeds unused after such period to be applied as set forth in Section 4.02(a)(vii); provided further, that at any time when any Default or Event of Default shall have

occurred and be continuing or Net Casualty Proceeds shall exceed U.S.\$100,000 in any fiscal year (individually or in the aggregate over the course of a fiscal year), such Net Casualty Proceeds shall be deposited in an account maintained with the First Lien Collateral Agent for, at the discretion of the Required Lenders under this Agreement and the Required Lenders under (and as defined in) the Credit Agreement, prepayment of the Loans or disbursement at the request of the Borrower to pay for such rebuilding or replacement. Nothing in this Section 4.02(a)(iv) shall be construed to permit or waive any Default or Event of Default arising from, directly or indirectly, any Casualty Event.

(v) Concurrently with the receipt by any Credit Party or any of its Subsidiaries of any (A) Net Equity Proceeds from the issuance of any Capital Stock (other than (i) issuances of Capital Stock of Parent Guarantor to management or employees of a Credit Party under any employee stock option or stock purchase plan or other employee benefits plan in existence from time to time which are permitted under this Agreement or (ii) the issuance of Capital Stock by one Credit Party to another Credit Party) and (B) Net Equity Proceeds to the extent used to fund Permitted Acquisitions or to fund capital expenditures permitted hereunder and to redeem the Convertible Senior Secured Notes, the Borrower and the Parent Guarantor shall prepay the Obligations in an amount equal to one hundred percent (100%) of such Net Equity Proceeds, to be applied as set forth in Section 4.02(a)(vii). Nothing in this Section 4.02(a)(v) shall be construed to permit or waive any Default or Event of Default arising, directly or indirectly, from any such issuance of Capital Stock.

(vi) Immediately upon any acceleration of any Loans pursuant to Section 10.02, the Borrower shall, subject to Article XIII and the Intercreditor Agreement repay all the Loans, unless only a portion of all the Loans is so accelerated (in which case, the portion so accelerated shall be so repaid).

(vii) Amounts to be applied in connection with prepayments and Commitment reductions made pursuant to this Section 4.02 (other than pursuant to Section 4.02(a)(vi)) shall be applied *first*, to reduce the Term A Loan Facility until repaid in full, in accordance with Section 4.02 of the Credit Agreement, *second*, to reduce the Term B Loan Facility until repaid in full, in accordance with this Section 4.02 and *third*, to permanently repay any outstanding Revolving Credit Loans (as defined in the Credit Agreement), with a corresponding reduction in the Total Revolving Credit Commitment (as defined in the Credit Agreement) in each case, in accordance with Section 4.02 of the Credit Agreement. Each prepayment of the Loans under Section 4.02 (except in the case of those prepayments made pursuant to Section 4.02(a)(vi)) shall be accompanied by accrued interest to the date of such prepayment on the amount prepaid.

(b) Application to Term B Loan Repayment Amount. Each prepayment of Term B Loans required by this Section 4.02 shall be applied to reduce the remaining Term B Loan Repayment Amounts in inverse order of maturity on a pro rata basis (subject to adjustments pursuant to any agreements entered into among the applicable Lenders).

(c) Application to Term B Loans. With respect to each prepayment of Term B Loans required by Section 4.02 (other than pursuant to Section 4.02(a)(vi)), the Borrower may designate the Types of Loans that are to be repaid and the specific Borrowing(s) pursuant to which made; provided, that the Borrower pays any amounts, if any, required to be paid pursuant

to Section 2.11 with respect to prepayments of LIBOR Term Loans made on any date other than the last day of the applicable Interest Period. In the absence of a designation by the Borrower as described in the preceding sentence, the Collateral Agent shall, subject to the above, make such designation in its reasonable discretion with a view, but no obligation, to minimize breakage costs owing under Section 2.11. Each such prepayment shall be accompanied by all accrued interest on the Loans so prepaid, through the date of such prepayment.

(d) Proceeds of Collateral. Notwithstanding anything to the contrary in Section 4.01 or this Section 4.02, but subject to the Intercreditor Agreement and Article XIII hereof, all payments received by the Second Lien Collateral Agent for the Second Lien Secured Parties upon and after the occurrence and during the continuance of an Event of Default shall be applied as set forth in this clause (d), as follows (subject to adjustments pursuant to any agreements entered into among the Lenders):

(i) first, to pay any costs and expenses of the Administrative Agent and the Second Lien Collateral Agent and fees then due to the Administrative Agent and the Second Lien Collateral Agent under the Term Loan Documents, including any indemnities then due to the Second Lien Collateral Agent under the Term Loan Documents, until paid in full,

(ii) second, ratably to pay any costs or expense reimbursements of the Second Lien Secured Parties and indemnities then due to any of the Second Lien Secured Parties under the Term Loan Documents until paid in full,

(iii) third, ratably to pay the outstanding principal balance of the Term B Loans (in the inverse order of the maturity of the installments due thereunder) until paid in full, in each case, to the extent such Loans constitute Second Lien Obligations,

(iv) fourth, to pay any other Obligations owing to the Second Lien Secured Parties, in each case, to the extent such Obligations constitute Second Lien Obligations,

(v) fifth, to pay any party entitled thereto in accordance with the terms and conditions of the Intercreditor Agreement; and

(vi) sixth, to the Borrower or such other Person entitled thereto under Applicable Law.

SECTION 4.03. Method and Place of Payment. (a) Subject to Section 4.04, and except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim, withholding or deduction of any kind, to the Administrative Agent for the ratable account of the Secured Parties entitled thereto, not later than 1:00 p.m. (New York time) on the date when due and shall be made in immediately available funds in Dollars to the Administrative Agent. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:00 p.m. (New York time), on such day) like funds relating to the payment of principal or interest or Fees ratably to the Secured Parties entitled thereto.

(b) For purposes of computing interest or fees, any payments under this Agreement that are made later than 2:00 p.m. (New York time), shall be deemed to have been made on the

next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall continue to accrue during such extension at the applicable rate in effect immediately prior to such extension.

(c) The Borrower hereby authorizes Administrative Agent to, from time to time, without prior notice to the Borrower, and upon the request of Collateral Agent or the Required Lenders, Administrative Agent shall, charge all interest and fees (when due and payable), all costs, expenses and other amounts payable by Borrower under Section 12.05 (as and when incurred), all charges, commissions, fees, and costs provided for in Article III (as and when accrued or incurred), all fees and costs provided for in Article IV (as and when accrued or incurred), and all other payments as and when due and payable under any Term Loan Document (including the amounts due and payable with respect to the Term B Loans) to the Borrower's loan account, which amounts thereafter, subject to Section 2.08(c), shall accrue interest at the rate then applicable to Term B Loans that are ABR Loans.

SECTION 4.04. Net Payments. (a) Subject to the following sentence, all payments made by or on behalf of a Credit Party under this Agreement or any other Term Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any current or future Taxes or other Taxes other than Excluded Taxes. If any such Taxes or Other Taxes other than Excluded Taxes ("*Non-Excluded Taxes*") are required by Applicable Law to be withheld from any amounts payable under this Agreement or any other Term Loan Document, or if a Credit Party is not required to so withhold or deduct any Non-Excluded Taxes because a Secured Party is exempt from such withholding or deduction and is instead required under Applicable Law to directly pay any Non-Excluded Taxes to the relevant Governmental Authority, the Credit Party shall increase such amounts payable to the extent necessary to yield to each Secured Party (after payment of all Non-Excluded Taxes) the amounts payable hereunder at the rates or in the amounts specified in this Agreement. Whenever any Non-Excluded Taxes are payable by the Credit Party, as promptly as possible thereafter, the Credit Party shall make such deductions required to be made by it under Applicable Law, timely pay the full amount required to be deducted to the relevant Governmental Authority in accordance with Applicable Law, and the Credit Party shall send to the Administrative Agent for its own account or for the account of a Secured Party, as the case may be, a certified copy of an original official receipt (or other evidence acceptable to such Secured Party, acting reasonably) received by the Borrower showing payment thereof. If the Borrower fails to pay any Non-Excluded Taxes when due to the appropriate taxing authority or fails to remit to the Administrative Agent the required receipts or other required documentary evidence, the Borrower shall indemnify each Secured Party for any incremental taxes, interest, costs or penalties that may become payable by any Secured Party as a result of any such failure.

(b) Without limiting the provisions of subsection (a) above, each Credit Party shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

(c) Each Credit Party shall indemnify each Secured Party within ten days after demand therefore, for the full amount of any Non-Excluded Taxes or Other Taxes (including Non-Excluded Taxes or Other Taxes imposed or asserted on or attributable to amounts payable

under this Section 4.04) paid by such Secured Party, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the applicable Credit Party by a Secured Party, or Agent on its own behalf or on behalf of a Secured Party, shall be conclusive absent manifest error.

(d) Each Lender that is not organized under the laws of the United States of America or any state thereof (a "*Non-U.S. Lender*") shall:

(i) deliver to the Borrower and the Administrative Agent two copies of either (A) in the case of Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", United States Internal Revenue Service Form W-8BEN (together with a certificate representing that such Non-U.S. Lender is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d)(4) of the Code)), or (B) Internal Revenue Service Form W-8BEN or Form W-8ECI, in each case properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or reduced rate of, U.S. federal withholding tax on payments by the Borrower under this Agreement;

(ii) deliver to the Borrower and the Administrative Agent two further copies of any such form or certification (or any applicable successor form) promptly upon the obsolescence or invalidity of any form previously delivered by such Non-U.S. Lender; and

(iii) obtain such extensions of time for filing and complete such forms or certifications as may reasonably be requested by the Borrower or the Administrative Agent,

unless in any such case any change in treaty, law or regulation has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrower and the Administrative Agent, in which case such Lender shall not be required to provide any form under subparagraphs (i) or (ii) above. Each Person that shall become a Participant pursuant to Section 12.06 or a Lender pursuant to Section 12.06 shall, upon the effectiveness of the related transfer, be required to provide all the forms and statements required pursuant to this Section 4.04(d) or (e), as applicable; provided, that in the case of a Participant such Participant shall furnish all such required forms and statements to the Lender from which the related participation shall have been purchased.

(e) Each Lender that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement 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, 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; provided, that such Lender is legally entitled to complete,

execute and deliver such documentation and in such Lender's judgment such completion, execution or submission would not materially prejudice the legal position of such Lender.

(f) If any Lender or any Agent determines, in its sole discretion, that it has received a refund of a tax for which an additional payment has been made by the Borrower pursuant to this Section 4.04 or Section 12.05 of this Agreement, then such Lender or such Agent, as the case may be, shall reimburse the Borrower for such amount (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 4.04 and Section 12.05 with respect to the tax giving rise to such refund), net of all out-of-pocket expenses of such Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Borrower, upon the request of such Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent or such Lender in the event such Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require any Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

All obligations of the Credit Parties under this Section 4.04 shall survive termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

SECTION 4.05. Computations of Interest and Fees. (a) All interest and fees shall be computed on the basis of the actual number of days (including the first day but excluding the last day) occurring during the period for which such interest or fee is payable over a year comprised of (a) 365 (or 366 as appropriate) days in the case of ABR Loans and (b) 360 days in all other cases. Payments due on a day that is not a Business Day shall (except as otherwise required by Section 2.09(c)) be made on the next succeeding Business Day and such extension of time shall be included in computing interest and fees in connection with that payment.

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

(c) For the purposes of this Agreement, whenever interest is calculated on the basis of a period which is less than the actual number of days in a calendar year, each rate of interest determined pursuant to such calculation is, for the purposes of the *Interest Act* (Canada), equivalent to such rate multiplied by the actual number of days in the calendar year in which such rate is to be ascertained and divided by the number of days used as the basis of such calculation.

ARTICLE V

Conditions Precedent to the Effectiveness of this Agreement

The effectiveness of this Agreement is subject to the satisfaction of the following conditions precedent on or before November 30, 2007:

SECTION 5.01. Amended and Restated Term Loan Documents. The Collateral Agent shall have received the following documents (the "*Amended and Restated Term Loan*

Documents"), duly executed by an Authorized Officer of each Credit Party and each other relevant party:

- (a) this Agreement;
- (b) the Credit Agreement;
- (c) the amendment to the Intercreditor Agreement, dated as of the date hereof;
- (d) the amended and restated Fee Letter, dated as of the date hereof;
- (e) a legal opinion from counsel to each of the Credit Parties under this Agreement in each of the jurisdictions covered by the legal opinions delivered in connection with the closing of the Original Credit Agreement; and
- (f) any other document reasonably required by the Agents for purposes of consummating the transactions contemplated hereunder.

SECTION 5.02. Secretary's Certificates. The Agents shall have received a certificate for each Credit Party, dated the Closing Date, duly executed and delivered by such Credit Party's secretary or assistant secretary, managing member or general partner, as applicable, as to:

(a) resolutions of each such Person's board of managers/directors (or other managing body, in the case of a Person that is not a corporation) then in full force and effect expressly and specifically authorizing, to the extent relevant, all aspects of the Amended and Restated Term Loan Documents applicable to such Person and the execution, delivery and performance of each Amended and Restated Term Loan Document to be executed by such Person;

(b) the incumbency and signatures of its Authorized Officers and any other of its officers, managing member or general partner, as applicable, authorized to act with respect to each Amended and Restated Term Loan Document to be executed by such Person; and

(c) each such Person's Organization Documents, as amended, modified or supplemented as of Closing Date, certified by the appropriate officer or official body of the jurisdiction of organization of such Person or a certification that no amendments to such Person's Organization Documents have occurred since previously delivered to the Agents on the Original Closing Date,

which certificates shall provide that each Secured Party may conclusively rely thereon until it shall have received a further certificate of the secretary, assistant secretary, managing member or general partner, as applicable, of any such Person canceling or amending the prior certificate of such Person as provided in Section 8.01(l).

ARTICLE VI

Additional Conditions Precedent

SECTION 6.01. Conditions Precedent to all Credit Events.

(a) No Default: Representations and Warranties. The agreement of each Lender to make any Loan requested to be made by it on any date is subject to the satisfaction of the condition precedent that at the time of each such Credit Event and also after giving effect thereto, and in the case of the Credit Events on the Original Closing Date, both before and after giving effect to the consummation of the Transactions: (a) no Default or Event of Default shall have occurred and be continuing, (b) all representations and warranties made by each Credit Party contained herein or in the other Term Loan Documents shall be true and correct in all material respects (except in the case of the initial Credit Events that occurred on the Original Closing Date, in which case all representations and warranties made by each Credit Party contained herein or in the other Term Loan Documents shall be true and correct in all respects), in each case, with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date); provided, that any representation or warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct in all respects on such respective dates and (c) no injunction, writ, restraining order, or other order of any nature restricting or prohibiting, directly or indirectly, such Credit Event shall have been issued and remain in force by any Governmental Authority against the Borrower, any Agent, any Lender. The acceptance of the benefits of each Credit Event shall constitute a representation and warranty by each Credit Party to each of the Lenders that all the applicable conditions specified above exist as of that time.

(b) Notice of Borrowing. (i) Prior to the making of each Term B Loan the Administrative Agent shall have received a Notice of Borrowing (whether in writing or by telephone promptly followed in writing) meeting the requirements of Section 2.03.

ARTICLE VII

Representations, Warranties and Agreements

In order to induce the Lenders to enter into this Agreement, make the Loans as provided for herein, the Credit Parties make the following representations and warranties to, and agreements with, the Lenders, all of which shall survive the execution and delivery of this Agreement, the making of the Loans:

SECTION 7.01. Corporate Status. Each Credit Party (a) is a duly organized or formed and validly existing corporation or other registered entity in good standing under the laws of the jurisdiction of its organization and has the corporate or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing in all jurisdictions where it does business or owns assets, except where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

SECTION 7.02. Corporate Power and Authority. Each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Term Loan Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of

the Term Loan Documents to which it is a party. Each Credit Party has duly executed and delivered the Term Loan Documents and each other Transaction Document to which it is a party and such Transaction Documents constitute the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law).

SECTION 7.03. No Violation. None of (a) the execution, delivery and performance by any Credit Party of the Term Loan Documents to which it is a party and compliance with the terms and provisions thereof, (b) the consummation of the Transactions, or (c) the consummation of the other transactions contemplated hereby or thereby on the relevant dates therefor will (i) contravene any applicable provision of any material Applicable Law of any Governmental Authority, (ii) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of any Credit Party (other than Liens created under the Term Loan Documents) pursuant to, (A) the terms of any material indenture, loan agreement, lease agreement, mortgage or deed of trust, or (B) any other material Contractual Obligation, in the case of either clause (A) and (B) to which any Credit Party is a party or by which it or any of its property or assets is bound or (iii) violate any provision of the Organization Documents of any Credit Party.

SECTION 7.04. Litigation, Labor Controversies, etc. There is no pending or, to the knowledge of any Credit Party, threatened, litigation, action, proceeding or labor controversy (including without limitation, strikes, lockouts or slowdowns against the Credit Parties or any of their respective Subsidiaries pending or, to the knowledge of any Credit Party, threatened) (a) except as disclosed in Schedule 7.04 or (b) which purports to affect the legality, validity or enforceability of any Term Loan Document, any Transaction Document or the Transactions.

SECTION 7.05. Use of Proceeds: Regulations U and X. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 8.12. No Credit Party is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Credit Event will be used to purchase or carry margin stock or otherwise for a purpose which violates, or would be inconsistent with Regulation U or Regulation X.

SECTION 7.06. Approvals, Consents, etc. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other Person, and no consent or approval under any contract or instrument (other than (a) those that have been duly obtained or made and which are in full force and effect, and (b) the filing of UCC and PPSA financing statements and other equivalent filings for foreign jurisdictions) is required for the consummation of the Transactions or the due execution, delivery or performance by any Credit Party of any Term Loan Document to which it is a party, or for the due execution, delivery or performance of the Transaction Documents, in each case by any of the parties thereto. There does not exist any judgment, order, injunction or other restraint issued or filed with respect to the transactions contemplated by the Transaction Documents, the consummation of the

Transactions, the making of any Credit Event or the performance by the Credit Parties or any of their respective Subsidiaries of their Obligations under the Term Loan Documents.

SECTION 7.07. Investment Company Act. No Credit Party is, or will be after giving effect to the Transactions and the transactions contemplated under the Term Loan Documents, an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940.

SECTION 7.08. Accuracy of Information. (a) None of the factual information and data (taken as a whole) heretofore or contemporaneously furnished by any Credit Party, any of their respective Subsidiaries or any of their respective authorized representatives in writing to any Agent or any Lender on or before the Original Closing Date (including all information contained in the Term Loan Documents) for purposes of or in connection with this Agreement or any of the Transactions contained any untrue statement of a material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading, in each case, at such time in light of the circumstances under which such information or data was furnished.

(b) The Budget and pro forma financial information provided to Collateral Agent were prepared in good faith based upon assumptions believed by the Credit Parties to be reasonable at the time made, it being recognized by the Agents and the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

SECTION 7.09. Financial Condition: Financial Statements. The Historical Financial Statements present fairly in all material respects the financial position and results of operations of each of the Parent Guarantor and its Subsidiaries and each of the Target Companies at the respective dates of such information and for the respective periods covered thereby, subject in the case of unaudited financial information, to changes resulting from normal year end audit adjustments and to the absence of footnotes. The Historical Financial Statements and all of the balance sheets, all statements of income and of cash flow and all other financial information furnished pursuant to Section 8.01 have been and will for all periods following the Original Closing Date be prepared in accordance with GAAP consistently applied with Parent Guarantor's Historical Financial Statements (other than as required by changes in GAAP). All of the financial information to be furnished pursuant to Section 8.01 will present fairly in all material respects the financial position and results of operations of the Parent Guarantor and its Subsidiaries at the respective dates of such information and for the respective periods covered thereby, subject in the case of unaudited financial information, to changes resulting from normal year end audit adjustments and to the absence of footnotes. As of the Original Closing Date, none of the Credit Parties nor any of their respective Subsidiaries had any Indebtedness or other material obligations or liabilities, direct or contingent (other than (i) the liabilities reflected on Schedule 7.25, (ii) obligations arising under the Original Credit Agreement, the other Credit Documents (as defined in the Original Credit Agreement) and the Convertible Senior Note and (iii) liabilities incurred in the ordinary course of business).

SECTION 7.10. Tax Returns and Payments. Each Credit Party has filed all applicable federal, provincial and state income tax returns and all other material tax returns, domestic and foreign, required to be filed by them and has paid all material Taxes and assessments payable by them that have become due, other than those not yet delinquent or contested in good faith. Each Credit Party and its Subsidiaries has paid, or has provided adequate reserves (in the good faith judgment of the management of the Credit Parties) in accordance with GAAP for the payment of, all applicable material federal, provincial, state and foreign income taxes applicable for all prior fiscal years and for the current fiscal year to the Closing Date. No tax Lien has been filed, and, to the knowledge of any Credit Party, no material claim is being asserted, with respect to any such tax, fee, or other charge.

SECTION 7.11. Compliance with ERISA. Each Plan is in compliance with ERISA, the Code and any Applicable Law; no Reportable Event has occurred (or is reasonably likely to occur) with respect to any Plan; no Plan is insolvent or in reorganization or in endangered or critical status within the meaning of Section 422 of the Code or Section 205 of Title IV of ERISA (or is reasonably likely to be insolvent or in reorganization), and no written notice of any such insolvency or reorganization has been given to any of the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate; no Plan (other than a multiemployer plan) has an accumulated or waived funding deficiency (as defined in Section 412 of the Code or Section 302 of ERISA (or is reasonably likely to have such a deficiency)); none of the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate has incurred (or is reasonably likely expected to incur) any liability to or on account of a Plan pursuant to Section 409, 502(i), 502(j), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code or has been notified in writing that it will incur any liability under any of the foregoing Sections with respect to any Plan; no proceedings have been instituted (or are reasonably likely to be instituted) to terminate or to reorganize any Plan or to appoint a trustee to administer any Plan, and no written notice of any such proceedings has been given to any of the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate; and no lien imposed under the Code or ERISA on the assets of any of the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate exists (or is reasonably likely to exist) nor have the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate been notified in writing that such a lien will be imposed on the assets of any of the Credit Parties, any of their respective Subsidiaries or any ERISA Affiliate on account of any Plan. No Plan (other than a multiemployer plan) has an Unfunded Current Liability. With respect to Plans that are multiemployer plans (as defined in Section 3(37) of ERISA), the representations and warranties in this Section 7.11, other than any made with respect to (a) liability under Section 4201 or 4204 of ERISA or (b) liability for termination or reorganization of such Plans under ERISA, are made to the best knowledge of the Credit Parties.

SECTION 7.12. Subsidiaries. None of the Credit Parties has any Subsidiaries other than the Subsidiaries listed on Schedule 7.12. Schedule 7.12 describes the direct and indirect ownership interest of each of the Credit Parties in each Subsidiary. Planet Organic Market Corp. is an inactive Subsidiary that does not own any property or assets and does not transact business.

SECTION 7.13. Intellectual Property; Licenses, etc. Each Credit Party owns, or possesses the right to use, all of the material trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other rights that are reasonably necessary for the operation

of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of each such Credit Party, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed by such Credit Party infringes upon any rights held by any other Person. Except as specifically set forth on Schedule 7.04, no claim or litigation regarding any of the foregoing is pending or, to the best knowledge of such Credit Party threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of such Credit Party proposed.

SECTION 7.14. Environmental Warranties. Except as set forth in Schedule 7.14:

(a) the businesses carried on by any Credit Party or Subsidiary of a Credit Party have not violated and do not violate any Environmental Laws;

(b) all facilities and property (including underlying groundwater) owned or leased by any Credit Party or Subsidiary of a Credit Party have been, and continue to be, owned or leased by such Person in material compliance with all Environmental Laws;

(c) there have been no past, and there are no pending or threatened (i) claims, complaints, notices or requests for information received by any Credit Party or Subsidiary of a Credit Party with respect to any alleged violation of any Environmental Law, or (ii) complaints, orders, notices or inquiries to any Credit Party or Subsidiary of a Credit Party regarding potential or actual liability under any Environmental Law;

(d) there have been no Releases, emissions, deposits, discharges, leachings, migrations or spills of Hazardous Materials at, on or under any property now or previously owned or leased by any Credit Party or Subsidiary of a Credit Party or into the earth, air, into any body or conduit of water (including, without limitation, ground water) or into any municipal or other sewer or drain water system in excess of reportable or allowable standards or levels under any Environmental Law;

(e) Credit Parties and their respective Subsidiaries have been issued and are in material compliance with all permits, certificates, approvals, licenses and other authorizations relating to environmental matters and required under any Environmental Laws in connection with the operation of the business carried on by it and have not received any notification pursuant to any Environmental Laws;

(f) no Real Property now or previously owned or leased by any Credit Party or Subsidiary of a Credit Party is listed or proposed for listing (with respect to owned Real Property only) on the National Priorities List pursuant to CERCLA, on the CERCLIS or on any similar federal, provincial or state list of sites requiring investigation or clean-up;

(g) the Real Property now or previously owned or leased by any Credit Party or Subsidiary of a Credit Party has not been used as a storage or disposal site for any Hazardous Material;

(h) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under any Real Property now or previously owned or leased by any Credit Party or Subsidiary of a Credit Party;

(i) neither Credit Parties nor their respective Subsidiaries have directly transported or directly arranged for the transportation of any Hazardous Material to any location which is listed or proposed for listing on the National Priorities List pursuant to CERCLA, on the CERCLIS or on any similar state list or which is the subject of federal, state or local enforcement actions or other investigations which may lead to material claims against such Person for any remedial work, damage to natural resources or personal injury, including claims under CERCLA;

(j) there are no polychlorinated biphenyls or friable asbestos present at any Real Property now or previously owned or leased by any Credit Party or Subsidiary of any Credit Party; and

(k) to each Credit Party's knowledge, no conditions exist at, on or under any Real Property now or previously owned or leased by any Credit Party or Subsidiary of any Credit Party which, with the passage of time, or the giving of notice or both, would give rise to material liability under any Environmental Law.

SECTION 7.15. Ownership of Properties. Set forth on Schedule 7.15 is a list, as of the Closing Date, of all of the Real Property owned or leased by any of the Credit Parties or their respective Subsidiaries, indicating in each case whether the respective property is owned or leased, the identity of the owner or lessor and the location of the respective property. Each Credit Party owns (a) in the case of owned Real Property, good, indefeasible fee simple title to such Real Property, (b) in the case of owned personal property, good and valid title to such personal property, and (c) in the case of leased Real Property or personal property, valid, subsisting, and enforceable (except as may be limited by bankruptcy, insolvency, moratorium, fraudulent conveyance or other laws applicable to creditors' rights generally and by generally applicable equitable principles, whether considered in an action at law or in equity) leasehold interests (as the case may be) in such leased property. The interest of the applicable Credit Party in each of the interests referred to in (a) through (c) above is free and clear of all Liens or claims, except for Permitted Liens.

SECTION 7.16. No Default. None of the Credit Parties or any of their respective Subsidiaries is in default under or with respect to, or a party to, any material Contractual Obligation.

SECTION 7.17. Solvency. On the Closing Date after giving effect to the Transactions and the other transactions related thereto, the Parent Guarantor and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 7.18. Security Documents. Each Security Pledge Agreement is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first priority security interest in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock described in each Security Pledge Agreement, when stock certificates representing such Pledged Stock are delivered to the Collateral Agent, and in

the case of the other Collateral described in each Security Pledge Agreement, when financing statements and other filings specified on Schedule 7.18 in appropriate form are filed in the offices specified on Schedule 7.18, each Security Pledge Agreement shall constitute a fully perfected Lien on, and first priority (subject only to Permitted Liens) security interest in, all right, title and interest of the Credit Parties in such Collateral and the proceeds thereof, to the extent such proceeds can be protected by a filing, as security for the Obligations.

SECTION 7.19. Compliance with Laws; Authorizations. Each Credit Party and each of its Subsidiaries (a) is in material compliance with all Applicable Laws and (b) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted. No Credit Party has received any notice to the effect that its operations are not in compliance with any Environmental Law or are the subject of any investigation by any Governmental Authority evaluating whether any remedial action is needed to respond to a Release.

SECTION 7.20. No Material Adverse Effect. Since June 30, 2006, there has been no Material Adverse Effect, and there has been no circumstance, event or occurrence, and no fact is known to the Credit Parties that could reasonably be expected to result in a Material Adverse Effect.

SECTION 7.21. Contractual or Other Restrictions. Other than the Term Loan Documents, as set forth in Schedule 7.21 and to the extent permitted by Section 9.10, no Credit Party or any of its Subsidiaries is a party to any agreement or arrangement or subject to any Applicable Law that limits its ability to pay dividends to, or otherwise make Investments in or other payments to any Credit Party, that limits its ability to grant Liens in favor of the Collateral Agent or that otherwise limits its ability to perform the terms of the Term Loan Documents.

SECTION 7.22. Transaction Documents. All representations and warranties of (a) the Credit Parties set forth in the Transaction Documents and (b) to the best knowledge of the Credit Parties, of each other Person (other than the Lenders) party to the Transaction Documents, were true and correct as of the time as of which such representations and warranties were made and shall be true and correct as of the Closing Date as if such representations and warranties were made on and as of such date (unless such representation or warranty is given as of a specific date). No default or event of default on the part of any Credit Party or to the knowledge of any Credit Party, any other Person, has occurred and is continuing under any Transaction Document. Each Transaction Document is in full force and effect, enforceable against each of the parties thereto (except as may be limited by bankruptcy, insolvency, moratorium, fraudulent conveyance or other laws applicable to creditors' rights generally and by generally applicable equitable principles, whether considered in an action at law or in equity), no Transaction Document has been amended or modified except as disclosed to the Collateral Agent on or prior to the Closing Date or otherwise in accordance with Section 9.07, and no waiver or consent has been granted under any such document, except in accordance with Section 9.07. There are no agreements, contracts or other arrangements entered into by any Credit Party or Subsidiary of any Credit Party for the payment of fees, compensation or other similar amounts to any shareholder or member of the management of any Credit Party other than payments in the ordinary course of business to the employees of such Credit Party under employment contracts.

SECTION 7.23. Collective Bargaining Agreements. Set forth on Schedule 7.23 is a list and description (including dates of termination) of all collective bargaining or similar agreements between or applicable to any Credit Party or any of its Subsidiaries as of the Closing Date and any union, labor organization or other bargaining agent in respect of the employees of any Credit Party or any of its Subsidiaries.

SECTION 7.24. Insurance. The properties of each Credit Party are insured with financially sound and reputable insurance companies not Affiliates of any Credit Party against loss and damage in such amounts, with such deductibles and covering such risks as are customarily carried by Persons of comparable size and of established reputation engaged in the same or similar businesses and owning similar properties in the general locations where such Credit Party operates, in each case as described on Schedule 7.24. All premiums with respect thereto that are due and payable have been duly paid and no Credit Party has received or is aware of any notice of violation or cancellation thereof and each Credit Party has complied in all material respects with the requirements of such policy.

SECTION 7.25. Evidence of Other Indebtedness. Schedule 7.25 is a complete and correct list of each credit agreement, loan agreement, indenture, purchase agreement, guarantee, letter of credit or other arrangement providing for or otherwise relating to any Indebtedness or any extension of credit (or commitment for any extension of credit) to, any Credit Party outstanding on the Closing Date which will remain outstanding after the Closing Date (other than this Agreement and the other Term Loan Documents), and the aggregate principal or face amount outstanding or that may become outstanding under each such arrangement as of the Closing Date is correctly described in Schedule 7.25.

SECTION 7.26. Deposit Accounts and Securities Accounts. Set forth in Schedule 7.26 is a list of all of the deposit accounts and securities accounts of each Credit Party, including, with respect to each bank or securities intermediary at which such accounts are maintained by such Credit Party (a) the name and location of such Person and (b) the account numbers of the deposit accounts or securities accounts maintained with such Person.

SECTION 7.27. Absence of any Undisclosed Liabilities. There are no material liabilities of any Credit Party of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition, situation or set of circumstances which could reasonably be expected to result in any such liabilities, other than those liabilities provided for or disclosed in the most recently delivered financial statements pursuant to Section 8.01.

SECTION 7.28. Canadian Pension Plans.

(i) Schedule 7.28 sets forth a complete list of the Canadian Pension Plans and any other Canadian Benefit Plans, identifying any Canadian Benefit Plans that are supplemental pension plans or non-pension post-employment benefits plans;

(ii) The Canadian Benefit Plans are, and have been, established, registered, amended, funded, invested and administered in compliance with the terms of such Canadian Benefit Plans (including the terms of any documents in respect of such Canadian Benefit Plans),

all Applicable Law and any applicable collective agreements. There is no investigation by a Governmental Authority or claim (other than routine claims for payment of benefits) pending or threatened involving any Canadian Benefit Plan or their assets, and no facts exist which could reasonably be expected to give rise to any such investigation or claim (other than routine claims for payment of benefits);

(iii) All employer and employee payments, contributions and premiums required to be remitted, paid to or in respect of each Canadian Pension Plan have been paid or remitted in accordance with its terms and all Applicable Law;

(iv) No Pension Plan Termination Event has occurred;

(v) There is no Pension Plan Unfunded Liability; and

(vi) None of the Canadian Benefit Plans, other than the Canadian Pension Plans, provide benefits beyond retirement or other termination of service to employees or former employees or to the beneficiaries or dependants of such employees.

SECTION 7.29. PACA Participants. Schedule 7.29 hereto, as of the Closing Date and as may be updated at the request of the Administrative Agent in its sole discretion sets forth the name, address and telephone number of the Credit Parties' largest five (5) PACA Participants (by Dollar amount of Collateral supplied), and each PACA Participant has received Full Payment Promptly by or on behalf of the Borrower and each Credit Party and has no outstanding PACA Claim except for PACA Claims not in excess of \$25,000, individually, or \$50,000 in the aggregate, against the Borrower or any Credit Party or any of their assets.

ARTICLE VIII

Affirmative Covenants

The Credit Parties hereby covenant and agree that on the Closing Date and thereafter, until the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than Unasserted Contingent Obligations) are paid in full in accordance with the terms of this Agreement:

SECTION 8.01. Financial Information, Reports, Notices and Information. The Credit Parties will furnish each Agent and each Lender copies of the following financial statements, reports, notices and information:

(a) Monthly Financial Statements. As soon as available and in any event within thirty (30) days after the end of each month, except for the first twelve months after the Original Closing Date, then within forty-five (45) days after the end of each month, (i) (x) unaudited consolidated and consolidating balance sheets of the Parent Guarantor and its Subsidiaries as of the end of such month, and (ii) (y) unaudited consolidated and consolidating statements of income and cash flow of the Parent Guarantor and its Subsidiaries as of the end of such month, in each case, including in comparative form (both in Dollar and percentage terms) the figures for the corresponding month in the preceding fiscal year of Parent Guarantor, and year-to-date portion of, the immediately preceding fiscal year of Parent Guarantor, and when such Budget has

been delivered pursuant to Section 8.01(e), a comparison (both in Dollar and percentage terms) to projections for such month in the then-current Budget and (ii) Consolidated Adjusted EBITDA for the year-to-date portion of such fiscal year ending concurrently with such month, including, in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA, for such year-to-date period in the then-current Budget and for the same year-to-date period in the immediately preceding fiscal year.

(b) Quarterly Financial Statements. As soon as available and in any event within forty-five (45) days after the end of each fiscal quarter of Parent Guarantor, except for the first four (4) fiscal quarters of Parent Guarantor after the Original Closing Date, then within sixty (60) days after the end of each fiscal quarter of Parent Guarantor, (i)(A) unaudited consolidated and consolidating balance sheets of the Parent Guarantor and its Subsidiaries as of the end of such fiscal quarter, and (B) unaudited consolidated and consolidating statements of income and cash flow of the Parent Guarantor and its Subsidiaries for such fiscal quarter, in each case, and for the period commencing at the end of the previous fiscal year of Parent Guarantor and ending with the end of such fiscal quarter, including (in each of clause (A) and (B) (if applicable)), in comparative form (both in Dollar and percentage terms) the figures for the corresponding fiscal quarter in, and year-to-date portion of, the immediately preceding fiscal year of Parent Guarantor, and when such Budget has been delivered pursuant to Section 8.01(e), a comparison (both in Dollar and percentage terms) to projections for such fiscal quarter, and period commencing at the end of the previous fiscal year of Parent Guarantor and ending with the end of such fiscal quarter, in the then-current Budget, certified as complete and correct by an Authorized Officer of the Borrower, (ii) Consolidated Adjusted EBITDA (A) for the year-to-date portion of such fiscal year of Parent Guarantor ending concurrently with such fiscal quarter, including, in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for such year-to-date portion of such fiscal year period in the then-current Budget, and for the same year-to-date period in the immediately preceding fiscal year of Parent Guarantor, and (B) for the Test Period ending concurrently with such fiscal quarter, including, in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for such Test Period in the then-current Budget, and for the Test Period immediately preceding such reported period, and (iii) a management discussion and analysis (with reasonable detail and specificity) of the results of operations for the fiscal periods reported, including, in comparative form the figures for the corresponding fiscal quarter in, and year-to-date portion of, the immediately preceding fiscal year of Parent Guarantor, and a comparison to projections for such fiscal quarter, and period commencing at the end of the previous fiscal year of Parent Guarantor and ending with the end of such fiscal quarter.

(c) Annual Financial Statements. As soon as available and in any event within ninety (90) days after the end of each fiscal year of Parent Guarantor, except for the first fiscal year of Parent Guarantor after the Original Closing Date, then within one hundred twenty (120) days after the end of such fiscal year of Parent Guarantor, (i) copies of the consolidated and consolidating balance sheets of the Parent Guarantor and its Subsidiaries, and the related consolidated and consolidating statements of income and cash flows of the Parent Guarantor and its Subsidiaries for such fiscal year, setting forth in comparative form (both in Dollar and percentage terms) the figures for the immediately preceding fiscal year and in the then-current Budget for such fiscal year, such consolidated statements audited and certified without qualification, or exception as to the scope of such audit, by the Parent Guarantor's current

auditor or another independent public accounting firm reasonably acceptable to the Collateral Agent, and stating that, in performing the examination necessary to deliver such audited financial statements, no knowledge was obtained of any Event of Default under Section 9.13, together with a management discussion and analysis (with reasonable detail and specificity) of the results of operations for the fiscal periods reported and (ii) Consolidated Adjusted EBITDA for such fiscal year, including, in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for such fiscal year in the then-current Budget and for the same year-to-date period in the immediately preceding fiscal year.

(d) Compliance Certificates. Concurrently with the delivery of the financial information pursuant to clauses (b) and (c) above, a Compliance Certificate, executed by an Authorized Officer of the Borrower, (i) showing compliance with the Financial Performance Covenants and stating that no Default or Event of Default has occurred and is continuing (or, if a Default or an Event of Default has occurred, specifying the details of such Default or Event of Default and the actions taken or to be taken with respect thereto) and containing the applicable representations set forth in Section 7.09 with respect thereto, (ii) specifying any change in the identity of the Subsidiaries as at the end of such fiscal year or period, as the case may be, from the Subsidiaries provided to the Lenders on the Original Closing Date or the most recent fiscal year or period, as the case may be, and (iii) including a written supplement substantially in the form of Schedules 1-5, as applicable, to each Security Pledge Agreement with respect to any additional assets and property acquired by any Credit Party after the date hereof, all in reasonable detail.

(e) Budget. Within thirty (30) days after the commencement of each fiscal year of Parent Guarantor, commencing with its fiscal year ending June 30, 2007, the forecasted financial projections for the then current fiscal year and the next succeeding fiscal year (on a quarterly basis through the fiscal year ending June 30, 2008, as well as for each following fiscal year to the last Maturity Date, on a month to month basis), in each case (including projections for Consolidated Capital Expenditures, a projected consolidated and consolidating balance sheet of the Parent Guarantors and its Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow, projected changes in financial position and projected income and a description of the underlying assumptions applicable thereto), in each case, as customarily prepared by management of the Credit Parties for their internal use consistent in scope with the financial statements provided pursuant to Section 8.01(c), setting forth the principal assumptions on which such projections are based (such projections and the projections delivered as of the Original Closing Date pursuant to Section 5.09(b) of the Original Credit Agreement, collectively, the "*Budget*").

(f) Defaults; Litigation. As soon as possible and in any event within three (3) Business Days after an Authorized Officer of any Credit Party or any of their respective Subsidiaries obtains knowledge thereof, notice from an Authorized Officer of the Borrower of (i) the occurrence of any event that constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the applicable Credit Parties propose to take with respect thereto, and (ii) (A) the occurrence of any material adverse development with respect to any litigation, action, proceeding or labor controversy described in Schedule 7.04 or (B) the commencement of any litigation, action, proceeding or labor

controversy of the type and the materiality described in Section 7.04, and to the extent the Collateral Agent requests, copies of all documentation related thereto.

(g) Other Litigation. Promptly upon, and in any event within three (3) Business Days after, becoming aware of any pending or threatened litigation, action, proceeding or other controversy which purports to affect the legality, validity or enforceability of any Term Loan Document, any other Transaction Document or any other document or instrument referred to in Section 9.07, a statement of an Authorized Officer of the Borrower, which notice shall specify the nature thereof, and what actions the applicable Credit Parties propose to take with respect thereto, together with copies of all relevant documentation.

(h) Transaction Documents. As soon as possible and in any event within three (3) days after any Credit Party obtains knowledge of the occurrence of a breach or default or notice of termination by any party under, or material amendment entered into by any party to, any Transaction Document or any other document or instrument referred to in Section 9.07, a statement of an Authorized Officer of the Borrower setting forth details of such breach or default or notice of termination and the actions taken or to be taken with respect thereto and, if applicable, a copy of such amendment.

(i) Plans. Immediately upon becoming aware of (i) the institution of any steps by any Person to terminate any Plan, (ii) the failure to make a required contribution to any Plan if such failure is sufficient to give rise to a Lien under Section 302(f) of ERISA, (iii) the taking of any action with respect to a Plan which could result in the requirement that any Credit Party furnish a bond or other security to the PBGC or such Plan, or (iv) the occurrence of any event with respect to any Plan which could result in the incurrence by any Credit Party of any material liability, fine or penalty, notice thereof and copies of all documentation relating thereto.

(j) Management Letters. Promptly upon, and in any event within three (3) Business Days after, receipt thereof, copies of all "management letters" submitted to any Credit Party by the independent public accountants referred to in Section 8.01(c) in connection with each audit made by such accountants.

(k) Bankruptcy, etc. Immediately upon becoming aware thereof, notice (whether involuntary or voluntary) of the bankruptcy, insolvency, reorganization of any Credit Party, or the appointment of any trustee in connection with or anticipation of any such occurrence, or the taking of any step by any Person in furtherance of any such action or occurrence.

(l) Corporate Information. Promptly upon, and in any event within three (3) Business Days after, becoming aware of any additional corporate or limited liability company information of the type delivered pursuant to Section 5.02, or of any change to such information delivered on or prior to the Original Closing Date or pursuant to this Section 8.01 or otherwise under the Credit Documents, a certificate, certified to the extent of any change from a prior certification, from the secretary, assistant secretary, managing member or general partner of such Credit Party notifying the Collateral Agent of such information or change and attaching thereto any relevant documentation in connection therewith.

(m) Other Information. With reasonable promptness, such other information (financial or otherwise) as any Agent on its own behalf or on behalf of any Lender may reasonably request in writing from time to time, which information shall include copies of all non-confidential filings, reports and other documents delivered to any securities commission in paper or electronic form.

(n) Insurance Report. Substantially concurrently with the delivery of the financial statements provided for in Section 8.01(c), a report of a reputable insurance broker with respect to insurance policies maintained by the Credit Parties, as any Agent on its own behalf or on behalf of any Lender may reasonably request in writing from time to time.

(o) Canadian Benefit Plans. Immediately upon becoming aware thereof, notice (together with all documentation relating thereto) of: (A) a Pension Plan Termination Event; (B) the failure to make a required contribution to or payment under any Canadian Pension Plan when due; (C) the occurrence of any event which is reasonably likely to result in any liability, fine or penalty with respect to any Canadian Benefit Plan; (D) the existence of any report which discloses a Pension Plan Unfunded Liability, prior to the filing of such report with any Governmental Authority; and (E) the establishment of any new Canadian Benefit Plans or any material change to an existing Canadian Benefit Plan.

SECTION 8.02. Books, Records and Inspections. The Credit Parties will, and will cause each of their respective Subsidiaries to, maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Credit Parties or such Subsidiary, as the case may be. The Credit Parties will, and will cause each of their respective Subsidiaries to, maintain written records pertaining to PACA Commodities to which a constructive trust under PACA is applicable or to which any similar constructive trusts or liens under any similar law enacted by any other state or jurisdiction are applicable. The Credit Parties will, and will cause each of their respective Subsidiaries to, permit representatives and independent contractors of the Collateral Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Credit Parties and (unless an Event of Default then exists) at reasonable times during normal business hours, upon reasonable advance notice to the Credit Parties. Any information obtained by the Collateral Agent pursuant to this Section 8.02 may be shared with the Administrative Agent or any Lender upon the request of such Secured Party. The Collateral Agent shall give the Credit Parties the opportunity to participate in any discussions with the Credit Parties' independent public accountants.

SECTION 8.03. Maintenance of Insurance. (a) The Credit Parties will, and will cause each of their respective Subsidiaries to, at all times maintain in full force and effect, with insurance companies that the Credit Parties believe (in their reasonable business judgment) are financially sound and reputable at the time the relevant coverage is placed or renewed, insurance in at least such amounts and against at least such risks (and with such risk retentions) as are usually insured against in the same general area by companies engaged in businesses similar to those engaged in by the Credit Parties; and will furnish to the Collateral Agent for further

delivery to the Lenders, upon written request from the Collateral Agent, information presented in reasonable detail as to the insurance so carried, including (i) endorsements to (A) all "All Risk" policies naming the Collateral Agent, on behalf of the Secured Parties, as loss payee and (B) all general liability and other liability policies naming the Collateral Agent, on behalf of the Secured Parties, as additional insured and (ii) legends providing that no cancellation, material reduction in amount or material change in insurance coverage thereof shall be effective until at least thirty (30) days after receipt by the Collateral Agent of written notice thereof.

(b) Within forty-five (45) days after the Original Closing Date, the Credit Parties shall have delivered to the Collateral Agent copies of each insurance policy (or binders in respect in thereof), in form and substance reasonably satisfactory to the Collateral Agent.

(c) No later than December 31, 2007, the Borrower shall obtain, and at all times thereafter maintain in full force and effect, key-man life and critical illness insurance on Darren Krissie in a minimum coverage amount of US\$5,000,000, providing that the full amount of any proceeds thereof shall be payable to the First Lien Collateral Agent, who shall be the sole loss payee and certificate holder in respect thereof; provided, however, that such proceeds shall be used (i) to pay the salary and expenses of any interim management who shall replace Darren Krissie or (ii) to repay the outstanding principal balance under the Loans, in each case, at the discretion of the Required Lenders under this Agreement and the Required Lenders under (and as defined in) the Credit Agreement; provided that, in the event that Darren Krissie is replaced, such proceeds become mandatory prepayments of the Loans pursuant to Section 4.02(a).

SECTION 8.04. Payment of Taxes. The Credit Parties will pay and discharge, and will cause each of their respective Subsidiaries to pay and discharge, all material Taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which material interest or penalties attach thereto, and all lawful material claims that, if unpaid, could reasonably be expected to become a Lien upon any properties of the Credit Parties or any of their respective Subsidiaries; provided, that none of the Credit Parties or any of their respective Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim that is being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the reasonable business judgment of the management of the Credit Parties) with respect thereto in accordance with GAAP.

SECTION 8.05. Maintenance of Existence; Compliance with Laws, etc. Except as otherwise permitted under Section 9.03 hereof, each Credit Party will, and will cause its Subsidiaries to, (a) preserve and maintain in full force and effect its organizational existence, (b) preserve and maintain its good standing under the laws of its state or jurisdiction of incorporation, organization or formation, and each state or other jurisdiction where such Person is qualified, or is required to be so qualified, to do business as a foreign entity, and (c) comply in all material respects with all Applicable Laws, rules, regulations and orders, including payment (before the same became delinquent) of all Taxes imposed on any such Person or upon their property except to the extent being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP have been established on the books of such Person. Notwithstanding the foregoing, the Borrower will cause Planet Organic Market Corp. to be dissolved no later than September 30, 2007.

SECTION 8.06. Environmental Compliance.

- (a) Each Credit Party will, and will cause its Subsidiaries to, use and operate all of its and their facilities and properties in material compliance with all Environmental Laws, keep all necessary permits, approvals, certificate, licenses and other authorizations relating to environmental matters in effect and remain in material compliance therewith, and handle all Hazardous Materials in material compliance with all applicable Environmental Laws, and keep its and their property free of any Lien imposed by any Environmental Law.
- (b) The Borrower will promptly give notice to the Collateral Agent upon becoming aware (i) of any violation by any Credit Party or any of its Subsidiaries of any Environmental Law, (ii) of any inquiry with respect to, proceeding against, investigation of or other action with respect to any Credit Party under any Environmental Law, including without limitation a written request for information or a written notice of violation or potential environmental liability from any foreign, federal, state, provincial or local environmental agency or board or any other Person, or (iii) of the discovery of a Release or threat of a Release at, on, under or from any of the Real Property of any Credit Party or any facility or assets therein in excess of reportable or allowable standards or levels under any Environmental Law, or under circumstances, or in a manner or amount which could reasonably be expected to result in material liability under any Environmental Law.
- (c) In the event of the presence of any Hazardous Material on any Real Property of any Credit Party which is in violation of, or which could reasonably be expected to result in material liability under, any Environmental Law, each Credit Party and its respective Subsidiaries, upon discovery thereof, shall take all necessary steps to initiate and expeditiously complete all response, corrective and other action to mitigate and eliminate any such violation or potential liability, and shall keep the Collateral Agent informed on a regular basis of their actions and the results of such actions.
- (d) Each Credit Party shall provide the Collateral Agent with copies of any notice, submittal or documentation provided by any Credit Party or any of its Subsidiaries to any Governmental Authority or other Person under any Environmental Law. Such notice, submittal or documentation shall be provided to the Collateral Agent promptly and, in any event, within five (5) Business Days after such material is provided to any Governmental Authority or third party.
- (e) At the written request of the Collateral Agent, the Borrower shall provide, at its sole expense, an environmental site assessment (including, without limitation, the results of any groundwater or other testing, conducted at the Collateral Agent's reasonable request) concerning any Real Property now or hereafter owned, leased or operated by any Credit Party or any of its Subsidiaries, conducted by an environmental consulting firm approved by the Collateral Agent indicating the presence or absence of Hazardous Materials and the potential cost of any required action in connection with any Hazardous Materials on, at, under or emanating from such Real Property; provided, that such request may be made only if (i) there has occurred and is continuing an Event of Default, or (ii) circumstances exist that in the reasonable judgment of the Collateral Agent could be expected to result in a violation of or liability under any Environmental Law; provided further, if the Borrower fails to provide the same within sixty (60)

days after such request was made, the Collateral Agent may but is under no obligation to conduct the same, and the Credit Parties shall grant and hereby do grant to the Collateral Agent and its agents access to such Real Property and specifically grants the Collateral Agent an irrevocable non-exclusive license, subject to the rights of tenants, to undertake such an assessment, all at the Borrower's sole cost and expense.

SECTION 8.07. ERISA. (a) Promptly after any Credit Party or any of its Subsidiaries knows or has reason to know of the occurrence of any of the following events, the Borrower will deliver to the Agents and each Lender a certificate of an Authorized Officer of the Borrower setting forth details as to such occurrence and the action, if any, that such Credit Party, such Subsidiary or such ERISA Affiliate is required or proposes to take, together with any notices (required, proposed or otherwise) given to or filed with or by such Credit Party, such Subsidiary, such ERISA Affiliate, the PBGC, a Plan participant (other than notices relating to an individual participant's benefits) or the Plan administrator with respect thereto: that a Reportable Event has occurred; that an accumulated funding deficiency has been incurred or an application is to be made to the Secretary of the Treasury for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code with respect to a Plan; that a Plan having an Unfunded Current Liability has been or is to be terminated, reorganized, partitioned or declared insolvent under Title IV of ERISA (including the giving of written notice thereof); that a Plan has an Unfunded Current Liability that has or will result in a lien under ERISA or the Code; that proceedings will be or have been instituted to terminate a Plan having an Unfunded Current Liability (including the giving of written notice thereof); that a proceeding has been instituted against a Credit Party, a Subsidiary thereof or an ERISA Affiliate pursuant to Section 515 of ERISA to collect a delinquent contribution to a Plan; that the PBGC has notified any Credit Party, any Subsidiary thereof or any ERISA Affiliate of its intention to appoint a trustee to administer any Plan; that any Credit Party, any Subsidiary thereof or any ERISA Affiliate has failed to make a required installment or other payment pursuant to Section 412 of the Code with respect to a Plan; or that any Credit Party, any Subsidiary thereof or any ERISA Affiliate has incurred or will incur (or has been notified in writing that it will incur) any liability (including any contingent or secondary liability) to or on account of a Plan pursuant to Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code.

(b) Promptly following any request therefor, on and after the effectiveness of the Pension Act, copies of any documents described in Section 101(k) of ERISA that any Credit Party, any of its Subsidiaries or any ERISA Affiliate may request with respect to any Plan and any notices described in Section 101(l) of ERISA that any Credit Party, any of its Subsidiaries or any ERISA Affiliate may request with respect to any Plan; provided, that if any Credit Party, any of its Subsidiaries or any ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Plan, the applicable Credit Party, the applicable Subsidiary(ies) or the ERISA Affiliate(s) shall promptly make a request for such documents or notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof.

SECTION 8.08. Maintenance of Properties. Each Credit Party will, and will cause its Subsidiaries to, maintain, preserve, protect and keep its properties and assets in good repair,

working order and condition (ordinary wear and tear excepted and subject to dispositions permitted pursuant to Section 9.04), and make necessary repairs, renewals and replacements thereof and will maintain and renew as necessary all licenses, permits and other clearances necessary to use and occupy such properties and assets, in each case so that the business carried on by such Person may be properly conducted at all times, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 8.09. End of Fiscal Years; Fiscal Quarters. The Credit Parties will, for financial reporting purposes, cause (a) each of their, and each of their Subsidiaries', fiscal years to end on June 30 of each year and (b) each of their, and each of their Subsidiaries', fiscal quarters to end on dates consistent with such fiscal year-end and the Parent Guarantor's past practice; provided, that the Credit Parties may change their, and each of their respective Subsidiaries, fiscal year end (and change the end of the fiscal quarters in a corresponding manner) upon thirty (30) days' prior written notice to the Agents.

SECTION 8.10. Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Guarantee Agreement and each Security Pledge Agreement, as applicable, the Credit Parties will upon the formation or acquisition thereof cause any direct or indirect Subsidiary formed or otherwise purchased or acquired after the Original Closing Date to execute a (i) Guarantee Agreement, substantially in the form of Exhibit C to the Original Credit Agreement or Annex I to the Guarantee Agreement, as applicable, and (ii) supplement to each Security Pledge Agreement, substantially in the form of Annex I to each Security Pledge Agreement.

SECTION 8.11. Pledges of Additional Stock. (a) Subject to any applicable limitations set forth in the Security Pledge Agreement, the Credit Parties will pledge to the Collateral Agent for the benefit of the Secured Parties, all the Capital Stock of each Subsidiary directly held by such Credit Party in each case, formed or otherwise purchased or acquired after the Original Closing Date, (ii) any promissory notes executed after the Original Closing Date evidencing Indebtedness of any Credit Party or Subsidiary of any Credit Party that is owing to any other Credit Party and (iii) all other evidences of Indebtedness in excess of U.S.\$100,000 received by the Credit Parties.

(b) Each of the Credit Parties agree that all Indebtedness in excess of U.S.\$100,000 that is owing by any Credit Party or Subsidiary of any Credit Party to another Credit Party shall be evidenced by one or more promissory notes.

SECTION 8.12. Use of Proceeds. The proceeds of the Term B Loans and the Term A Loans were used on the Original Closing Date to finance the Acquisition and to pay the transaction fees, costs and expenses incurred directly in connection with the Transactions in an amount not to exceed U.S.\$2,000,000.

SECTION 8.13. Further Assurances. (a) The Credit Parties will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any Applicable Law, or which the Collateral Agent may reasonably request, in order to grant, preserve, protect and

perfect the validity and priority of the security interests created or intended to be created by the Security Pledge Agreement, any Mortgage or any other Security Document, all at the sole cost and expense of the Borrower.

(b) Subject to any applicable limitations set forth in any applicable Security Document, if any (i) fee simple interest in Real Property with a fair market value in excess of U.S.\$100,000 or (ii) leasehold interest with an initial lease term in excess of twenty (20) years and a fair market value in excess of U.S.\$500,000 is acquired by any Credit Party after the Original Closing Date, the Borrower will notify the Collateral Agent and the Lenders thereof and within ten (10) Business Days will cause such assets to be subjected to a mortgage securing the applicable Obligations and will take, and cause the other Credit Parties to take, such actions as shall be necessary or reasonably requested by the Collateral Agent to grant and/or perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in Section 8.13(a), all at the sole cost and expense of the Borrower. Any Mortgage with respect to fee owned Real Property delivered to the Collateral Agent in accordance with the preceding sentence shall be accompanied by (A) a policy or policies (or unconditional binding commitment thereof) of title insurance issued by a nationally recognized title insurance company insuring the Lien of each Mortgage as a valid Lien (with the priority described therein) on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 9.02, together with such endorsements and reinsurance as the Collateral Agent may reasonably request and (B) a current as-built survey in respect of the applicable Mortgaged Property addressed to the Collateral Agent, (C) a zoning letter addressed to the Collateral Agent in respect of the applicable Mortgaged Property, (D) evidence satisfactory to the Collateral Agent, acting reasonably, that the Mortgage has been recorded in all places necessary or desirable to create a valid Lien subject only to Permitted Liens and (E) if requested by the Collateral Agent, an opinion of local counsel to the applicable Credit Party(ies) in form and substance reasonably satisfactory to the Collateral Agent.

(c) Notwithstanding anything herein to the contrary, if the Collateral Agent determines that the cost of creating or perfecting any Lien on any property is excessive in relation to the practical benefits afforded to the Lenders thereby, then such property may be excluded from the Collateral for all purposes of the Term Loan Documents.

SECTION 8.14. Bank Accounts.

(a) The Credit Parties shall on or prior to the Original Closing Date establish and deliver to Collateral Agent a Control Agreement with respect to each of their respective securities accounts, deposit accounts and investment property set forth on Schedule 7.26 other than those accounts that are (i) used solely to fund payroll or employee benefits, (ii) located in the United States and which contain, at all times, less than U.S.\$25,000 for any one account and U.S.\$50,000 in the aggregate for all such accounts, or (iii) located in Canada and which contain, at all times, less than U.S.\$50,000 for any one account and U.S.\$500,000 in the aggregate for all such accounts. The Credit Parties shall not allow any Collections to be deposited to any accounts other than those listed on Schedule 7.26; provided, that, so long as no Event of Default has occurred and is continuing, the Credit Parties may establish new deposit accounts or securities accounts so long as, prior to the time such account is established: (i) the Credit Parties have delivered to the Agents an amended Schedule 7.26 including such account and (ii) the

Credit Parties have delivered to Collateral Agent a Control Agreement with respect to such account to the extent such account (A) is not used solely to fund payroll or employee benefits or (B) will not contain, at any time, U.S.\$25,000 or more or, when aggregated with all other accounts not subject to a Control Agreement, U.S.\$50,000 or more.

(b) Each Control Agreement shall provide, among other things, that (i) upon notice from the Collateral Agent (a "*Notice of Control*"), the bank, securities intermediary or other financial institution party thereto will comply with instructions of the Collateral Agent directing the disposition of funds without further consent by the applicable Credit Party; provided, that, Collateral Agent agrees not to issue a Notice of Control unless an Event of Default has occurred and is then continuing, and (ii) the bank, securities intermediary or other financial institution party thereto has no rights of setoff or recoupment or any other claim against the account subject thereto, other than for payment of its service fees and other charges directly related to the administration of such account and for returned checks or other items of payment. In the event Collateral Agent issues a Notice of Control under any Control Agreement, all Collections or other amounts subject to such Control Agreement shall be transferred as directed by the Collateral Agent and used to pay the Obligations in the manner set forth in Section 4.02(d).

(c) If, notwithstanding the provisions of this Section 8.14, after the occurrence and during the continuance of an Event of Default, the Credit Parties receive or otherwise have dominion over or control of any Collections or other amounts, the Credit Parties shall hold such Collections and amounts in trust for the Collateral Agent and shall not commingle such Collections with any other funds of any Credit Party or other Person or deposit such Collections in any account other than those accounts set forth on Schedule 7.26 (unless otherwise instructed by the Collateral Agent).

SECTION 8.15. Annual Lender Meeting. Each Credit Party will, and will cause each of its Subsidiaries to, upon the request by the Required Lenders, participate in a meeting of the Lenders, so long as no Event of Default or Default under Section 10.01(h) shall have occurred and be continuing, once, and otherwise as frequently as may be required by the Collateral Agent, during each fiscal year, to be held via teleconference and in person at least once per year, at a time selected by the Collateral Agent and reasonably acceptable to the Lenders and the Borrower. The purpose of this meeting shall be to present the Credit Parties' previous fiscal years' financial results and to provide the Lenders with the Credit Parties' budget for the current fiscal year.

SECTION 8.16. Board Observation Rights: ARCC will have the right to appoint a single observer to the Parent Guarantor's board of directors (the "*Board of Directors*"), who shall be entitled to attend (or at the option of such observer, monitor by telephone) all meetings of such Board of Directors, which will be held no less frequently than quarterly, each committee of such Board of Directors of the Parent Guarantor, but shall not be entitled to vote, and who shall receive all reports, meeting materials, notices, written consents and other materials as and when provided to the members of such Board of Directors (the "Board Observation Rights"); provided, that the representative of ARCC may be excluded from certain "closed sessions" of the Board of Directors or any portion of a Board of Directors meeting if, in the reasonable judgment of the Board of Directors, (i) any matter to be discussed pertains specifically to such Parent Guarantor's relationship to ARCC or any Secured Party or (ii) the participation of a

representative of ARCC in such meeting would waive or otherwise adversely affect the existence of the attorney-client privilege between such Parent Guarantor and its legal counsel. Either Michael Arougheti or Daniel Katz shall be designated as the representative of ARCC for the purpose of exercising the Board Observation Rights; provided, that ARCC may appoint a substitute designee with the consent of the Borrower, such consent not to be unreasonably withheld. Such Board Observation Rights shall not be assignable to any other Lender without the consent of the Borrower, such consent not to be unreasonably withheld. Parent Guarantor shall reimburse ARCC for reasonable out-of-pocket expenses incurred by any observer designated by ARCC in connection with attendance at or participation in meetings of such Parent Guarantor's Board of Directors.

SECTION 8.17. Canadian Pension Plans. Each Canadian Credit Party will, and will cause each of the Subsidiaries to:

(a) with respect to each Canadian Benefit Plan, in a timely fashion perform in all respects all obligations (including funding, investment and administration obligations) required to be performed in connection with such Canadian Benefit Plan;

(b) with respect to each Canadian Pension Plan, pay all contributions, premiums and payments when due in accordance with its terms and all Applicable Law; and

(c) if requested by any Agent, promptly deliver to the Administrative Agent copies of: (A) annual information returns, actuarial valuations and any other reports which have been filed with a Governmental Authority with respect to each Canadian Pension Plan; and (B) any direction, order, notice, ruling or opinion that any Credit Party may receive from a Governmental Authority with respect to any Canadian Benefit Plan.

SECTION 8.18. Financial Consultants and Executives. (a) The Borrower shall hire financial consultants satisfactory to the Agents and the Required Lenders for a period of at least six (6) months to advise on financial reporting systems and internal controls of the Borrower and its Subsidiaries and to provide written updates thereon, which such updates shall be delivered by the Borrower to the Agents on a monthly basis. The Borrower and its Subsidiaries shall promptly implement the recommendations of such financial consultants unless the board of directors of the Parent Guarantor determines that it is not in the best interest of any Credit Party to adopt any particular recommendation. The Borrower shall cause such financial consultants to provide to the Agents, at their request, oral updates by telephone.

(b) [RESERVED].

SECTION 8.19. Contracts for the Purchase or Sale of Perishable Agricultural Commodities. Each Credit Party shall and shall cause each of their Subsidiaries to, at all times, make Full Payment Promptly under and in respect of PACA Contracts and any contract or agreement that could reasonably be expected to give rise to a PACA Claim.

SECTION 8.20. Certain Notices to Lender.

(a) The Borrower shall provide the Administrative Agent with written notice promptly upon the occurrence of any of the following events, which written notice shall state

with reasonable particularity the facts and circumstances of the event for which such notice is being given:

(i) Any PACA Claim has been made against the Borrower or any Credit Party or any of their Subsidiaries or whether the Borrower has knowledge of a potential PACA Claim against the Borrower or any Credit Party or any of their Subsidiaries of any event or condition that would give rise to a PACA Claim against the Borrower or any Credit Party or any of their Subsidiaries, except where such PACA claims do not exceed \$25,000 individually, or \$50,000 in the aggregate;

(ii) The receipt of any notice from a supplier, seller, or agent pursuant to PASA.

SECTION 8.21. PACA Participants. Upon the request of the Administrative Agent from time to time in its sole discretion, the Borrower shall provide the Administrative Agent with an updated Schedule 7.29 to identify the name, address and telephone number of the Credit Parties' largest five (5) PACA Participants (by Dollar amount of Collateral supplied).

ARTICLE IX

Negative Covenants

The Credit Parties hereby covenant and agree that on the Closing Date and thereafter, until the Total Term B Loan Commitments have terminated and the Loans, together with interest, Fees and all other Obligations incurred hereunder (other than Unasserted Contingent Obligations) are paid in full in accordance with the terms of this Agreement:

SECTION 9.01. Limitation on Indebtedness. Each Credit Party will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or indirectly liable, contingently or otherwise with respect to any Indebtedness, except for:

(a) (i) Indebtedness in respect of the Obligations (including Indebtedness under Specified Hedging Agreements, if any); and (ii) increases in Indebtedness in respect of the Obligations relating to the Incremental Term Facility as contemplated under Section 2.01(b);

(b) Indebtedness in respect of the Credit Agreement Obligations under the Credit Facility (including Indebtedness under the Canadian Overdraft Facility, in an amount not to exceed CND\$1,750,000) to the extent permitted by the Intercreditor Agreement;

(c) [Reserved];

(d) Indebtedness existing as of the Closing Date (other than the Obligations) which is identified in Schedule 7.25 and which is not otherwise permitted by this Section 9.01, and any refinancing, renewal or extension of such Indebtedness in a principal amount not in excess of that which is outstanding on the Closing Date (as such amount has been reduced following the Closing Date) plus the amount of any interest, premiums or penalties required to be paid thereon.

plus fees and expenses associated therewith, in an aggregate amount not to exceed ten percent (10%) of the principal amount of such Indebtedness outstanding as of the Closing Date;

(e) unsecured Indebtedness (i) incurred in the ordinary course of business of such Credit Party and its Subsidiaries in respect of open accounts extended by suppliers on normal trade terms in connection with purchases of goods and services which are not overdue for a period of more than ninety (90) days or, if overdue for more than ninety (90) days, as to which a dispute exists and adequate reserves in conformity with GAAP have been established on the books of such Credit Party and (ii) in respect of performance, surety or appeal bonds provided in the ordinary course of business, but excluding (in each case) Indebtedness incurred through the borrowing of money or Contingent Liabilities in respect thereof;

(f) Indebtedness (i) evidencing the deferred purchase price of newly acquired property or incurred to finance the acquisition of equipment of such Credit Party and its Subsidiaries (pursuant to purchase money mortgages or otherwise, whether owed to the seller or a third party) used in the ordinary course of business of such Credit Party and its Subsidiaries (provided, that such Indebtedness is incurred within sixty (60) days of the acquisition of such property), and (ii) Capitalized Lease Obligations; provided, that the aggregate amount of all Indebtedness outstanding pursuant to this clause (f) shall not at any time exceed U.S.\$500,000;

(g) Indebtedness of a Credit Party owing to any other Credit Party, which Indebtedness: (i) shall be evidenced by one or more promissory notes in form and substance reasonably satisfactory to the Collateral Agent, duly executed and delivered in pledge to the Collateral Agent pursuant to the Security Documents, and shall not be forgiven or otherwise discharged for any consideration other than and to the extent of repayment in cash; and (ii) shall be subordinated to the Obligations pursuant to the Interecompany Subordination Agreement;

(h) Indebtedness evidenced by the Convertible Senior Secured Notes;

(i) Increases in Indebtedness under the Convertible Senior Secured Notes so long as (i) the same is on substantially the same terms as the Convertible Senior Secured Note Documents, (ii) the Borrower provides written notice of the same to the Administrative Agent, (iii) the Borrower delivers to the Administrative Agent a Compliance Certificate demonstrating that on a pro forma basis after giving effect to such increases in such Indebtedness the Borrower will be in compliance with all financial covenants set forth herein and (iv) any increases in any interest rate thereunder shall not exceed 2%;

(j) other unsecured Indebtedness in an aggregate at any time outstanding not to exceed U.S.\$500,000 so long as such Indebtedness is subject to a subordination agreement, in form and substance satisfactory to Collateral Agent;

(k) Hedging Agreements entered into solely for the purposes of hedging and not for speculation;

(l) Indebtedness of an acquired entity assumed pursuant to a Permitted Acquisition and not incurred in contemplation thereof; and

(m) Contingent Liabilities of one Credit Party with respect to the Indebtedness of another Credit Party so long as such Indebtedness is otherwise permitted under Section 9.01 hereof,

provided, that no Indebtedness otherwise permitted by clauses (c), (f), (g), (i), (j), (k) or (l) shall be assumed, created or otherwise incurred if a Default or Event of Default has occurred and is then continuing or would result therefrom.

SECTION 9.02. Limitation on Liens. Each Credit Party will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any such Person (including its Capital Stock), whether now owned or hereafter acquired, except for the following (collectively, the "*Permitted Liens*"):

(a) Liens securing payment of the Obligations;

(b) Liens securing payment of the Credit Agreement Obligations;

(c) Liens existing as of the Closing Date and disclosed in Schedule 9.02 securing Indebtedness permitted under Section 9.01(d), and any refinancings, renewals and extensions of such Indebtedness; provided, that no such Lien shall encumber any additional property and the amount of Indebtedness secured by such Lien shall not be increased or its term extended from that existing on the Closing Date (as such Indebtedness may be permanently reduced subsequent to the Closing Date) except to the extent permitted by Section 9.01(d);

(d) Liens securing Indebtedness of the type permitted under Section 9.01(f); provided, that (i) such Lien is granted within sixty (60) days after such Indebtedness is incurred, (ii) the Indebtedness secured thereby does not exceed eighty percent (80%) of the lesser of the cost and the fair market value of the applicable property, improvements or equipment at the time of such acquisition (or construction) and (iii) such Lien secures only the assets that are the subject of the Indebtedness referred to in such clause;

(e) Liens arising by operation of law in favor of carriers, warehousemen, mechanics, materialmen and landlords incurred in the ordinary course of business for amounts not yet overdue or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been established on its books;

(f) Liens incurred or deposits made 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 performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on surety, appeal or performance bonds;

(g) judgment Liens in existence for less than thirty (30) days after the entry thereof or with respect to which execution has been stayed or the payment of which is covered in full (subject to a customary deductible) by insurance maintained with responsible insurance companies and which do not otherwise result in an Event of Default under Section 10.01(f);

(h) easements, rights-of-way, zoning restrictions, minor defects or irregularities in title and other similar encumbrances not interfering in any material respect with the value or use of the property to which such Lien is attached;

(i) Liens for Taxes, assessments or other governmental charges or levies not yet due or not overdue by more than sixty (60) days, or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been established on its books;

(j) Liens arising in the ordinary course of business by virtue of any contractual, statutory or common law provision relating to banker's Liens, rights of set-off or similar rights and remedies covering deposit or securities accounts (including funds or other assets credited thereto) or other funds maintained with a depository institution or securities intermediary, so long as the applicable provisions of Section 8.14 have been complied with, in respect of such deposit accounts;

(k) any interest or title of a lessor, licensor or sublessor under any lease, license or sublease entered into by any such Credit Party or Subsidiary in the ordinary course of its business and covering only the assets so leased, or subleased;

(l) liens securing the Convertible Senior Secured Notes provided that such Liens are subject to the Intercreditor Agreement; and

(m) liens arising by operation of law under and in respect of PACA or PASA securing indebtedness thereunder, in an amount not to exceed \$25,000, individually, and \$50,000 in the aggregate;

provided, however, that no reference in this Agreement or any other Security Document to Liens permitted under this Section 9.02 (including Permitted Liens), including any statement or provision as to the acceptability of any Liens (including Permitted Liens), shall in any way constitute or be construed so as to provide for a subordination of any rights of the Administrative Agent or the Lenders hereunder or arising under any other Security Document in favor of such Liens (including Permitted Liens).

SECTION 9.03. Consolidation, Merger, etc. Except as required in respect of Planet Organic Market Corp. pursuant to Section 8.05, each Credit Party will not, and will not permit any of its Subsidiaries, to liquidate or dissolve, amalgamate, reorganize, consolidate or amalgamate with, or merge or amalgamate into or with, any other Person or purchase or otherwise acquire all or substantially all of the assets of any Person (or any division thereof) other than any Permitted Acquisition, provided, that (a) any Credit Party or Subsidiary of any Credit Party may liquidate or dissolve voluntarily into, and may merge or amalgamate with and into, the Borrower (so long as the Borrower is the surviving entity), (b) any Guarantor may liquidate or dissolve voluntarily into, and may merge or amalgamate with and into any Credit Party, (c) any Subsidiary that is not a Credit Party may liquidate or dissolve voluntarily into, and may merge or amalgamate with and into any Credit Party or Domestic Subsidiary, (d) the assets or Capital Stock of any Credit Party or Subsidiary of any Credit Party may be purchased or otherwise acquired by the Borrower, (e) the assets or Capital Stock of any Guarantor may be

purchased or otherwise acquired by any Credit Party and (f) the assets or Capital Stock of any Subsidiary that is not a Credit Party may be purchased or otherwise acquired by any Credit Party or Domestic Subsidiary. Planet Organic Market Corp. shall not acquire or possess any property or assets.

SECTION 9.04. Permitted Dispositions. Each Credit Party will not, and will not permit any of its Subsidiaries, to make a Disposition, or enter into any agreement to make a Disposition, of such Credit Party's or such other Person's assets (including Accounts Receivable and Capital Stock of Subsidiaries) to any Person in one transaction or a series of transactions unless such Disposition:

(a) is in the ordinary course of its business and is of obsolete or worn out property or property no longer used in its business; or

(b) is for fair market value and the following conditions are met:

(i) the aggregate fair market value, as well as the aggregate book value, of all such asset sales do not exceed U.S.\$500,000 in any fiscal year or U.S.\$1,000,000 in the aggregate from and after the Original Closing Date;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iii) the Borrower has applied any Net Disposition Proceeds arising therefrom pursuant to Section 4.02(a)(iii); and

(iv) no less than eighty percent (80%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash;

(c) is a sale of Inventory in the ordinary course of business;

(d) is the leasing, as lessor, of real or personal property no longer used or useful in such Person's business and otherwise in the ordinary course of business;

(e) is a sale or disposition of equipment to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment, or the proceeds of such Dispositions are reasonably promptly applied to the purchase price of similar replacement equipment, all in the ordinary course of business in accordance with Section 4.02(a)(iii);

(f) is otherwise permitted by Section 9.03; or

(g) is by (i) any Credit Party or Subsidiary thereof to the Borrower or (ii) any Subsidiary of a Credit Party (other than the Borrower) to any Credit Party.

SECTION 9.05. Investments. Each Credit Party will not, and will not permit any of its Subsidiaries to, purchase, make, incur, assume or permit to exist any Investment in any other Person, except:

- (a) Investments existing on the Closing Date and identified in Schedule 7.12;
- (b) Investments in cash and Cash Equivalents;
- (c) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;
- (d) Investments by way of contributions to capital or purchases of Capital Stock by any Credit Party in any of its Subsidiaries that are Credit Parties;
- (e) Investments constituting (i) Accounts Receivable arising, (ii) trade debt granted, or (iii) deposits made in connection with the purchase price of goods or services, in each case in the ordinary course of business;
- (f) Investments consisting of any deferred portion of the sales price received by any Credit Party in connection with any Disposition permitted under Section 9.04;
- (g) other Investments in an aggregate principal amount at any time not to exceed U.S.\$250,000;
- (h) intercompany loans by any Credit Party to any other Credit Party permitted pursuant to Section 9.01(g);
- (i) Hedging Agreements permitted pursuant to Section 9.01(h);
- (j) the maintenance of deposit accounts in the ordinary course of business so long as the applicable provisions of Section 8.14 have been complied with in respect of such deposit accounts;
- (k) loans and advances to officers, directors and employees of any Credit Party for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business, in an aggregate principal amount at any time not to exceed U.S.\$250,000, after giving effect to Section 9.06(b); and
- (l) other Investments not to exceed U.S.\$250,000 in the aggregate;

provided, that no Investment otherwise permitted under clauses (d), (f), (g), (h) or (k) shall be permitted to be made if any Default or Event of Default has occurred and is continuing or would result therefrom.

SECTION 9.06. Restricted Payments, etc. Each Credit Party will not, and will not permit any of its Subsidiaries, to make any Restricted Payment, or make any deposit for any Restricted Payment, other than:

(a) payments by any direct or indirect Subsidiary of the Parent Guarantor or its direct parent so long as such parent is the Parent Guarantor or a direct or indirect wholly-owned subsidiary of the Parent Guarantor;

(b) Restricted Payments by any Credit Party or any its Subsidiaries to pay dividends with respect to its Capital Stock payable solely in additional shares of its common stock (other than Disqualified Capital Stock); and

(c) Restricted Payments to repurchase, redeem or otherwise acquire or retire for value any Capital Stock of Parent Guarantor held by any employee, director, consultant or officer of any Credit Party or Subsidiary of any Credit Party pursuant to any employee equity subscription agreement, stock option agreement or stock ownership arrangement upon the death, disability, retirement or termination of employment of such employee, director, consultant or officer to the extent (i) not exceeding U.S.\$100,000 in the aggregate over the term of this Agreement and (ii) both before and after giving effect to any such payment, no Default or Event of Default exists or would occur as a result thereof; provided, that the principal amount of any such Capital Stock that is repurchased, redeemed or otherwise acquired or retired for value by the Parent Guarantor to a replacement employee, director, consultant or officer of the Parent Guarantor or any of its Subsidiaries within such calendar year, shall be subtracted from the maximum amount permitted in clause (i) hereof.

SECTION 9.07. Modification of Certain Agreements. Each Credit Party will not, and will not permit any of its Subsidiaries to, consent to any amendment, supplement, waiver or other modification of, or enter into any forbearance from exercising any rights with respect to the terms or provisions contained in (a) any of the Transaction Documents or Organization Documents, in each case, (i) other than any amendment, supplement, waiver or modification or forbearance that is not materially adverse to the Secured Parties as reasonably determined by the Agents and (ii) unless Collateral Agent has received at least five (5) Business Day's prior notice of such amendment, supplement, waiver or other modification and the terms thereof or (b) any document, agreement or instrument evidencing or governing any Indebtedness that has been subordinated to the Obligations in right of payment or any Liens that have been subordinated in priority to the Liens of Agent unless such amendment, supplement, waiver or other modification is permitted under the terms of the subordination agreement applicable thereto.

SECTION 9.08. Sale and Leaseback. Each Credit Party will not, and will not permit any of its Subsidiaries, directly or indirectly, to enter into any agreement or arrangement providing for the sale or transfer by it of any property (now owned or hereafter acquired) to a Person and the subsequent lease or rental of such property or other similar property from such Person.

SECTION 9.09. Transactions with Affiliates. Each Credit Party will not, and will not permit any of its Subsidiaries, to enter into or cause or permit to exist any arrangement, transaction or contract (including for the purchase, lease or exchange of property or the rendering of services) with any Affiliate except (a) on fair and reasonable terms no less

favorable to such Credit Party or such Subsidiary than it could obtain in an arm's-length transaction with a Person that is not an Affiliate, (b) any transaction expressly permitted under Section 9.03, Section 9.05(d), Section 9.05(h), Section 9.05(j) or Section 9.06, (c) customary fees to, and indemnifications of, non-officer directors of the Credit Parties and their respective Subsidiaries and (d) the payment of reasonable and customary compensation and indemnification arrangements and benefit plans for officers and employees of the Credit Parties and their respective Subsidiaries in the ordinary course of business.

SECTION 9.10. Restrictive Agreements, etc. Each Credit Party will not, and will not permit any of its Subsidiaries, to enter into any agreement (other than a Term Loan Document, a Credit Document or the Convertible Senior Secured Note Documents) prohibiting:

(a) the creation or assumption of any Lien upon its properties, revenues or assets, whether now owned or hereafter acquired;

(b) the ability of such Person to amend or otherwise modify any Term Loan Document; or

(c) the ability of such Person to make any payments, directly or indirectly, to the Borrower, including by way of dividends, advances, repayments of loans, reimbursements of management and other intercompany charges, expenses and accruals or other returns on investments.

The foregoing prohibitions shall not apply to restrictions which do not prohibit the Credit Parties from complying with or performing the terms of this Agreement and the other Term Loan Documents which are contained (i) in any agreement governing any Indebtedness permitted by Section 9.01(f) as to the assets financed with the proceeds of such Indebtedness, (ii) in any agreement containing customary provisions restricting the sublet or assignment of any lease governing a leasehold interest of any Credit Party or any of its Subsidiaries entered into in the ordinary course of business, (iii) in any agreement containing customary provisions restricting assignment of any contract entered into by any Credit Party or any of its Subsidiaries in the ordinary course of business, (iv) in any agreement containing any restriction or encumbrance with respect to a Subsidiary imposed pursuant to an agreement that has been entered into for the sale or disposition for all or substantially all of the Capital Stock or assets of such Subsidiary pursuant to a Disposition permitted under this Agreement or (v) in any agreement containing restrictions on the transfer of any asset pending the close of the sale of such asset pursuant to a Disposition permitted under this Agreement.

SECTION 9.11. Hedging Agreements. Each Credit Party will not, and will not permit any of its Subsidiaries to, enter into any Hedging Agreement, except Specified Hedging Agreements entered into to hedge or mitigate risks to which such Credit Party or such Subsidiary has actual exposure (other than those in respect of Capital Stock).

SECTION 9.12. Changes in Business. Each Credit Party will not, and will not permit any of its Subsidiaries to engage in any business activity other than such business activities described on Schedule 9.12, or any business activity substantially related, incidental or complimentary thereto or that is a reasonable extension or expansion thereof, other than business activities.

which in the aggregate in any fiscal year of Parent Guarantor do not account for greater than five percent (5%) of the total revenues of the Borrower and the other Credit Parties, taken as a whole.

SECTION 9.13. Limitations on Changes to Agreements or Other Documents for the Purchase and Sale of any PACA Commodities. Each Credit Party will not and will not permit its Subsidiaries to amend, modify, waive or otherwise change, whether by oral agreement or written contract, the payment terms of any agreement or other document for the purchase and sale of any PACA Commodities to extend the payment terms of such agreement or other document without the prior written consent of the Agents, not to be unreasonably conditioned, delayed or withheld.

SECTION 9.14. Financial Covenants. The Credit Parties will not permit:

(a) Total Leverage Ratio. The Total Leverage Ratio, as of the last day of each Test Period set forth below, to be greater than the ratio set forth below opposite such measurement date:

Test Periods Ending	Ratio
September 30, 2007	5.90x
December 31, 2007	5.90x
March 31, 2008	5.55x
June 30, 2008	5.25x
September 30, 2008	5.25x
December 31, 2008	4.75x
March 31, 2009	4.75x
June 30, 2009	4.25x
September 30, 2009	4.25x
December 31, 2009	3.65x
March 31, 2010	3.65x
June 30, 2010	3.35x
September 30, 2010	3.35x
December 31, 2010	3.00x
March 31, 2011	3.00x
June 30, 2011	2.65x
September 30, 2011	2.65x
December 31, 2011	2.40x
March 31, 2012	2.40x
June 30, 2012	2.05x
September 30, 2012	2.05x
December 31, 2012	1.75x
March 31, 2013 and thereafter	1.75x

(b) Senior Leverage Ratio. The Senior Leverage Ratio, as of the last day of each Test Period set forth below, to be greater than the ratio set forth below opposite such measurement date:

Test Periods Ending	Ratio
September 30, 2007	4.15x
December 31, 2007	4.15x
March 31, 2008	3.80x
June 30, 2008	3.55x
September 30, 2008	3.55x
December 31, 2008	3.15x
March 31, 2009	3.15x
June 30, 2009	2.75x
September 30, 2009	2.75x
December 31, 2009	2.40x
March 31, 2010	2.40x
June 30, 2010	2.00x
September 30, 2010	2.00x
December 31, 2010	1.70x
March 31, 2011	1.70x
June 30, 2011	1.40x
September 30, 2011	1.40x
December 31, 2011	1.20x
March 31, 2012	1.20x
June 30, 2012	1.00x
September 30, 2012	1.00x
December 31, 2012	0.60x
March 31, 2013 and thereafter	0.60x

(c) Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio, as of the last day of each Test Period set forth below, to be less than the minimum ratio set forth below opposite such measurement date:

Test Periods Ending	Ratio
September 30, 2007	1.00x
December 31, 2007	1.00x
March 31, 2008	1.00x
June 30, 2008	1.05x
September 30, 2008	1.05x
December 31, 2008	1.05x
March 31, 2009	1.05x
June 30, 2009	1.10x
September 30, 2009	1.10x
December 31, 2009	1.10x
March 31, 2010	1.10x
June 30, 2010	1.15x
September 30, 2010	1.15x

Test Periods Ending	Ratio
December 31, 2010	1.15x
March 31, 2011	1.15x
June 30, 2011	1.25x
September 30, 2011	1.25x
December 31, 2011	1.25x
March 31, 2012	1.25x
June 30, 2012	1.40x
September 30, 2012	1.40x
December 31, 2012	1.40x
March 31, 2013 and thereafter	1.40x

(d) Capital Expenditures. Consolidated Capital Expenditures to exceed, during each fiscal year set forth below, the amount set forth opposite such fiscal year:

Fiscal Year	Amount
June 30, 2008	5,350,000
June 30, 2009	5,500,000
June 30, 2010	5,700,000
June 30, 2011	5,800,000
June 30, 2012	5,900,000

provided, that so long as no Default or Event of Default has occurred and is continuing or would result therefrom, to the extent that any portion of any amount set forth above is not expended in the fiscal year for which it is permitted above, fifty percent (50%) of such unused amount (the "Carryover Amount") may be carried over for expenditure in the next following fiscal year.

(e) Interest Coverage Ratio. The Interest Coverage Ratio, as of the last day of each Test Period set forth below, to be less than the minimum ratio set forth in the table below opposite such date:

Test Periods Ending	Ratio
September 30, 2007	2.35x
December 31, 2007	2.35x
March 31, 2008	2.75x
June 30, 2008	3.00x
September 30, 2008	3.00x
December 31, 2008	3.00x
March 31, 2009	3.00x
June 30, 2009	4.00x
September 30, 2009	4.00x
December 31, 2009	4.00x
March 31, 2010	4.00x

Test Periods Ending	Ratio
June 30, 2010	5.00x
September 30, 2010	5.00x
December 31, 2010	5.00x
March 31, 2011	5.00x
June 30, 2011	5.00x
September 30, 2011	5.00x
December 31, 2011	5.00x
March 31, 2012	5.00x
June 30, 2012	5.00x
September 30, 2012	5.00x
December 31, 2012	5.00x
March 31, 2013 and thereafter	5.00x

SECTION 9.15. Issuance or Repurchase of Capital Stock. Each Credit Party will not, and will not permit any of its Subsidiaries to, (a) issue any Capital Stock (whether for value or otherwise) to any Person other than (in the case of Subsidiaries) to the Borrower or another wholly-owned subsidiary of the Borrower; provided, however, that the Parent Guarantor may issue any Capital Stock to any Person so long as such Capital Stock is not Disqualified Capital Stock, or (b) become liable in respect of any obligation (contingent or otherwise) to purchase, redeem, retire, acquire or make any other payment in respect of any Capital Stock of any Credit Party or Subsidiary of any Credit Party, or any option, warrant or other right to acquire any such Capital Stock.

ARTICLE X

Events of Default

SECTION 10.01. Listing of Events of Default. Each of the following events or occurrences described in this Section 10.01 shall constitute an "*Event of Default*":

- (a) Non-Payment of Obligations. The Borrower shall default in the payment of:
- (i) any principal of any Loan when such amount is due; or
 - (ii) any interest on any Loan, and such default shall continue unremedied for a period of three (3) Business Days after such amount is due; or
 - (iii) any fee described in Article III or any other monetary Obligation, and such default shall continue unremedied for a period of five (5) Business Days after such amount is due.
- (b) Breach of Warranty. Any representation or warranty of any Credit Party made or deemed to be made in any Transaction Document (including any certificates delivered pursuant to Article V) which, by its terms, is subject to a materiality qualifier, is or shall be incorrect in