

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The
Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): June 25, 2003

DOMINO'S, INC.

(Exact name of Registrant as specified in charter)

DELAWARE
(State or other jurisdiction of incorporation)

333-74797
(Commission
File Number)

38-3025165
(I.R.S. Employer Identification No.)

30 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106
(Address of Principal Executive Offices) (Zip Code)

(734) 930-3030
Registrant's Telephone number, including area code

Item 5. Other Events.

On June 25, 2003, we, together with TISM, Inc., our parent corporation (“TISM”), and our subsidiaries, consummated the following recapitalization transaction:

- (1) Pursuant to the Purchase Agreement dated June 18, 2003, which is attached hereto as Exhibit 10.1, we issued and sold \$403,000,000 aggregate principal amount at maturity of 8¼% Senior Subordinated Notes due 2011 (the “2011 Notes”);
- (2) Pursuant to the Amended and Restated Credit Agreement dated June 25, 2003, which is attached hereto as Exhibit 10.2 (the “Credit Agreement”), we borrowed \$610,000,000 in term loans; and
- (3) With the proceeds from the 2011 Notes, borrowings under the Credit Agreement and cash from operations:
 - we purchased, pursuant to the Offer to Purchase and Consent Solicitation Statement dated May 28, 2003 and attached as Exhibit 99.2 to our Current Report on Form 8-K which was filed with the Securities and Exchange Commission on May 29, 2003, an aggregate of \$206,706,000 principal amount of our 10³/₈% Senior Subordinated Notes due 2009 (the “2009 Notes”), representing all of the 2009 Notes that were validly tendered in the tender offer, for an aggregate purchase price of approximately \$236.7 million;
 - we repaid all amounts outstanding under our previous senior credit facility;
 - TISM redeemed all of its outstanding 11.5% Cumulative Preferred Stock for an aggregate redemption price of approximately \$200.5 million;
 - TISM declared and paid a dividend on its outstanding common stock in the aggregate amount of approximately \$188.3 million;
 - we made compensatory make-whole payments to specified TISM shareholders and to our officers, directors and employees who hold TISM stock options in the aggregate amount of approximately \$12.4 million; and
 - we paid the related transaction fees and expenses.

Following the consummation of the recapitalization transaction described above, we had outstanding \$610,000,000 of term loan borrowings under the Credit Agreement, \$403,000,000 aggregate principal amount at maturity of our 2011 Notes, and \$11,234,000 aggregate principal amount of our 2009 Notes.

In connection with the recapitalization transaction described above, we entered into a new employment agreement with our Chairman and Chief Executive Officer, which agreement is attached hereto as Exhibit 10.5.

Item 7. Financial Statements and Exhibits

- Exhibit 4.6 Indenture dated June 25, 2003 by and among Domino's, Inc., Domino's Franchise Holding Co., Domino's Pizza LLC, Domino's Pizza PMC, Inc., Domino's Pizza International, Inc., Domino's Pizza International Payroll Services, Inc., Domino's Pizza-Government Services Division, Inc. and Domino's Pizza NS Co. and BNY Midwest Trust Company, as trustee.
- Exhibit 4.7 Registration Rights Agreement dated June 25, 2003 by and among Domino's, Inc., Domino's Franchise Holding Co., Domino's Pizza LLC, Domino's Pizza PMC, Inc., Domino's Pizza International, Inc., Domino's Pizza International Payroll Services, Inc., Domino's Pizza-Government Services Division, Inc. and Domino's Pizza NS Co. and J.P. Morgan Securities Inc., Banc of America Securities LLC, Banc One Capital Markets, Inc., Bear, Stearns & Co. Inc., Citigroup Global Markets Inc., Credit Suisse First Boston LLC, Goldman, Sachs & Co. and Lehman Brothers Inc.
- Exhibit 10.1 Purchase Agreement dated June 18, 2003 by and among Domino's, Inc., Domino's Franchise Holding Co., Domino's Pizza LLC, Domino's Pizza PMC, Inc., Domino's Pizza International, Inc., Domino's Pizza International Payroll Services, Inc., Domino's Pizza-Government Services Division, Inc. and Domino's Pizza NS Co. and J.P. Morgan Securities Inc., Banc of America Securities LLC, Banc One Capital Markets, Inc., Bear, Stearns & Co. Inc., Citigroup Global Markets Inc., Credit Suisse First Boston LLC, Goldman, Sachs & Co. and Lehman Brothers Inc.
- Exhibit 10.2. Credit Agreement, dated as of July 29, 2002 and amended and restated as of June 25, 2003, among Domino's, Inc., as borrower, TISM, Inc., as guarantor, the lenders listed therein, as lenders, JPMorgan Chase Bank, as administrative agent, Citicorp North America, Inc., as syndication agent, and Bank One, NA, as documentation agent.
- Exhibit 10.3 Pledge Agreement, dated as of July 29, 2002 and amended and restated as of June 25, 2003, made by each of the Pledgors (as defined therein) to JPMorgan Chase Bank, as collateral agent.
- Exhibit 10.4 Security Agreement, dated as of July 29, 2002 and amended and restated as of June 25, 2003, among Domino's, Inc., TISM, Inc. and certain of their respective subsidiaries, and JPMorgan Chase Bank, as collateral agent.

Exhibit 10.5 Employment Agreement dated as of June 1, 2003 between David A. Brandon and TISM, Inc., Domino's, Inc. and Domino's Pizza LLC.

Exhibit 10.6 TISM, Inc. Fourth Amended and Restated Stock Option Plan.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DOMINO'S, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Chief Financial Officer

Date: June 25, 2003

=====

DOMINO'S, INC.

and the

Guarantors
Signatories Hereto

SERIES A AND SERIES B

8 1/4% SENIOR SUBORDINATED NOTES DUE 2011

INDENTURE

Dated as of June 25, 2003

BNY MIDWEST TRUST COMPANY

Trustee

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CROSS-REFERENCE TABLE*

Trust Indenture Act Section	Indenture Section
310	(a)(1)..... 7.10
	(a)(2)..... 7.10
	(a)(3)..... N.A.
	(a)(4)..... N.A.
	(a)(5)..... 7.10
	(i)(b)..... 7.10
	(ii)(c)..... N.A.
311	(a)..... 7.11
	(b)..... 7.11
	(iii)(c)..... N.A.
312	(a)..... 2.05
	(b)..... 11.03
	(iv)(c)..... 11.03
313	(a)..... 7.06
	(b)(2)..... 7.07
	(v)(c)..... 7.06; 11.02
	(vi)(d)..... 7.06
314	(a)..... 4.03; 11.02
	(c)(1)..... 11.04
	(c)(2)..... 11.04
	(c)(3)..... N.A.
	(vii)(e)..... 11.05
	(f)..... N.A.
315	(a)..... 7.01
	(b)..... 7.05, 11.02
	(A)(c)..... 7.01
	(d)..... 7.01
	(e)..... 6.11
316	(a)(last sentence)..... 2.09
	(a)(1)(A)..... 6.05
	(a)(1)(B)..... 6.04
	(a)(2)..... N.A.
	(b)..... 6.07
	(B)(c)..... 2.12
317	(a)(1)..... 6.08
	(a)(2)..... 6.09
	(b)..... 2.04
318	(a)..... 11.01
	(b)..... N.A.
	(c)..... 11.01

N.A. means not applicable.

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

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- Exhibit B - FORM OF CERTIFICATE OF TRANSFER
- Exhibit C - FORM OF CERTIFICATE OF EXCHANGE
- Exhibit D - FORM OF CERTIFICATE FROM ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR
- Exhibit E - FORM OF NOTATION OF SUBSIDIARY GUARANTEE
- Exhibit F - FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS

INDENTURE dated as of June 25, 2003 among Domino's, Inc., a Delaware corporation (the "Company"), the Guarantors signatories hereto and BNY Midwest Trust Company, an Illinois trust company, as trustee (the "Trustee").

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 8 1/4% Series A Senior Subordinated Notes due 2011 (the "Series A Notes") and the 8 1/4% Series B Senior Subordinated Notes due 2011 (the "Series B Notes" and, together with the Series A Notes, the "Notes"):

ARTICLE 1.

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01. Definitions.

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

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

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

"Additional Interest" means the additional interest then owing pursuant to Section 2 of the Registration Rights Agreement.

"Additional Notes" means 8 1/4% Notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.02, 2.14 and 4.09 hereof.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" shall have correlative meanings.

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

"Applicable Premium" means, with respect to any Note on any Redemption Date, the greater of (i) 1.0% of the principal amount of such Note or (ii) the excess of (A) the present value at such Redemption Date of (1) the redemption price of such Note at July 1, 2007 (such redemption price being set forth in Section 3.07 hereof) plus (2) all required interest payments due on such Note through July 1, 2007 (excluding accrued but unpaid interest), computed using a discount rate equal to the Treasury Rate at such Redemption Date, plus 50 basis points over (B) the principal amount of such Note.

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

"Asset Acquisition" means (a) an Investment by the Company or any Restricted Subsidiary of the Company in any other Person if, as a result of such Investment, such Person shall become a Restricted Subsidiary of the Company, or shall be merged with or into the Company or any Restricted Subsidiary of the Company, or (b) the acquisition by the Company or any Restricted Subsidiary of the Company of all or substantially all of the assets of any other Person or any division or line of business of any other Person.

"Asset Sale" means:

(1) the sale, lease, conveyance or other disposition of any assets or rights (including, without limitation, by way of a sale and leaseback), other than sales, leases or licenses in the ordinary course of business; provided that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by the provisions of this Indenture described in Section 4.15 hereof and/or the provisions described in Section 5.01 hereof and not by the provisions of Section 4.10 hereof; and

(2) the issuance of Equity Interests by any of the Company's Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries (other than directors' qualifying shares and shares issued to foreign nationals under applicable law).

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

(1) any single transaction or series of related transactions that:
(a) involves assets having a fair market value of less than \$2.5 million; or
(b) results in net proceeds to the Company and its Subsidiaries of less than \$2.5 million;

(2) disposals or replacements of obsolete equipment in the ordinary course of business;

(3) the sale, lease, conveyance, disposition or other transfer by the Company or any Restricted Subsidiary of assets or property or Equity Interests of any Restricted Subsidiary to one or more Restricted Subsidiaries in connection with Investments permitted by Section 4.07 hereof;

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

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

(6) a Restricted Payment or a Permitted Investment that is permitted by this Indenture;

(7) the issuance by a Restricted Subsidiary of Disqualified Stock or preferred stock that is permitted by Section 4.09 hereof;

(8) other than for purposes of determining the Fixed Charge Coverage Ratio, the exchange of a Company store or stores and related assets for another store or stores which become a Company store or stores upon the completion of such exchange; provided, the fair market value of a store or stores and related assets received in the exchange (together with the other consideration received therefor) is equal to or greater than the fair market value of the store or stores and related assets to be exchanged; and provided, further, in the event the fair market value of the store or stores and related assets to be exchanged or received is greater than \$10.0 million, such fair market value is determined by the Board of Directors, whose resolution with respect thereto shall be delivered to the Trustee, and in the event the fair market value of the store or stores and related assets to be exchanged or received is greater than \$15.0 million, the Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing; and

(9) sales of accounts receivable, Permitted Notes Receivable and related assets of the type described in the definition of "Permitted Securitization Transaction" to a Securitization Entity for the fair market value thereof and transfers of accounts receivable, Permitted Notes Receivable and related assets of the type described in the definition of "Permitted Securitization Transactions" (or a fractional undivided interest therein) by a Securitization Entity in a Permitted Securitization Transaction.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

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

"Board of Directors" means the Board of Directors of the Company, or any authorized committee of the Board of Directors.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

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

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

"Capital Stock" means:

(1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Cash Equivalents" means:

(1) United States dollars and, for purposes of the Permitted Investments definition only, pounds sterling, Euros or, in the case of any Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;

(2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition;

(3) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding twelve months and overnight bank deposits, in each case, with any lender party to the Senior Credit Facilities or, with any commercial bank having capital and surplus in excess of \$500 million and a Thompson Bank Watch Rating of "B" or better;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper having the highest rating obtainable from Moody's Investors Service, Inc. or Standard & Poor's Rating Services and in each case maturing within twelve months after the date of acquisition; and

(6) money market funds substantially all of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

"Change of Control" means the occurrence of any of the following:

(1) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as such term is used in Section 13(d)(3) of the Exchange Act) other than a Principal;

(2) the adoption of a plan relating to the liquidation or dissolution of the Company;

(3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than the Principals or any Permitted Group, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares;

(4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or

(5) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

"Clearstream" shall mean Clearstream Banking, Societe Anonyme, Luxembourg.

"Commodity Hedging Agreements" means any futures contract or similar agreement or arrangement designed to protect the Company or any Restricted Subsidiary against fluctuations in prices of commodities used by the Company or any Restricted Subsidiary in the ordinary course of its business and not entered into for speculative purposes.

"Company" means Domino's, Inc. and any and all successors thereto.

"Consolidated Cash Flow" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus:

(1) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus

(2) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs, original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and the net effect of all payments made or received, if any, pursuant to Hedging Obligations), to the extent that any such expense was deducted in computing such Consolidated Net Income; plus

(3) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period), non-cash write-offs of goodwill, intangibles and long-lived assets and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization, non-cash write-offs and other non-cash expenses were deducted in computing such Consolidated Net Income; minus

(4) non-cash items increasing such Consolidated Net Income for such period, other than (i) items that were accrued in the ordinary course of business and (ii) the reversal of reserves in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.

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

"Consolidated Net Income" of the Company means, for any period, the aggregate net income (or loss) of the Company and its Restricted Subsidiaries for such period on a consolidated basis, determined in accordance with GAAP, provided that there shall be excluded therefrom:

(1) gains and losses from Asset Sales (without regard to the \$2.5 million limitation set forth in the definition thereof and without regard to clause (8) thereof) and the related tax effects according to GAAP;

(2) gains and losses due solely to fluctuations in currency values and the related tax effects according to GAAP;

(3) items classified as extraordinary, unusual or nonrecurring gains and losses (including, without limitation, severance, relocation and other restructuring costs), and the related tax effects according to GAAP;

(4) the net income of any Restricted Subsidiary of the Company to the extent that the declaration of dividends or similar distributions by that Restricted Subsidiary of the Company of that income is restricted by contract, operation of law or otherwise;

(5) the net loss of any Person, other than a Restricted Subsidiary of the Company;

(6) the net income of any Person, that is not a Restricted Subsidiary of the Company, except to the extent of cash dividends or distributions paid to the Company or a Restricted Subsidiary of the Company by such Person;

(7) (i) the costs and expenses of the Company and its Subsidiaries and (ii) the aggregate amount of compensatory make-whole payments to specified stockholders of Parent and to officers, directors and employees who hold stock options of Parent as provided for in the definition of "Refinancing," in each case incurred or made in connection with the Refinancing and on a consolidated basis and determined in accordance with GAAP;

(8) the cumulative effect of a change in accounting principles; and

(9) non-cash compensation charges, including any arising from existing stock options resulting from any merger or recapitalization transaction.

"Continuing Directors" means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the date of this Indenture; or

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

"Corporate Trust Office of the Trustee" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 2 North LaSalle Street, Suite 1020, Chicago, Illinois 60602, Attention: Corporate Trust Department, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

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

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

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, in the form of Exhibit A-1 hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

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

"Designated Noncash Consideration" means any non-cash consideration received by the Company or one of its Restricted Subsidiaries in connection with an Asset Sale that is designated as Designated Noncash Consideration pursuant to an Officers' Certificate executed by the principal executive officer and the principal financial officer of the Company or such Restricted Subsidiary. Such Officers' Certificate shall state the basis of such valuation, which shall be a report of a nationally recognized investment banking firm with respect to the receipt in one or a series of related transactions of Designated Noncash Consideration with a fair market value in excess of \$15.0 million. A particular item of Designated Noncash Consideration shall no longer be considered to be outstanding to the extent it has been sold for cash or redeemed or paid in the case of non-cash consideration in the form of promissory notes or equity.

"Designated Preferred Stock" means preferred stock that is designated as Designated Preferred Stock, pursuant to an Officers' Certificate executed by the principal executive officer and the principal financial officer of the Company, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (iii)(B) of Section 4.07 hereof.

"Designated Senior Debt" means:

(1) any Indebtedness under or in respect of the Senior Credit Facilities and, solely for purposes of Section 10.03(a)(i), any other Senior Debt the principal amount of which is \$25.0 million or more that is payable to a lender party to the Senior Credit Facilities (or any Affiliate thereof); and

(2) any other Senior Debt the principal amount of which is \$25.0 million or more and that has been specifically designated by the Company in the instrument or agreement relating to the same as "Designated Senior Debt."

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof.

"Domestic Subsidiary" means, with respect to the Company, any Restricted Subsidiary of the Company that was formed under the laws of the United States of America.

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

"Equity Offering" means any offering of Qualified Capital Stock of any direct or indirect parent corporation of the Company or the Company; provided that, in the event of any Equity Offering by any direct or indirect parent corporation of the Company, such direct or indirect parent corporation of the Company contributes to the common equity capital of the Company (other than as Disqualified Stock) the portion of the net cash proceeds of such Equity Offering necessary to pay the aggregate redemption price (plus accrued interest to the redemption date) of the Notes to be redeemed pursuant to clause (a) of Section 3.07 hereof.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear system.

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

"Exchange Notes" means, with respect to the Initial Notes, notes issued in exchange for the Initial Notes pursuant to the terms of the Registration Rights Agreement or, with respect to any Additional Notes, notes issued in exchange for such Additional Notes pursuant to the terms of a registration rights agreement among the Company, the Guarantors and the initial purchasers of such issuance of Additional Notes.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement.

"Exchange Offer Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Existing Indebtedness" means Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Senior Credit Facilities) in existence on the date hereof, until such amounts are repaid.

"Existing Indenture" means the indenture dated as of December 21, 1998 among the Company, the subsidiary guarantors named therein and The Bank of New York, as successor to IBJ Schroder Bank & Trust Company, as trustee.

"Existing Notes" means the 10 3/8% senior subordinated notes due 2009 of the Company issued under the Existing Indenture.

"Fixed Charge Coverage Ratio" means, with respect to any Person as of any date, the ratio of the Consolidated Cash Flow of such Person during the most recent four full fiscal quarters for which internal financial statements are available (the "Four-Quarter Period") ending on or prior to such date (the "Transaction Date") to the Fixed Charges of such Person for the Four-Quarter Period.

In addition to and without limitation of the preceding paragraph, for purposes of this definition, Consolidated Cash Flow and Fixed Charges shall be calculated after giving effect on a pro forma basis for the period of such calculation to:

(1) the incurrence of any Indebtedness or the issuance of any preferred stock of such Person or any of its Restricted Subsidiaries (and the application of the proceeds thereof) and any repayment of other Indebtedness or redemption of other preferred stock occurring during the Four-Quarter Period or at any time subsequent to the last day of the Four-Quarter Period and on or prior to the Transaction Date, as if such incurrence, repayment, issuance or redemption, as the case may be (and the application of the proceeds thereof), occurred on the first day of the Four-Quarter Period; and

(2) any Asset Sales or Asset Acquisitions (including, without limitation, any Asset Acquisition giving rise to the need to make such calculation as a result of such Person or one of its Restricted Subsidiaries (including any Person who becomes a Restricted Subsidiary as a result of the Asset Acquisition) incurring, assuming or otherwise being liable for Acquired Debt and also including any Consolidated Cash Flow (including any Pro Forma Cost Savings) occurring during the Four-Quarter Period or at any time subsequent to the last day of the Four-Quarter Period and on or prior to the Transaction Date, as if such Asset Sale or Asset Acquisition (including the incurrence, assumption or liability for any such Indebtedness or Acquired Debt) occurred on the first day of the Four-Quarter Period.

If such Person or any of its Restricted Subsidiaries directly or indirectly Guarantees Indebtedness of a third Person, the preceding sentence shall give effect to the incurrence of such guaranteed Indebtedness as if such Person or any Restricted Subsidiary of such Person had directly incurred or otherwise assumed such guaranteed Indebtedness. Furthermore, in calculating Fixed Charges for purposes of determining the denominator (but not the numerator) of this Fixed Charge Coverage Ratio:

(1) interest on outstanding Indebtedness determined on a fluctuating basis as of the Transaction Date and which will continue to be so determined thereafter shall be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on the Transaction Date;

(2) if interest on any Indebtedness actually incurred on the Transaction Date may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rates, then the interest rate in effect on the Transaction Date will be deemed to have been in effect during the Four-Quarter Period; and

(3) notwithstanding clause (1) above, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by agreements relating to Hedging Obligations, shall be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

"Fixed Charges" means, with respect to any Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received, if any, pursuant to Hedging Obligations, but excluding amortization or write-off of debt issuance costs; plus

(2) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; plus

(3) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus

(4) the product of (a) all dividend payments, whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividend payments on Equity Interests to the extent paid in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary of the Company, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Foreign Subsidiary" means any Subsidiary of the Company that is not a Domestic Subsidiary.

"Four-Quarter Period" has the meaning specified in the definition of "Fixed Charge Coverage Ratio."

"Franchisee" means any franchisee or licensee of the Company or a Restricted Subsidiary engaged in a Permitted Business or any Affiliate thereof.

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

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

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, in the form of Exhibit A hereto, issued in accordance with Section 2.01, 2.06(b)(iv), 2.06(d)(ii) or 2.06(f) hereof.

"Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America, and for the payment of which the United States pledges its full faith and credit.

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

"Guarantor Senior Debt" means, with respect to any Guarantor:

(1) all Indebtedness outstanding under Senior Credit Facilities and all Hedging Obligations (including guarantees thereof) of such Guarantor, whether outstanding on the date of the Indenture or thereafter incurred;

(2) any other Indebtedness incurred by such Guarantor, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to such Guarantor's Subsidiary Guarantee; and

(3) all Obligations with respect to the items listed in the preceding clauses (1) and (2) (including any interest accruing subsequent to the filing of a petition of bankruptcy at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable law).

Notwithstanding anything to the contrary in the preceding, Guarantor Senior Debt will not include:

(1) any liability for federal, state, local or other taxes owed or owing by such Guarantor;

(2) any Indebtedness of such Guarantor to any of its Subsidiaries or other Affiliates of such Guarantor;

(3) any trade payables;

(4) that portion of any Indebtedness that is incurred by such Guarantor in violation of the Indenture; provided, that (x) as to any such Indebtedness, no such violation shall be deemed to exist for purposes of this clause (4) if the holder(s) of such Indebtedness or their Representative shall have received an officers' certificate of (or representation from) the Company to the effect that the incurrence of such Indebtedness does not violate the provisions of this Indenture or, in the case of revolving credit Indebtedness, that the incurrence of the entire committed amount thereof at the date on which the initial borrowing thereunder is made would not violate the provisions of this Indenture and (y) any revolving Indebtedness of such Guarantor under the Senior Credit Facilities incurred in violation of clause (1) of the definition of "Permitted Debt" at any time Indebtedness pursuant to a Permitted Securitization Transaction is outstanding shall not be excluded from Guarantor Senior Debt, so long as such Indebtedness was extended in good faith to such Guarantor;

- (5) any Capital Lease Obligations;
- (6) such Guarantor's Subsidiary Guarantee; or
- (7) notes payable to franchisee or licensee captive insurers.

"Guarantors" means each of:

- (1) each domestic Restricted Subsidiary of the Company on the date hereof, other than Domino's National Advertising Fund Inc.;
- (2) Domino's Pizza of Canada Inc., a Canadian Restricted Subsidiary;
and
- (3) any other Restricted Subsidiary (other than a Securitization Entity) that executes a Subsidiary Guarantee in accordance with the provisions of this Indenture;

and their respective successors and assigns.

"Hedging Obligations" means, with respect to any Person, the net obligations of such Person under:

- (1) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to protect such Person against fluctuations in interest rates or the value of foreign currencies;
and
- (3) Commodity Hedging Agreements.

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

"IAI Global Note" means the global Note in the form of Exhibit A-1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold to Institutional Accredited Investors.

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

- (1) borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) banker's acceptances;
- (4) representing Capital Lease Obligations;
- (5) the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or

(6) the net amount owing under Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by such Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date shall be:

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

(2) the principal amount thereof, in the case of any other Indebtedness.

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

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

"Initial Notes" means \$403.0 million in aggregate principal amount of Notes issued under this Indenture on the date hereof.

"Initial Public Offering" means the first underwritten public offering of Qualified Capital Stock by any direct or indirect parent corporation of the Company or by the Company pursuant to a registration statement (other than a registration statement on Form S-4 or S-8) filed with the Commission in accordance with the Securities Act for aggregate net cash proceeds of at least \$65.0 million; provided that in the event the Initial Public Offering is consummated by any direct or indirect parent corporation of the Company, such direct or indirect parent corporation of the Company shall have contributed to the common equity capital of the Company at least \$65.0 million of the net cash proceeds of the Initial Public Offering.

"Institutional Accredited Investor" means an institution that is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act that is also not a QIB.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the forms of direct or indirect loans (including guarantees of Indebtedness or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07 hereof.

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

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

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

"Moody's" means Moody's Investors Service, Inc.

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result thereof, taxes paid or payable as a result thereof, in each case after taking into account any available tax credits or deductions and any tax sharing arrangements, amounts required to be applied to the repayment of Indebtedness, other than debt under the Senior Credit Facilities, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"Non-Recourse Debt" means Indebtedness:

(1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender, and in each case other than Standard Securitization Undertakings;

(2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the Senior Credit Facilities or the Notes) of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries, except in the case of Standard Securitization Undertakings.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under this Indenture.

"Obligations" means any principal, interest (including any interest accruing subsequent to the filing of a petition of bankruptcy at that rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable law), penalties, fees, indemnifications, expenses, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Offering" means the offering of the Notes by the Company.

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

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

"144A Global Note" means a global note in the form of Exhibit A-1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 12.05 hereof. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

"Parent" means TISM, Inc., a Michigan corporation and owner of all of the outstanding Capital Stock of the Company, or any other entity owning a majority of the Voting Stock of the Company.

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

"Permitted Business" means (i) the business conducted by the Company and its Restricted Subsidiaries on the date hereof, (ii) the restaurant business, (iii) other food businesses, (iv) distribution activities relating to any of the foregoing and (v) businesses which derive a majority of their revenues from products and activities reasonably related to any of the foregoing.

"Permitted Group" means any group of investors if deemed to be a "person" (as such term is used in Section 13(d)(3) of the Exchange Act) by virtue of the Stockholders Agreement, as the same may be amended, modified or supplemented from time to time, provided that (i) the Principals are party to such Stockholders Agreement, (ii) the persons party to the Stockholders Agreement as so amended, supplemented or modified from time to time that were not parties, and are not Affiliates of persons who were parties, to the Stockholders Agreement on the date hereof, together with their respective Affiliates (collectively the "New Investors"), are not the direct or indirect Beneficial Owners (determined without reference to the Stockholders Agreement) of more than 50% of the Voting Stock owned by all

parties to the Stockholders Agreement as so amended, supplemented or modified and (iii) the New Investors, individually or in the aggregate, do not, directly or indirectly, have the right, pursuant to the Stockholders Agreement (as so amended, supplemented or modified) or otherwise, to designate more than one-half of the directors of the Board of Directors of the Company or any direct or indirect parent entity of the Company.

"Permitted Investments" means:

(1) any Investment in the Company or in a Restricted Subsidiary of the Company that is a Guarantor or a Foreign Subsidiary or, in an amount at any time outstanding not to exceed \$10.0 million, in Domino's National Advertising Fund Inc.;

(2) any Investment in Cash Equivalents;

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

(a) such Person becomes a Restricted Subsidiary of the Company that is a Guarantor or a Foreign Subsidiary; or

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

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

(5) Investments existing on the date of this Indenture;

(6) loans and advances to employees and officers of the Company and its Restricted Subsidiaries in the ordinary course of business;

(7) any acquisition of assets to the extent acquired in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(8) Investments in securities of trade creditors, franchisees, licensees, suppliers or customers received in compromise of obligations of such persons incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors, franchisees, licensees, suppliers or customers;

(9) Investments in a Permitted Business in an aggregate amount at any time outstanding not to exceed \$20.0 million;

(10) receivables owing to the Company or any Restricted Subsidiary, if created or acquired in the ordinary course of business;

(11) Guarantees otherwise permitted by the terms of this Indenture;

(12) Hedging Obligations entered into in the ordinary course of the Company's or its Restricted Subsidiaries' business and otherwise in compliance with this Indenture;

(13) any Investment by the Company or any Restricted Subsidiary in a Securitization Entity or any Investment by a Securitization Entity in any other person, in each case in connection with a Permitted Securitization Transaction; provided, however, that the foregoing Investment is in the form of a Purchase Money Note that the Securitization Entity or such other person is required to repay as soon as practicable or equity interests; and

(14) other Investments in any Person having an aggregate fair market value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (14) that are at the time outstanding, not to exceed the greater of (a) \$40.0 million or (b) 10% of Total Assets.

"Permitted Junior Securities" means debt or equity securities of the Company or any successor corporation issued pursuant to a plan of reorganization or readjustment of the Company that are subordinated to the payment of all then outstanding Senior Debt of the Company at least to the same extent that the Notes are subordinated to the payment of all Senior Debt of the Company on the date of this Indenture, so long as:

(1) the effect of the use of this defined term in the subordination provisions contained in Article 10 of this Indenture is not to cause the Notes to be treated as part of:

(a) the same class of claims as the Senior Debt of the Company;
or

(b) any class of claims pari passu with, or senior to, the Senior Debt of the Company for any payment or distribution in any case or proceeding or similar event relating to the liquidation, insolvency, bankruptcy, dissolution, winding up or reorganization of the Company; and

(2) to the extent that any Senior Debt of the Company outstanding on the date of consummation of any such plan of reorganization or readjustment is not paid in full in cash on such date, either:

(a) the holders of any such Senior Debt not so paid in full in cash have consented to the terms of such plan of reorganization or readjustment; or

(b) such holders receive securities which constitute Senior Debt of the Company (which are guaranteed pursuant to guarantees constituting Guarantor Senior Debt of each Guarantor) and which have been determined by the relevant court to constitute satisfaction in full in money or money's worth of any Senior Debt of the Company (and any related Guarantor Senior Debt of the Guarantors) not paid in full in cash.

"Permitted Liens" means:

(1) Liens on assets of the Company and any Guarantor securing Indebtedness and other Obligations under the Senior Credit Facilities;

(2) Liens in favor of the Company or the Guarantors;

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

(4) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, including any Lien securing letters of credit issued in the ordinary course of business consistent with past practice in connection therewith, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);

(5) judgment Liens not giving rise to an Event of Default;

(6) easements, rights-of-way, zoning restrictions and other similar charges or encumbrances in respect of real property not interfering in any material respect with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries;

(7) any interest or title of a lessor under any Capital Lease Obligation;

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

(9) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other property relating to such letters of credit and products and proceeds thereof;

(10) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual, or warranty requirements of the Company or any of its Restricted Subsidiaries, including rights of offset and set-off;

(11) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Company and its Restricted Subsidiaries;

(12) Liens arising from filing Uniform Commercial Code financing statements regarding leases;

(13) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(14) Liens on property existing at the time of acquisition thereof by the Company or any Subsidiary of the Company, provided that such Liens were in existence prior to the contemplation of such acquisition;

(15) Liens to secure the performance of statutory obligations and Liens imposed by law, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business;

(16) Liens securing Hedging Obligations which Hedging Obligations relate to Indebtedness that is otherwise permitted under this Indenture;

(17) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (iv) of the second paragraph of Section 4.09 hereof covering only the assets acquired with such Indebtedness;

(18) Liens existing on the date of this Indenture, together with any Liens securing Indebtedness incurred in reliance on clause (v) of the second paragraph of Section 4.09 hereof in order to refinance the Indebtedness secured by Liens existing on the date of this Indenture; provided that the Liens securing the refinancing Indebtedness shall not extend to property other than that pledged under the Liens securing the Indebtedness being refinanced;

(19) Liens on assets of the Company and its Restricted Subsidiaries to secure Senior Debt of the Company or such Restricted Subsidiary, as the case may be, that was permitted by this Indenture to be incurred;

(20) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(21) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed \$10.0 million at any one time outstanding;

(22) Liens securing Indebtedness of foreign Restricted Subsidiaries of the Company incurred in accordance with this Indenture; and

(23) Liens on assets transferred to a Securitization Entity or an asset of a Securitization Entity, in either case, incurred in connection with a Permitted Securitization Transaction.

"Permitted Notes Receivable" means notes receivable evidencing Indebtedness of a Franchisee to the Company or a Restricted Subsidiary.

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

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus accrued interest and premiums on, the Indebtedness so extended, refinanced, renewed, replaced, defeased or refunded (plus the amount of reasonable costs and expenses incurred in connection therewith);

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

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

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

"Permitted Securitization Transaction" means any transaction or series of transactions pursuant to which the Company or any of its Restricted Subsidiaries may sell, contribute, convey or otherwise transfer to (i) a Securitization Entity (in the case of a transfer by the Company or any of its Restricted Subsidiaries) and (ii) any other person (in the case of a transfer by a Securitization Entity), or may grant a security interest in, any accounts receivable or Permitted Notes Receivable (whether now existing or arising in the future) of the Company or any of its Restricted Subsidiaries, and any assets directly related thereto, including, without limitation, all collateral securing such accounts receivable, Permitted Notes Receivable and other assets (including contract rights and all guarantees or other obligations in respect to such accounts receivable or Permitted Notes Receivable, proceeds of such accounts receivable or Permitted Notes Receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable or Permitted Notes Receivable).

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or agency or political subdivision thereof (including any subdivision or ongoing business of any such entity or substantially all of the assets of any such entity, subdivision or business).

"Principals" means Bain Capital, LLC and any of its Affiliates.

"Private Placement Legend" means the legend set forth in Section 2.06(g)(i) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"Pro Forma Cost Savings" means, with respect to any period, the reduction in costs and related adjustments that occurred during the Four-Quarter Period or after the end of the Four-Quarter Period and on or prior to the Transaction Date that were (i) directly attributable to an Asset Acquisition or Asset Sale and calculated on a basis that is consistent with Regulation S-X under the Securities Act as in effect and applied as of the date hereof or (ii) implemented by the business that was the subject of any such Asset Acquisition or Asset Sale within six months of the date of the Asset Acquisition or Asset Sale and that are supportable and quantifiable by the underlying accounting records of such business, as if, in the case of each of clause (i) and (ii), all such reductions in costs and related adjustments had been effected as of the beginning of such period.

"Purchase Money Note" means a promissory note of a Securitization Entity evidencing a line of credit, which may be irrevocable, from the Company or any Restricted Subsidiary in connection with a Permitted Securitization Transaction to a Securitization Entity, which note is repayable from cash available to such Securitization Entity, other than amounts required to be established as reserves pursuant to contractual arrangements with entities that are not Affiliates entered into as part of such Permitted Securitization Transaction, amounts paid to investors in respect of interest, principal and other amounts owing to such investors and amounts paid in connection with the purchase of newly generated accounts receivable or Permitted Notes Receivable.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Qualified Capital Stock" means any Capital Stock that is not Disqualified Stock.

"Refinancing" means the transactions described under the heading "Use of proceeds" in the Company's offering memorandum dated June 18, 2003 (including (1) payment to Parent of funds to effect the redemption of the Parent's cumulative preferred stock, (2) payment to Parent of funds to effect the common stock dividend, (3) payment by the Company or payment to Parent of funds to effect compensatory make-whole payments to specified stockholders of Parent and to officers, directors and employees who hold stock options of Parent and (4) the refinancing of the Company's senior credit facilities and the Existing Notes) to the extent contemplated thereby.

"Registration Rights Agreement" means the Registration Rights Agreement, dated as of June 25, 2003 by and among the Company and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time and, with respect to any Additional Notes, one or more registration rights agreements between the Company and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as appropriate.

"Regulation S Permanent Global Note" means a permanent global Note in the form of Exhibit A-1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

"Regulation S Temporary Global Note" means a temporary global Note in the form of Exhibit A-2 hereto bearing the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

"Representative" means the indenture trustee or other trustee, agent or representative in respect of any Designated Senior Debt; provided that if, and for so long as, any Designated Senior Debt lacks such a representative, then the Representative for such Designated Senior Debt shall at all times

constitute the holders of a majority in outstanding principal amount of such Designated Senior Debt in respect of any Designated Senior Debt.

"Responsible Officer" shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

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

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

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

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated the Securities Act.

"S&P" means Standard & Poor's.

"SEC" means the Securities and Exchange Commission.

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

"Securitization Entity" means a Wholly Owned Restricted Subsidiary of the Company that engages in no activities other than in connection with the financing of accounts receivable or Permitted Notes Receivable and that is designated by the Board of Directors of the Company (as provided below) as a Securitization Entity (a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by the Company or any other Restricted Subsidiary (excluding guarantees of Obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Company or any other Restricted Subsidiary in any way other than pursuant to Standard Securitization Undertakings or (iii) subjects any property or asset of the Company or any other Restricted Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (b) with which neither the Company nor any other Restricted Subsidiary has any material contract,

agreement, arrangement or understanding other than on terms no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from persons that are not Affiliates of the Company, other than fees payable in the ordinary course of business in connection with servicing receivables of such entity, and (c) to which neither the Company nor any Restricted Subsidiary (other than such entity) has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results. Any such designation by the Board of Directors of the Company shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors of the Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing conditions.

"Senior Credit Facilities" means one or more debt facilities from time to time in effect, including that certain Credit Agreement, dated as of June 25, 2003, by and among the Company and certain of its affiliates and JPMorgan Chase Bank, as administrative agent, and the other lenders party thereto, together with the related documents thereto (including, without limitation, any guarantee agreements and security documents), in each case as such agreements may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement extending the maturity of, refinancing, replacing or otherwise restructuring (including increasing the amount of available borrowings thereunder or adding Restricted Subsidiaries of the Company as additional borrowers or guarantors thereunder) all or any portion of the Indebtedness under such agreement or any successor or replacement agreement and whether by the same or any other agent, lender or group of lenders.

"Senior Debt" means:

(1) all Indebtedness outstanding under Senior Credit Facilities and all Hedging Obligations (including guarantees thereof) of the Company, whether outstanding on the date of this Indenture or thereafter incurred;

(2) any other Indebtedness incurred by the Company or a Restricted Subsidiary, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes; and

(3) all Obligations with respect to the items listed in the preceding clauses (1) and (2) (including any interest accruing subsequent to the filing of a petition of bankruptcy at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable law).

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

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

(2) any Indebtedness of the Company to any of its Subsidiaries or other Affiliates;

(3) any trade payables;

(4) that portion of any Indebtedness that is incurred in violation of this Indenture; provided that (x) as to any such Indebtedness, no such violation shall be deemed to exist for purposes of this clause (4) if the holder(s) of such Indebtedness or their Representative shall have re-

ceived an officers' certificate of (or representation from) the Company to the effect that the incurrence of such Indebtedness does not violate the provisions of this Indenture, or, in the case of revolving credit Indebtedness, that the incurrence of the entire committed amount thereof at the date on which the initial borrowing thereunder is made would not violate the provisions of this Indenture and (y) any revolving Indebtedness under the Senior Credit Facilities incurred in violation of clause (1) of the definition of "Permitted Debt" at any time Indebtedness pursuant to a Permitted Securitization Transaction is outstanding shall not be excluded from Senior Debt, so long as such Indebtedness was extended in good faith to the Company;

- (5) any Capital Lease Obligations;
- (6) the Notes; or
- (7) notes payable to franchisee captive insurers.

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Significant Restricted Subsidiary" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"Standard Securitization Undertakings" mean representations, warranties, guarantees, covenants and indemnities entered into by the Company or any Restricted Subsidiary that are reasonably customary in securitization transactions relating to accounts receivable or Permitted Notes Receivable and reimbursement obligations under letters of credit not to exceed an amount equal to 15% of the total assets of the applicable Securitization Entity in connection with a Permitted Securitization Transaction.

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

"Stockholders Agreement" means that certain stockholders agreement dated December 21, 1998 among the Principals, Parent and the other stockholders of Parent referred to therein, as in effect from time to time.

"Subsidiary" means, with respect to any Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbb) as in effect on the date on which this Indenture is qualified under the TIA, except as provided in Section 9.03 hereof.

"Total Assets" means the total consolidated assets of the Company and its Restricted Subsidiaries, as set forth on the Company's most recent consolidated balance sheet.

"Treasury Rate" means, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Redemption Date to July 1, 2007; provided, however, that if the period from such Redemption Date to July 1, 2007 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note in the form of Exhibit A-1 attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing a series of Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

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

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

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect

to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09 hereof, the Company shall be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if (1) such Indebtedness is permitted under Section 4.09 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

"U.S. Person" means a U.S. person as defined in Regulation S under the Securities Act.

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

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

"Wholly Owned Restricted Subsidiary" of any Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than (x) directors' qualifying shares, (y) shares issued to foreign nationals to the extent required by applicable law and (z) Capital Stock or other ownership interests issued to a Person other than the Company or a Wholly Owned Restricted Subsidiary of the Company in connection with a Permitted Securitization Transaction for the purpose of establishing independence and not in order to provide substantive economic or controlling voting interests to such Person) shall at the time be owned by such Person and/or by one or more Wholly Owned Restricted Subsidiaries of such Person.

Section 1.02. Other Definitions.

Term	Defined in Section
"Acceleration Notice".....	6.02
"Affiliate Transaction".....	4.11
"Asset Sale Offer".....	3.09
"Authentication Order".....	2.02
"Change of Control Offer".....	4.15
"Change of Control Payment".....	4.15
"Change of Control Payment Date".....	4.15

"Covenant Defeasance".....	8.03
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"incur".....	4.09
"Legal Defeasance".....	8.02
"Offer Amount".....	3.09
"Offer Period".....	3.09
"Paying Agent".....	2.03
"Payment Blockage Notice".....	10.03
"Payment Default".....	6.01
"Permitted Debt".....	4.09
"Purchase Date".....	3.09
"Redemption Date".....	3.07
"Registrar".....	2.03
"Restricted Payments".....	4.07

Section 1.03. Trust Indenture Act Definitions.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Notes;

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

"indenture to be qualified" means this Indenture;

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

"obligor" on the Notes and the Subsidiary Guarantees means the Company and the Guarantors, respectively, and any successor obligor upon the Notes and the Subsidiary Guarantees, respectively.

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

Section 1.04. Rules of Construction.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;

(5) provisions apply to successive events and transactions; and

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

ARTICLE 2.

THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$1,000 and integral multiples thereof.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibits A-1 or A-2 attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A-1 attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, at its New York office, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Company and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of (i) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a 144A Global Note or an IAI Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(b)(i) hereof), and (ii) an

Officers' Certificate. Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in Regulation S Permanent Global Notes pursuant to the Applicable Procedures. Simultaneously with the authentication of Regulation S Permanent Global Notes, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream" and "Customer Handbook" of Cedel Bank (as adopted by Clearstream) shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes that are held by Participants through Euroclear or Clearstream.

Section 2.02. Execution and Authentication.

Two Officers shall sign the Notes for the Company by manual or facsimile signature.

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

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

The Trustee shall, upon a written order of the Company signed by two Officers (an "Authentication Order"), authenticate and deliver (a) \$403,000,000 of 8 1/4% Senior Subordinated Notes due 2011 in the form of Initial Notes and (b) from time to time, Additional Notes in accordance with Section 2.01 and 2.14, provided the written order delivered in connection with the authentication and delivery of any Additional Notes shall certify that such issuance is not prohibited by Section 4.09.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent.

An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

Section 2.03. Registrar and Paying Agent.

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

Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depository with respect to the Global Notes.

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

Section 2.04. Paying Agent To Hold Money in Trust.

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

Section 2.05. Holder Lists.

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

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee written notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; provided that in no event shall the Regulation S Temporary Global Note be exchanged by the Company for Definitive Notes prior to (x) the expiration of the Restricted Period and (y) the receipt by the Registrar of any certificates required pursuant to Rule 903(c)(3)(ii)(B) under the Securities Act. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Notes shall be issued in such names as the Depository shall instruct the Trustee in writing. Global Notes also may be exchanged or replaced, in whole or in part, as provided

in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b),(c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Temporary Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (x) the expiration of the Restricted Period and (y) the receipt by the Registrar of any certificates required pursuant to Rule 903 under the Securities Act. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f) hereof, the requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Temporary Global Note or the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications and certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in the Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note,

a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to subparagraph (B) or (D) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to subparagraph (B) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by

Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (x) the expiration of the Restricted Period and (y) the receipt by the Registrar of any certificates required pursuant to Rule 903(c)(3)(ii)(B) under the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

(F) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (c) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(2) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (ii)(B), (ii)(D) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by his attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(2) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of the Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not affiliates (as defined in Rule 144) of the Company, and accepted for exchange in the Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in the Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Definitive Notes so accepted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

"This Note has not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and this Note may not be offered, sold, pledged or otherwise transferred except pursuant to an effective registration statement or in accordance with an applicable exemption from the registration requirements of the Securities Act (subject to the delivery of such evidence, if any, required under the indenture pursuant to which this Note is issued) and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction. Each purchaser of the security evidenced hereby is hereby notified that the seller may be relying on the exemption from the provisions of Section 5 of the Securities Act provided by Rule 144A thereunder or another exemption under the Securities Act. The holder of the security evidenced hereby agrees for the benefit of the Company that (a) such security may be resold, pledged or otherwise transferred only (1) (a) to a person who the seller reasonably believes is a qualified institutional buyer (as defined in Rule 144A under the Securities Act) in a transaction meeting the requirements of Rule 144A, (b) in a transaction meeting the requirements of Rule 144 under the Securities Act, (c) outside the United States to a foreign person in a transaction meeting the requirements of Regulation S under the Securities Act or (d) in accordance with another exemption from the registration requirements of the Securities Act (and based upon an opinion of counsel if

the Company so requests), as long as the registrar receives a certification of the transferor and an opinion of counsel that such transfer is in compliance with the Securities Act, (2) to the Company or (3) pursuant to an effective registration statement and, in each case, in accordance with any applicable securities laws of any State of the United States or any other applicable jurisdiction and (b) the holder will and each subsequent holder is required to notify any purchaser from it of the security evidenced hereby of the resale restriction set forth in (a) above."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

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

"This Global Note is held by the Depositary (as defined in the Indenture governing this Note) or its nominee in custody for the benefit of the beneficial owners hereof, and is not transferable to any person under any circumstances except that (i) the Trustee may make such notations hereon as may be required pursuant to section 2.07 of the Indenture, (ii) this Global Note may be exchanged in whole but not in part pursuant to section 2.06(a) of the Indenture, (iii) this Global Note may be delivered to the Trustee for cancellation pursuant to section 2.11 of the Indenture, and (iv) this Global Note may be transferred to a successor depositary with the prior written consent of the Company."

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form: "The rights attaching to this Regulation S Temporary Global Note, and the conditions and procedures governing its exchange for Certificated Notes, are as specified in the Indenture (as defined herein). Neither the Holder nor the Beneficial Owners of this Regulation S Temporary Global Note shall be entitled to receive payment of interest hereon."

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order.

No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 hereof).

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

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

The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any mailing of a notice of redemption under Section 3.03 hereof and ending at the close of business on the day of mailing, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

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

The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

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

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.07. Replacement Notes.

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

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

Section 2.08. Outstanding Notes.

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

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

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

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

Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee shall have received written notice that such Notes are so owned shall be so disregarded.

Section 2.10. Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company

considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

Section 2.11. Cancellation.

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

Section 2.12. Defaulted Interest.

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

Section 2.13. CUSIP Numbers.

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

Section 2.14. Issuance of Additional Notes.

The Company shall be entitled to issue Additional Notes under this Indenture which shall have substantially identical terms as the Initial Notes, other than with respect to the date of issuance, issue price, amount of interest payable on the first payment date applicable thereto or upon a registration default as provided under a registration rights agreement related thereto and terms of optional redemption, if any (and, if such Additional Notes shall be issued in the form of Exchange Notes, other than with respect to transfer restrictions); provided that such issuance is not prohibited by Section 4.09. The Initial Notes, any Additional Notes and all Exchange Notes issued in exchange therefor shall be treated as a single class for all purposes under this Indenture in accordance with Section 2.02.

With respect to any Additional Notes, the Company shall set forth in a resolution of its Board of Directors (or a duly appointed committee thereof) and in an Officers' Certificate, a copy of each of which shall be delivered to the Trustee, the following information:

(1) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;

(2) the issue price and the issue date of such Additional Notes and the amount of interest payable on the first payment date applicable thereto; and

(3) whether such Additional Notes shall be transfer restricted securities and issued in the form of Initial Notes or shall be registered securities issued in the form of Exchange Notes, each as set forth in the Exhibits hereto.

ARTICLE 3.

REDEMPTION AND PREPAYMENT

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it shall furnish to the Trustee, at least 45 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the clause of this Indenture or the Notes pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed, (iv) the redemption price and (v) a statement to the effect that such redemption will comply with the conditions contained herein.

Section 3.02. Selection of Notes To Be Redeemed.

If less than all of the Notes are to be redeemed at any time, the Trustee shall select Notes for redemption as follows:

(a) if the Notes are listed, in compliance with the requirements of the principal national securities exchange on which the Notes are listed; or

(b) if the Notes are not so listed, on a pro rata basis, by lot or by such method as the Trustee shall deem fair and appropriate.

In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$1,000 or whole multiples of \$1,000; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03. Notice of Redemption.

Subject to the provisions of Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with the defeasance of the Notes or a satisfaction and discharge of this Indenture under Article 8 hereof.

The notice shall identify the Notes to be redeemed (including the CUSIP number) and shall state:

(a) the redemption date;

(b) the redemption price;

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

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

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

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

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

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

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided, however, that the Company shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04. Effect of Notice of Redemption.

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

Section 3.05. Deposit of Redemption Price.

Prior to 10:00 a.m. on the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

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

Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07. Optional Redemption.

(a) Before July 1, 2006, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of Notes issued under this Indenture at a redemption price of 108.250% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest thereon, if any, to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided that:

(i) at least 60% of the aggregate principal amount of Notes issued under this Indenture remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company and its Subsidiaries); and

(ii) the redemption must occur within 120 days of the date of the closing of the Equity Offering.

(b) Before July 1, 2007, the Company may also redeem the Notes, as a whole but not in part, upon the occurrence of a Change of Control, upon not less than 30 nor more than 60 days' prior notice (but in no event may any such redemption occur more than 90 days after the occurrence of such Change of Control), at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest thereon, if any, to, the date of redemption (the "Redemption Date").

(c) Except pursuant to the preceding paragraphs, the Notes will not be redeemable at the Company's option prior to July 1, 2007.

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

Year	Percentage
2007.....	104.125%
2008.....	102.063%
2009 and thereafter.....	100.000%

(d) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Section 3.01 through 3.06 hereof.

Section 3.08. Mandatory Redemption.

The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

Section 3.09. Offer To Purchase by Application of Excess Proceeds.

In the event that, pursuant to Section 4.10 hereof, the Company shall be required to commence an offer to all Holders to purchase Notes (an "Asset Sale Offer"), it shall follow the procedures specified below.

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

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

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

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

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

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

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

(e) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may only elect to have all of such Note purchased and may not elect to have only a portion of such Note purchased;

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

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

(h) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Company shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

(i) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before 10:00 a.m. on the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depository or the Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee shall authenticate and deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on the Purchase Date.

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

ARTICLE 4.

COVENANTS

Section 4.01. Payment of Notes; Additional Interest Notices.

The Company or a Guarantor shall pay or cause to be paid the principal of, premium, if any, and interest and Additional Interest, if any, on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest and Additional Interest, if any, shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest and Additional Interest, if any, then due. The Company shall pay all Additional Interest, if any, in the same manner, on the dates and in the amounts set forth in the Registration Rights Agreement.

The Company or a Guarantor shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Additional Interest (without regard to any applicable grace period) at the same rate to the extent lawful.

In the event that the Company is required to pay Additional Interest to Holders pursuant to the Registration Rights Agreement, the Company will provide written notice ("Additional Interest Notice") to the Trustee of its obligation to pay Additional Interest no later than fifteen days prior to the proposed payment date set for the amount of Additional Interest, and the Additional Interest Notice shall set forth the amount of Additional Interest to be paid by the Company on such payment date. The Trustee shall not at any time be under any duty or responsibility to any Holder to determine the Additional Interest, or with respect to the nature, extent, or calculation of the amount of Additional Interest when made, or with respect to the method employed in such calculation of the Additional Interest.

Section 4.02. Maintenance of Office or Agency.

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

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

The Company hereby designates the principal corporate trust office of the Trustee, at 101 Barclay Street, New York, New York 10286 as one such office or agency of the Company in accordance with Section 2.03.

Section 4.03. Reports.

Whether or not required by the SEC, so long as any Notes are outstanding, the Company shall furnish to the Holders of Notes and the Trustee, within the time periods specified in the SEC's rules and regulations:

(i) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants; and

(ii) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

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

In addition, whether or not required by the SEC, the Company shall file a copy of all of the information and reports referred to in clauses (i) and (ii) above with the Trustee and the SEC for public availability within the time periods specified in the SEC's rules and regulations (unless the SEC will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. Moreover, the Company has agreed, and any Guarantor shall agree, that, for so long as any Notes remain outstanding, it shall furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 4.04. Compliance Certificate.

(a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Inden-

ture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto. For purposes this paragraph, such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(i) above shall be accompanied by a written statement of the Company's independent public accountants (who shall be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05. Taxes.

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

Section 4.06. Stay, Extension and Usury Laws.

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

Section 4.07. Restricted Payments.

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

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

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company (other than any such Equity Interests owned by the Company or any Restricted Subsidiary of the Company);

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

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

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

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

(ii) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable Four-Quarter Period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof; and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after December 29, 2002 (excluding Restricted Payments permitted by clauses (iii), (iv), (vi), (vii), (viii), (ix) and (xi) of the next succeeding paragraph), is less than the sum, without duplication, of

(A) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after December 29, 2002 to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus

(B) 100% of the aggregate net cash proceeds received by the Company (other than from a Restricted Subsidiary) since December 29, 2002 as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company), plus

(C) to the extent that any Restricted Investment that was made after December 29, 2002 is sold for cash or otherwise liquidated or repaid for cash, the lesser of (i) the cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment.

The preceding provisions will not prohibit:

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

(ii) if no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof, following the consummation of an Initial Public Offering, the payment of dividends on the Company's common stock or the payment to any direct or indirect parent corporation of the Company for the purpose of funding the payment of dividends by such direct or indirect parent corporation on its common stock, in each case in an amount of up to 6% per annum of the net cash proceeds received by the Company or contributed to the Company in an Initial Public Offering or any subsequent public offering of Qualified Capital Stock by any direct or indirect parent corporation of the Company or by the Company;

(iii) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or any Guarantor or of any Equity Interests of the Company or any Restricted Subsidiary in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock); provided that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition shall be excluded from clause (iii)(B) of the preceding paragraph;

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

(v) payments to any direct or indirect parent corporation of the Company for the purpose of permitting, and in an amount equal to the amount required to permit, such direct or indirect parent corporation of the Company to redeem or repurchase such direct or indirect parent corporation of the Company's common equity or options in respect thereof, in each case in connection with the repurchase provisions of employee, director or Franchisee stock option or stock purchase agreements or other agreements to compensate management employees or directors; provided that all such redemptions or repurchases pursuant to this clause (v) shall not exceed \$25.0 million in the aggregate since the date of this Indenture (which amount shall be increased (A) by the amount of any net cash proceeds received from the sale since the date of this Indenture of Equity Interests (other than Disqualified Stock) to members of the Company's management team, directors and Franchisees that have not otherwise been applied to the payment of Restricted Payments pursuant to the terms of clause (iii)(B) of the preceding paragraph and (B) by the cash proceeds of any "key-man" life insurance policies that are used to make such redemptions or repurchases); and provided, further, that the cancellation of Indebtedness owing to the Company from members of management of the Company or any of its Restricted Subsidiaries in connection with such a repurchase of Capital Stock of any direct or indirect parent corporation of the Company will not be deemed to constitute a Restricted Payment under this Indenture;

(vi) the making of distributions, loans or advances to any direct or indirect parent corporation of the Company in an amount not to exceed \$1.5 million per annum (\$5.0 million per annum upon the consummation of an Initial Public Offering) in order to permit such direct or indirect parent corporation of the Company to pay the ordinary operating expenses of such direct or indirect parent corporation of the Company (including, without limitation, directors' fees, indemnification obligations, professional fees and expenses);

(vii) payments to any direct or indirect parent corporation of the Company in respect of (A) federal income taxes for the tax periods for which a federal consolidated return is filed by such direct or indirect parent corporation of the Company for a consolidated group of which such direct or indirect parent corporation of the Company is the parent and the Company and its Subsidiaries are members, in an amount not to exceed the hypothetical federal income taxes that the Company would have paid if the Company and its Restricted Subsidiaries filed a separate consolidated return with the Company as the parent, taking into account carryovers and carrybacks of tax attributes (including net operating losses) that would have been allowed if such separate consolidated return had been filed, (B) state income tax for the tax periods for which a state combined, consolidated or unitary return is filed by such direct or indirect parent corporation of the Company for a combined, consolidated or unitary group of which such direct or indirect parent corporation of the Company is the parent and the Company and its Subsidiaries are members, in an amount not to exceed the hypothetical state income taxes that the Company would have paid if the Company and its Restricted Subsidiaries had filed a separate combined, consolidated or unitary return taking into account carryovers and carrybacks of tax attributes (including net operating losses) that would have been allowed if such separate combined return had been filed and (C) capital stock, net worth, or other similar taxes (but for the avoidance of doubt, excluding any taxes based on net or gross income) payable by such direct or indirect parent corporation of the Company based on or attributable to its investment in or ownership of the Company and its Restricted Subsidiaries; provided, however, that in no event shall any such tax payment pursuant to this clause (vii) exceed the amount of federal (or state, as the case may be) income tax that is, at the time the Company makes such tax payments, actually due and payable by such direct or indirect parent corporation of the Company to the relevant taxing authorities or to become due and payable within 30 days of such payment by the Company; provided, further, that for purposes of this clause (vii), payments made by an Unrestricted Subsidiary to a Restricted Subsidiary or the Company which are in turn distributed by such Restricted Subsidiary or the Company to any direct or indirect parent corporation of the Company shall be disregarded.

(viii) if no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof, the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of the Company or any Restricted Subsidiary issued after the date of this Indenture; provided that, at the time of such issuance, the Company, after giving effect to such issuance on a pro forma basis, would have had a Fixed Charge Coverage Ratio of at least 2.0 to 1.0 for the most recent Four-Quarter Period;

(ix) distributions to Parent and other payments made by the Company in connection with the Refinancing;

(x) the repurchase, redemption or other acquisition or retirement for value of subordinated Indebtedness with Excess Proceeds to the extent such Excess Proceeds are permitted to be used for general corporate purposes under Section 4.10 hereof;

(xi) the repurchase of Capital Stock of the Company upon the surrender of such Capital Stock in satisfaction of all or a portion of the exercise price of a stock option granted under any stock option plan established by the Company for the benefit of its directors, employees or consultants; provided that no payment in cash or other property is made by the Company in connection therewith; and

(xii) if no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof and the Company would be permitted to incur at least \$1.00 of additional Indebtedness (other than Permitted Debt) in compliance with Section 4.09 hereof, other Restricted Payments in an aggregate amount not to exceed \$40.0 million since the date of this Indenture.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this Section 4.07 shall be determined by the Board of Directors whose resolution with respect thereto shall be delivered to the Trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the fair market value exceeds \$15.0 million. Not later than the date of making any Restricted Payment, the Company shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.07 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

Section 4.08. Dividend and Other Payment Restrictions Affecting Subsidiaries.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:

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

(ii) make loans or advances to the Company or any of the Company's Restricted Subsidiaries; or

(iii) transfer any of its properties or assets to the Company or any of the Company's Restricted Subsidiaries.

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

(i) Existing Indebtedness as in effect on the date of this Indenture;

(ii) this Indenture, the Notes and the Subsidiary Guarantees;

(iii) the Senior Credit Facilities;

(iv) applicable law;

(v) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(vi) non-assignment provisions in leases, licenses or similar agreements entered into in the ordinary course of business and consistent with past practices;

(vii) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on the property so acquired of the nature described in clause (iii) of the preceding paragraph;

(viii) asset sale agreements and stock sale agreements, including any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by such Restricted Subsidiary pending its sale or other disposition;

(ix) Permitted Refinancing Indebtedness, provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, in the good faith judgment of the Board of Directors of the Company, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(x) restrictions on the transfer of assets subject to any Lien permitted under this Indenture imposed by the holder of such Lien;

(xi) Liens securing Indebtedness otherwise permitted to be incurred pursuant to the provisions of Section 4.12 hereof that limit the right of the Company or any of its Restricted Subsidiaries to dispose of the assets subject to such Lien;

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

(xiii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(xiv) any agreement or instrument governing Indebtedness or preferred stock (whether or not outstanding) of Foreign Subsidiaries of the Company that was permitted by this Indenture to be incurred;

(xv) Indebtedness incurred after the date hereof in accordance with the terms of this Indenture; provided that the restrictions contained in the agreements governing such new Indebtedness are, in the good faith judgment of the Board of Directors of the Company, not materially less favorable, taken as a whole, to the Holders of the Notes than those contained in the agreements governing Indebtedness on the date hereof;

(xvi) any agreement or instrument placing contractual restrictions applicable only to a Securitization Entity effected in connection with, or Liens on receivables or related assets which are the subject of, a Permitted Securitization Transaction; and

(xvii) any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (xvi) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Board of Directors of the Company, not materially more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company shall not issue any Disqualified Stock and shall not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Company and any Guarantor may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and any Guarantor may issue preferred stock, if in each case the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom and as otherwise provided in accordance with the provisions contained in the definition of "Fixed Charge Coverage Ratio"), as if the additional Indebtedness had been incurred, or the Disqualified Stock or preferred stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this Section 4.09 shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(i) the incurrence by the Company and any Guarantor of Indebtedness pursuant to the Senior Credit Facilities and/or the incurrence by a Securitization Entity of Indebtedness pursuant to a Permitted Securitization Transaction in an aggregate principal amount at any time outstanding (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Subsidiaries thereunder (provided that letters of credit constituting Standard Securitization Undertakings will be excluded for purposes of this clause (i))) not to exceed \$735.0 million less the aggregate amount of all Net Proceeds of Asset Sales applied by the Company or any of its Restricted Subsidiaries to permanently repay Indebtedness under the Senior Credit Facilities pursuant to Section 4.10 hereof; provided that the amount of Indebtedness permitted to be incurred pursuant to the Senior Credit Facilities and pursuant to Permitted Securitization Transactions in accordance with this clause (i) shall be in addition to any Indebtedness permitted to be incurred pursuant to the Senior Credit Facilities in reliance on, and in accordance with, clauses (iv) and (xv) below and in addition to any Indebtedness permitted to be incurred pursuant to Permitted Securitization Transactions in reliance on, and in accordance with, clause (xv) below;

(ii) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(iii) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes issued on the date of this Indenture, the Subsidiary Guarantees of such Notes, the Exchange Notes issued in exchange for such Notes (or in exchange for any Additional Notes issued in accordance with the terms of this Indenture) and the Subsidiary Guarantees thereof;

(iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness (including Capital Lease Obligations) to finance the purchase, lease or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) within 180 days after such purchase, lease or improvement in an aggregate principal amount outstanding (which amount may, but need not, be incurred in whole or in part under the Senior Credit Facilities) not to exceed the greater of (a) \$50.0 million or (b) 10.0% of Total Assets at the time of any incurrence thereof, including any Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (iv);

(v) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace, Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under the first paragraph of this Section 4.09 or clauses (ii), (iii), (iv) or (xv) of this paragraph;

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that:

(A) if the Company or any Guarantor is the obligor on such Indebtedness and the obligee is not the Company or any Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, in the case of the Company, or the Subsidiary Guarantee of such Guarantor, in the case of a Guarantor; and

(B) (1) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary thereof and (2) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary thereof; shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations that are incurred (a) for the purpose of fixing or hedging (1) interest rate risk with respect to any floating or fixed rate Indebtedness that is permitted by the terms of this Indenture to be outstanding or (2) the value of foreign currencies purchased or received by the Company in the ordinary course of business or (b) under Commodity Hedging Agreements;

(viii) the guarantee by the Company or any of the Guarantors of Indebtedness of the Company, a Guarantor or a Foreign Subsidiary that was permitted to be incurred by another provision of this Section 4.09;

(ix) the incurrence of Indebtedness and/or the issuance of preferred stock by Foreign Subsidiaries of the Company, which together with the aggregate principal amount of Indebtedness incurred pursuant to this clause (ix) and the aggregate liquidation value of all preferred stock issued pursuant to this clause (ix), does not exceed \$40.0 million at any one time outstanding;

(x) the accrual of interest, accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued;

(xi) Indebtedness incurred by the Company or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business including, without limitation, in respect of workers' compensation claims or self insurance, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims;

(xii) Indebtedness arising from agreements of the Company or a Restricted Subsidiary of the Company providing for indemnification, adjustment of purchase price, earn-out or other similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Restricted Subsidiary of the Company, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition; provided that the maximum assumable liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xiii) obligations in respect of performance and surety bonds and completion guarantees provided by the Company or any Restricted Subsidiary of the Company in the ordinary course of business;

(xiv) Indebtedness supported by one or more letters of credit incurred under the Senior Credit Facilities in accordance with clause (i); provided the amount of Indebtedness permitted to be incurred under this clause (xiv) relating to any such letter of credit shall not exceed the amount of the letter of credit provided for therein; provided, further, upon any reduction, cancellation or termination of the applicable letter of credit, there shall be deemed to be an incurrence of Indebtedness under the Indenture equal to the excess of the amount of such Indebtedness outstanding immediately after such reduction, cancellation or termination over the remaining stated amount, if any, of such letter of credit or the stated amount of any letter of credit issued in replacement of such letter of credit; and

(xv) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness, and/or the issuance by any Guarantor of preferred stock, in an aggregate principal amount (or accreted value, as applicable) or aggregate liquidation value, as applicable, at any time outstanding (which amount may, but need not, be incurred in whole or in part under the Senior Credit Facilities), including all Permitted Refinancing Indebtedness incurred to refund, re-fi-

nance or replace any Indebtedness incurred or preferred stock issued pursuant to this clause (xv), not to exceed \$50.0 million at any one time outstanding.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xv) above, or is entitled to be incurred pursuant to the first paragraph of this Section 4.09, the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness in any manner that complies with this Section 4.09. All borrowings outstanding on the date of this Indenture under the Senior Credit Facilities will be deemed to have been borrowed pursuant to clause (i) of the definition of "Permitted Debt."

Section 4.10. Asset Sales.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

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

(ii) in the event of an Asset Sale involving assets having a fair market value in excess of \$5.0 million (or in excess of \$10.0 million in the case of the sale of Company stores), such fair market value is determined by the Company's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee; and

(iii) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this provision, each of the following shall be deemed to be cash:

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

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are contemporaneously (subject to ordinary settlement periods) converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received in that conversion); and

(C) any Designated Noncash Consideration received by the Company or any of its Restricted Subsidiaries in such Asset Sale having an aggregate fair market value, taken together with all other Designated Noncash Consideration received since the date of this Indenture pursuant to this clause (C) that is at that time outstanding, not to exceed the greater of (i) \$40.0 million and (ii) 10% of Total Assets at the time of the receipt of such Designated Noncash Consideration (with the fair market value of each item of Designated Noncash Consideration being measured at the time received and without giving effect to subsequent changes in value).

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, the Company may apply such Net Proceeds at its option:

- (i) to repay Senior Debt or Guarantor Senior Debt (and to correspondingly reduce commitments if the Senior Debt or Guarantor Senior Debt repaid is revolving credit borrowings);
- (ii) to acquire all or substantially all of the assets of, or a majority of the Voting Stock of, another Permitted Business;
- (iii) to make a capital expenditure; and/or
- (iv) to acquire assets that are used or useable in a Permitted Business.

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

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$15.0 million, the Company will make an Asset Sale Offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount plus accrued and unpaid interest and Additional Interest, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other pari passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

Section 4.11. Transactions with Affiliates.

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

- (i) such Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

- (ii) the Company delivers to the Trustee:

- (A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate

Transaction complies with this covenant and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors; and

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

The following items shall not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(i) reasonable fees and compensation paid to and indemnity provided on behalf of, officers, directors, employees or consultants of the Company or any Subsidiary as determined in good faith by the Board of Directors of the Company or senior management;

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

(iii) any agreement or instrument as in effect as of the date of this Indenture or any amendment or replacement thereto or any transaction contemplated thereby (including pursuant to any amendment or replacement thereto) so long as any such amendment or replacement agreement or instrument is, in the good faith judgment of the Board of Directors of the Company, not more disadvantageous to the Holders of Notes in any material respect than the original agreement or instrument as in effect on the date of this Indenture;

(iv) the payment of customary management, consulting and advisory fees and related expenses to the Principals and their Affiliates made pursuant to any financial advisory, financing, underwriting or placement agreement or in respect of other investment banking activities, including, without limitation, in connection with acquisitions or divestitures which are approved by the Board of Directors of the Company or such Restricted Subsidiary in good faith;

(v) payments or loans to employees or consultants that are approved by the Board of Directors of the Company in good faith;

(vi) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the date of this Indenture and any similar agreements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Company or any of its Restricted Subsidiaries of obligations under, any future amendment to any such existing agreement or under any similar agreement entered into after the date of this Indenture shall only be permitted by this clause (vi) to the extent that the terms of any such amendment or new agreement are not disadvantageous to the Holders of Notes in any material respect;

(vii) transactions with customers, clients, suppliers, joint venture partners or purchasers or sellers of goods or services, in each case in the ordinary course of business (including, without limitation, pursuant to joint venture agreements) and otherwise in compliance with the terms of this Indenture which are fair to the Company or its Restricted Subsidiaries, in the reasonable determination of the Board of Directors of the Company or the senior management

thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(viii) sales of Capital Stock (other than Disqualified Stock) to Affiliates of the Company otherwise permitted by this Indenture and the granting of registration rights in connection therewith;

(ix) Restricted Payments and Permitted Investments that are permitted by the provisions of this Indenture; and

(x) transactions effected as part of a Permitted Securitization Transaction.

Section 4.12. Liens.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness, or trade payables on any asset now owned or hereafter acquired, except Permitted Liens, unless all payments due under this Indenture and the Notes are secured on an equal and ratable basis with the Indebtedness so secured until such time as such is no longer secured by a Lien; provided that if such Indebtedness is by its terms expressly subordinated to the Notes or any Subsidiary Guarantee, the Lien securing such Indebtedness shall be subordinate and junior to the Lien securing the Notes and the Subsidiary Guarantees with the same relative priority as such subordinate or junior Indebtedness shall have with respect to the Notes and the Subsidiary Guarantees.

Section 4.13. Business Activities.

The Company shall not, and shall not permit any Restricted Subsidiary (other than a Securitization Entity) to, engage in any business other than Permitted Businesses.

Section 4.14. Corporate Existence.

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.15. Offer To Repurchase upon Change of Control.

If a Change of Control occurs, each Holder of Notes will have the right to require the Company to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of that Holder's Notes pursuant to the Change of Control Offer. In the Change of Control Offer, the Company shall offer a Change of Control Payment in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest and Additional Interest thereon, if any, to the date of purchase

(the "Change of Control Payment"). Within 30 days following any Change of Control, the Company shall mail a notice to the Trustee and each Holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase Notes on the purchase date specified in such notice (which must be no earlier than 30 days nor later than 60 days from the date such notice is mailed, other than as required by law (the "Change of Control Payment Date")), pursuant to the procedures required by this Indenture and described in such notice. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with this Section 4.15, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.15 by virtue of such conflict. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

Prior to the mailing of the notice referred to above, but in any event within 30 days following any Change of Control, the Company shall:

(i) repay in full all Obligations and terminate all commitments under the Senior Credit Facilities and all other Senior Debt the terms of which require repayment upon a Change of Control or offer to repay in full all Obligations and terminate all commitments under the Senior Credit Facilities and all other such Senior Debt and to repay the Indebtedness owed to (and terminate the commitments of) each lender which has accepted such offer; or

(ii) obtain the requisite consents under the Senior Credit Facilities and all other such Senior Debt to permit the repurchase of the Notes as provided below.

The Company shall first comply with the covenant in the immediately preceding sentence before it shall be required to repurchase Notes or send the notice pursuant to the provisions described in this Indenture. The Company's failure to comply with the covenant described in the immediately preceding paragraph (and any failure to send the notice referred to in the second preceding paragraph as a result of a prohibition described in the first sentence of this paragraph) may (with notice and lapse of time) constitute an Event of Default described in clause (iii) but shall not constitute an Event of Default described in clause (ii), under Section 6.01 hereof.

On the Change of Control Payment Date, the Company shall, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

The Paying Agent shall promptly mail to each Holder of Notes so tendered the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate and deliver (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased por-

tion of the Notes surrendered, if any; provided that each such new Note shall be in a principal amount of \$1,000 or an integral multiple thereof.

The Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 and Section 3.09 hereof and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

Section 4.16. No Senior Subordinated Debt.

The Company shall not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Indebtedness of the Company and senior in any respect in right of payment to the Notes. No Guarantor shall incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Indebtedness of such Guarantor and senior in any respect in right of payment to such Guarantor's Subsidiary Guarantee. For purposes of the foregoing, no Indebtedness will be deemed to be contractually subordinated in right of payment or junior in respect to any other Indebtedness of the Company or a Guarantor solely by virtue of being unsecured or by virtue of the fact that the holders of secured Indebtedness have entered into intercreditor agreements giving one or more of such holders priority over the other holders in the collateral held by them.

Section 4.17. Limitation on Issuances of Guarantees of Indebtedness.

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

Notwithstanding the preceding paragraph, any Subsidiary Guarantee of the Notes shall provide by its terms that it shall be automatically and unconditionally released and discharged under the circumstances described in Section 11 hereof. The form of the Subsidiary Guarantee is attached as Exhibit E hereto.

Section 4.18. Designation of Restricted and Unrestricted Subsidiaries.

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary so designated shall be deemed to be an Investment made as of the time of such designation and shall reduce the amount available for Restricted Payments under the first paragraph of Section 4.07 hereof or Permitted Investments, as determined in good faith by the Board of Directors. All such outstanding Investments shall be valued at their fair market value at the time of such designation. That designation shall only be permitted if such Restricted Payment would be permitted at the time and if such Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of

Directors may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default.

ARTICLE 5.

SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to another Person; unless:

(i) either: (a) the Company is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia;

(ii) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition shall have been made assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements reasonably satisfactory to the Trustee;

(iii) immediately after such transaction no Default or Event of Default exists; and

(iv) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company) shall, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof.

In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. The provisions of this Section 5.01 shall not apply to a sale, lease, assignment, transfer, conveyance or other disposition of assets (including by way of consolidation or merger) between or among the Company and any of its Wholly Owned Restricted Subsidiaries.

Section 5.02. Successor Corporation Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01 hereof, the successor corporation formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall

refer instead to the successor corporation and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; provided, however, that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all or substantially all of the Company's assets that meets the requirements of Section 5.01 hereof.

ARTICLE 6.

DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

Each of the following is an "Event of Default":

(i) default for 30 days in the payment when due of interest on, or Additional Interest with respect to, the Notes, whether or not prohibited by Article 10 hereof;

(ii) default in payment when due of the principal of or premium, if any, on the Notes, whether or not prohibited by Article 10 hereof;

(iii) failure by the Company or any of its Restricted Subsidiaries for 30 days after specified notice from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes to comply with any of the other agreements in this Indenture or the Notes;

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

(A) is caused by a failure to pay principal at the final stated maturity of such Indebtedness (giving effect to any applicable grace periods and any extension thereof) (a "Payment Default"); or

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

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$20.0 million or more;

(v) failure by the Company or any of its Restricted Subsidiaries to pay final judgments aggregating in excess of \$20.0 million (excluding amounts covered by an enforceable insurance policy issued by an insurer with a Best's rating of at least B+, as to which the insurer has acknowledged liability), which judgments are not paid, discharged or stayed for a period of 60 consecutive days after such judgments become final and non-appealable;

(vi) the Company or any of its Significant Restricted Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Restricted Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case;

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

(C) consents to the appointment of a custodian of it or for all or substantially all of its property;

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

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

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

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

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

(C) orders the liquidation of the Company or any of its Significant Restricted Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Restricted Subsidiary;

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

(viii) except as permitted by this Indenture, any Subsidiary Guarantee of a Significant Restricted Subsidiary is held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Significant Restricted Subsidiary that is a Guarantor, or any Person acting on behalf of any Significant Restricted Subsidiary that is a Guarantor, shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee.

Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (vi) or (vii) of Section 6.01 hereof with respect to the Company, any Significant Restricted Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Restricted Subsidiary) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare the principal of and accrued interest on all the Notes to be due and payable by notice in writing to the Company and the Trustee specifying the respective Event of Default and that such notice is a

"notice of acceleration" (the "Acceleration Notice"), and the same (1) shall become immediately due and payable or (2) if there are any amounts outstanding under the Senior Credit Facilities, shall become immediately due and payable upon the first to occur of an acceleration under the Senior Credit Facilities or five Business Days after receipt by the Company and the Representative under the Senior Credit Facilities of such Acceleration Notice but only if such Event of Default is then continuing. Upon any such declaration, but subject to the immediately preceding sentence, the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (vi) or (vii) of Section 6.01 hereof occurs with respect to the Company, any Significant Restricted Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Restricted Subsidiary, all outstanding Notes shall be due and payable immediately without further action or notice. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

If an Event of Default occurs by reason of any willful action or inaction taken or not taken by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07 hereof, then, upon acceleration of the Notes, an equivalent premium shall also become and be immediately due and payable, to the extent permitted by law, anything in this Indenture or in the Notes to the contrary notwithstanding. If an Event of Default occurs prior to July 1, 2007 by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding the prohibition on redemption of the Notes prior to such date, then, upon acceleration of the Notes, an additional premium shall also become and be immediately due and payable in an amount, for each of the years beginning on July 1 of the years set forth below, as set forth below (expressed as a percentage of the principal amount of the Notes on the date of payment that would otherwise be due but for the provisions of this sentence):

Year	Percentage
2003.....	112.373%
2004.....	110.311%
2005.....	108.249%
2006.....	106.187%

Section 6.03. Other Remedies.

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

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

Section 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder (including rescinding any acceleration of the payment of the Notes), except a continuing Default or Event of Default in the payment of the principal of, premium and Additional Interest, if any, or interest on, the Notes (including in connection with an offer to purchase) (provided, however, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 6.06. Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and
- (e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

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

Section 6.07. Rights of Holders of Notes To Receive Payment.

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

Section 6.08. Collection Suit by Trustee.

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

Section 6.09. Trustee May File Proofs of Claim.

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

Section 6.10. Priorities.

If the Trustee collects any money pursuant to this Article, it shall pay out the money in the following order:

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

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

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

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

Section 6.11. Undertaking for Costs.

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

ARTICLE 7.

TRUSTEE

Section 7.01. Duties of Trustee.

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

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

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

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

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

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

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

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

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

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

Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon and be protected in acting or refraining from acting upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

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

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

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

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

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

(g) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(h) In no event shall the Trustee be responsible or liable for special, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event, which is in fact such a default, is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(j) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(k) The Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

Section 7.03. Individual Rights of Trustee.

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

Section 7.04. Trustee's Disclaimer.

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

Section 7.05. Notice of Defaults.

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

Section 7.06. Reports by Trustee to Holders of the Notes.

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

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

Section 7.07. Compensation and Indemnity.

The Company and the Guarantors shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree from time to time in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company and the Guarantors shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel and any taxes or other expenses incurred by a trust created pursuant to Article 8 hereof.

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

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

To secure the Company's and the Guarantors' payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

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

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

The Company's and the Guarantors' obligations under this Section 7.07 and any claim arising hereunder shall survive the resignation or removal of any Trustee, the discharge of the Company's obligations pursuant to Article 8 hereof and any rejection or termination under any Bankruptcy Law.

Section 7.08. Replacement of Trustee.

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

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

- (a) the Trustee fails to comply with Section 7.10 hereof;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

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

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

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

Section 7.09. Successor Trustee by Merger, etc.

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

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$50.0 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

ARTICLE 8.

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option To Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate delivered to the Trustee, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, premium, if any, and interest and Additional Interest, if any, on such Notes when such payments are due, (b) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from its obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17 and 4.18 hereof and clauses (iii) and (iv) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 5.01(iii) and 5.01(iv) and Sections 6.01(iv) through 6.01(vi) hereof shall not constitute Events of Default.

Section 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

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

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

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

(d) no Default or Event of Default shall have occurred and be continuing either (i) on the date of such deposit (other than a Default or Event of Default resulting from the incurrence of Indebtedness all or a portion of the proceeds of which will be used to defease the Notes pursuant to this Article 8 concurrently with such incurrence); or (ii) insofar as Sections 6.01(vi) or 6.01(vii) hereof is concerned, at any time in the period ending on the 91st day after the date of deposit;

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

(f) the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee (which may be subject to customary exceptions) to the effect that on the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally;

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

(h) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05. Deposited Money and Government Securities To Be Held in

Trust; Other Miscellaneous Provisions.

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

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

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06. Repayment to Company.

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

Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or other-

wise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Subsidiary Guarantees or the Notes without the consent of any Holder of a Note:

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;
- (c) to provide for the assumption of the Company's or any Guarantor's obligations to the Holders of the Notes by a successor to the Company or a Guarantor pursuant to Article 5 or Article 11 hereof;
- (d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Note;
- (e) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;
- (f) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof; or
- (g) to allow any Guarantor to execute a supplemental indenture and/or a Subsidiary Guarantee with respect to the Notes.

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

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including Sections 3.09, 4.10 and 4.15 hereof), the Subsidiary Guarantees and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Without the consent of at least 75% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, such Notes), no waiver or amendment to this Indenture may make any change in the provisions of Article 10 hereof that adversely affects the rights of any Holder of Notes. Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

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

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

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

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

(b) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes, other than provisions relating to Sections 3.09, 4.10 or 4.15 hereof;

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

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

(e) make any Note payable in money other than that stated in the Notes;

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

(g) waive a redemption payment with respect to any Note, other than a payment required by Sections 3.09, 4.10 or 4.15 hereof; or

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

Section 9.03. Compliance with Trust Indenture Act.

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

Section 9.04. Revocation and Effect of Consents.

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

Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver.

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

Section 9.06. Trustee To Sign Amendments, etc.

The Trustee shall sign any amended or supplemental Indenture authorized pursuant to this Article Nine if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental Indenture until the

Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 12.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10.

SUBORDINATION

Section 10.01. Agreement To Subordinate.

The Company agrees, and each Holder by accepting a Note agrees, that the payment of principal, premium, interest, Additional Interest, if any, and any other Obligations on, or relating to the Notes, is subordinated and junior in right of payment, to the extent and in the manner provided in this Article 10, to the prior payment in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred in clauses (3) and (4) of the definition thereof and (y) foreign currencies) of all Senior Debt of the Company (whether outstanding on the date hereof or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of, and shall be enforceable directly by, the holders of Senior Debt of the Company, and that each holder of Senior Debt of the Company whether now outstanding or hereafter created, incurred, assumed or guaranteed shall be deemed to have acquired such Senior Debt in reliance upon the covenants and provisions contained in this Indenture and the Notes.

Section 10.02. Liquidation; Dissolution; Bankruptcy.

Upon any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors of the Company in a liquidation or dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property, in an assignment for the benefit of creditors or any marshalling of the Company's assets and liabilities:

(i) holders of Senior Debt of the Company shall be entitled to receive payment in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and (y) foreign currencies) of all Obligations due in respect of such Senior Debt (including interest after the commencement of any bankruptcy or other like proceeding at the rate specified in the applicable Senior Debt, whether or not such interest is an allowable claim) before Holders of the Notes shall be entitled to receive any payment or distribution of any kind or character with respect to any Obligations on, or relating to, the Notes (except that Holders may receive and retain (i) Permitted Junior Securities and (ii) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof so long as the deposit of amounts therein satisfied the relevant conditions specified in this Indenture at the time of such deposit); and

(ii) until all Obligations with respect to Senior Debt of the Company (as provided in subsection (i) above) are paid in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred in clauses (3) and (4) of the definition thereof and (y) foreign currencies), any payment or distribution of assets of the Company of any kind or character, whether in cash, properties or securities to which Holders would be entitled but for this Article 10 shall be made to holders of such Senior Debt (except that Holders of Notes may receive and retain (i) Permitted

Junior Securities and (ii) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof so long as the deposit of amounts therein satisfied the relevant conditions specified in this Indenture at the time of such deposit), as their interests may appear.

Section 10.03. Default on Designated Senior Debt.

(a) The Company may not make any payment or distribution of any kind or character to the Trustee or any Holder with respect to any Obligations on, or with respect to, the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property or otherwise (other than (i) Permitted Junior Securities and (ii) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof so long as the deposit of amounts therein satisfied the relevant conditions specified in the Indenture at the time of such deposit) until all principal and other Obligations with respect to the Senior Debt of the Company have been paid in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and (y) foreign currencies) if:

(i) a default in the payment when due, whether at maturity, upon redemption, by declaration or otherwise, of any principal of, interest on, unpaid drawings for letters of credit issued in respect of, or any other Obligations with respect to, any Designated Senior Debt of the Company occurs and is continuing; or

(ii) a default, other than a default referred to in Section 10.03(a)(i) hereof, on Designated Senior Debt of the Company occurs and is continuing that then permits holders of such Designated Senior Debt to accelerate its maturity and the Trustee receives a notice of such default (a "Payment Blockage Notice") from the Holders or the Representative of such Designated Senior Debt. If the Trustee receives any such Payment Blockage Notice, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until at least 360 days shall have elapsed since the effectiveness of the immediately prior Payment Blockage Notice. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice unless such default shall have been cured or waived for a period of not less than 90 consecutive days (it being acknowledged that any action after the date of delivery of such initial Payment Blockage Notice, or any breach of any financial covenants for a period commencing after the date of delivery of such initial Payment Blockage Notice, that, in either case, would give rise to a default pursuant to any provisions under which a default previously existed or was continuing shall constitute a new default for this purpose).

(b) The Company may and shall resume payments on and distributions in respect of the Notes upon:

(i) in the case of a default referred to in Section 10.03(a)(i) hereof, the date upon which the default is cured or waived, or

(ii) in the case of a default referred to in Section 10.03(a)(ii) hereof, the earlier of (x) the date on which all nonpayment defaults are cured or waived (so long as no other Event of Default exists), (y) 179 days after the date the applicable Payment Blockage Notice is received or (z) the Trustee receives written notice from the Representative for such Designated Senior Debt

rescinding the Payment Blockage Notice, unless the maturity of any such Designated Senior Debt has been accelerated.

Section 10.04. Acceleration of Notes.

If payment of the Notes is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Debt or their Representative of the Company of the acceleration; provided that any failure to give such notice shall have no effect whatsoever on this Article 10.

Section 10.05. When Distribution Must Be Paid Over.

In the event that the Trustee or any Holder receives any payment or distribution of assets of any kind or character, whether in cash, properties or securities, in respect of any Obligations with respect to the Notes at a time when such payment is prohibited by Section 10.02 or 10.03 hereof, such payment or distribution shall be held by the Trustee or such Holder, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to, the holders of Senior Debt of the Company (pro rata to such holders on the basis of their respective amount of such Senior Debt held by such holders) or their Representatives under the indenture or other agreement (if any) pursuant to which such Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in cash or Cash Equivalents (other than Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and foreign currencies) in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Debt.

With respect to the holders of Senior Debt of the Company, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article 10, and no implied covenants or obligations with respect to the holders of Senior Debt of the Company shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt of the Company, and shall not be liable to any such holders if the Trustee shall in good faith pay over or distribute to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article 10.

To the extent any payment of Senior Debt of the Company (whether by or on behalf of the Company, as proceeds of security or enforcement of any right of setoff or otherwise) is declared to be fraudulent or preferential, set aside or required to be paid to any receiver, trustee in bankruptcy, liquidating trustee, agent or other similar Person under any bankruptcy, insolvency, receivership, fraudulent conveyance or similar law, then, if such payment is recovered by, or paid over to, such receiver, trustee in bankruptcy, liquidating trustee, agent or other similar Person, the Senior Debt of the Company or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred. It is further agreed that any diminution (whether pursuant to court decree or otherwise, including without limitation for any of the reasons described in the preceding paragraph) of the Company's obligation to make any distribution or payment pursuant to any Senior Debt, except to the extent such diminution occurs by reason of the repayment (which has not been disgorged or returned) of such Senior Debt in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and (y) foreign currencies), shall have no force or effect for purposes of the subordination provisions contained in this Article 10, with any turnover of payments as otherwise calculated pursuant to this Article 10 to be made as if no such diminution had occurred.

Section 10.06. Notice by Company.

The Company shall promptly notify the Trustee and the Paying Agent in writing of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article 10, but failure to give such notice shall not affect the subordination of the Notes to the Senior Debt of the Company as provided in this Article 10.

Section 10.07. Subrogation.

Subject to the payment in full in cash or Cash Equivalents (other than Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and foreign currencies) of all Senior Debt of the Company, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness pari passu with the Notes) to the rights of holders of Senior Debt of the Company to receive payments or distributions of cash, properties or securities of the Company applicable to the Senior Debt of the Company until the Notes have been paid in full. A distribution made under this Article 10 to holders of Senior Debt of the Company that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company to or on account of Senior Debt of the Company.

Section 10.08. Relative Rights.

This Article 10 defines the relative rights of Holders of Notes and holders of Senior Debt of the Company. Nothing in this Indenture shall:

- (1) impair, as between the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Notes in accordance with their terms;
- (2) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt of the Company; or
- (3) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt of the Company to receive distributions and payments otherwise payable to Holders of Notes.

The failure to make a payment on account of principal of, or interest on, the Notes by reason of any provision of this Article 10 will not be construed as preventing the occurrence of a Default or Event of Default.

Section 10.09. Subordination May Not Be Impaired by Company.

No right of any holder of Senior Debt of the Company to enforce the subordination of the Indebtedness evidenced by the Notes as provided herein shall at any time in any way be prejudiced or impaired by any act or failure to act by the Company or any Holder or by the failure of the Company or any Holder to comply with this Indenture, regardless of any knowledge thereof which any such Holder may have or otherwise be charged with.

Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Debt of the Company may, at any time and from time to time, without the consent of or notice to

the Trustee, without incurring responsibility to the Trustee or the Holders of the Notes and without impairing or releasing the subordination provided in this Article 10 or the obligations hereunder of the Holders of the Notes to the holders of the Senior Debt of the Company, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, Senior Debt of the Company, or otherwise amend or supplement in any manner Senior Debt of the Company, or any instrument evidencing the same or any agreement under which Senior Debt of the Company is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing Senior Debt of the Company; (iii) release any Person liable in any manner for the payment or collection of Senior Debt of the Company; and (iv) exercise or refrain from exercising any rights against the Company and any other Person.

Section 10.10. Distribution or Notice to Representative.

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

Upon any payment or distribution of assets of the Company referred to in this Article 10, the Trustee and the Holders of Notes shall be entitled to conclusively rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt of the Company and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

Section 10.11. Notice to Trustee; Rights of Trustee and Paying Agent.

The Company shall give prompt written notice to Trustee of any fact known to the Company which would prohibit the making of any payment to or by the Trustee in respect of the Notes or the Obligations hereunder pursuant to the provisions of this Article 10, although any delay or failure to give any such notice shall have no effect on the subordination provisions contained herein. Notwithstanding the provisions of this Article 10 or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee shall have received at its Corporate Trust Office at least two Business Days prior to the date upon which such payment would otherwise become due and payable written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article 10 (provided that, notwithstanding the foregoing, the Holders of the Notes receiving any payments made in contravention of this Article 10 (and such payments) shall continue to be subject to the provisions of this Article 10). Only the Company, a Guarantor, a holder of Senior Debt or a Representative therefor may give any such notice. Nothing in this Article 10 shall impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

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

Section 10.12. Authorization To Effect Subordination.

Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the

subordination as provided in this Article 10, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof at least 30 days before the expiration of the time to file such claim the holders of the Senior Debt of the Company or their Representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes.

Section 10.13. Amendments.

The provisions of this Article 10 shall not be amended or modified without the written consent of the requisite holders of Senior Debt affected thereby.

ARTICLE 11.

SUBSIDIARY GUARANTEES

Section 11.01. Guarantee.

Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (a) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

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

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

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

Section 11.02. Subordination of Subsidiary Guarantee.

Each Guarantor agrees, and each Holder by accepting a Note agrees, that the Obligations of each Guarantor under its Subsidiary Guarantee, are subordinated and junior in right of payment to the prior payment of all Guarantor Senior Debt on the same basis as the Obligations on, or relating to the Notes, are subordinated and junior in right of payment to the prior payment of all Senior Debt of the Company pursuant to Article 10. In furtherance of the foregoing, each Guarantor agrees, and the Trustee and each Holder by accepting a Note agrees, that the subordination and related provisions applicable to the Obligations of each Guarantor under its Subsidiary Guarantee by virtue of the preceding sentence shall be as set forth in Article 10 as if each reference to "Company" therein were instead a reference to "a Guarantor", each reference to "Senior Debt of the Company" therein were instead a reference to "Guarantor Senior Debt of each Guarantor" and each reference to "Notes" therein were instead a reference to "this Subsidiary Guarantee", with such appropriate modifications as the context may require. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of the Notes pursuant to this Indenture, including Article 10 hereof. The provisions of this Section 11.02 may not be amended or modified without the written consent of the requisite holders of Guarantor Senior Debt affected thereby.

Section 11.03. Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor under its Subsidiary Guarantee and this Article 11 shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 11.04. Execution and Delivery of Subsidiary Guarantee.

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

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

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

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

In the event that the Company creates or acquires any new Subsidiaries subsequent to the date of this Indenture, if required by Section 4.17 hereof, the Company shall cause such Subsidiaries to execute supplemental indentures to this Indenture and Subsidiary Guarantees in accordance with Section 4.17 hereof and this Article 11, to the extent applicable.

Section 11.05. Guarantors May Consolidate, etc., on Certain Terms.

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

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

(b) either:

(i) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger assumes all the obligations of such Guarantor under this Indenture and its Subsidiary Guarantee, pursuant to a supplemental indenture satisfactory to the Trustee; or

(ii) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or

all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses (a) and (b) above, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 11.06. Releases Following Sale of Assets.

The Subsidiary Guarantee of a Guarantor will be released:

(a) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation), if the disposition is to the Company or another Guarantor or if the Company applies the Net Proceeds of that sale or other disposition in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof; or

(b) in connection with any sale of all of the capital stock of a Guarantor, if the Company applies the Net Proceeds of that sale in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof; or

(c) if the Company designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary; or

(d) upon the release or discharge of all guarantees of such Guarantor, and all pledges of property or assets of such Guarantor securing, all other Indebtedness of the Company and the other Guarantors.

Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

ARTICLE 12.

MISCELLANEOUS

Section 12.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties shall control.

Section 12.02. Notices.

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

If to the Company and/or any Guarantor:

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

With a copy to:

Ropes & Gray
One International Place
Boston, MA 02110
Telecopier No.: (617) 951-7050
Attention: R. Newcomb Stillwell

If to the Trustee:

BNY Midwest Trust Company
2 North LaSalle Street
Suite 1020
Chicago, Illinois 60602
Telecopier No.: (312) 827-8542
Attention: Corporate Trust Department

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

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if telecopied; and the

next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

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

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

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

Section 12.03. Communication by Holders of Notes with Other Holders of Notes.

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

Section 12.04. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

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

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

Section 12.05. Statements Required in Certificate or Opinion.

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

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

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

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

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

Section 12.06. Rules by Trustee and Agents.

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

Section 12.07. No Personal Liability of Directors, Officers, Employees and

Stockholders.

No past, present or future director, officer, manager, member, employee, incorporator, stockholder or equity holder of the Company, Parent or any Guarantor, as such, shall have any liability for any obligations of the Company or such Guarantor under the Notes, the Subsidiary Guarantees, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.08. Governing Law; Waiver of Jury Trial.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES, THE SUBSIDIARY GUARANTEES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 12.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.10. Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Article 11.

Section 12.11. Severability.

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

Section 12.12. Counterpart Originals.

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

Section 12.13. Table of Contents, Headings, etc.

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

[Indenture signature pages follow]

[Indenture signature pages]

Dated as of June 25, 2003

DOMINO'S, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA, LLC

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA PMC, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S FRANCHISE HOLDING CO.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL
PAYROLL SERVICES, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA--GOVERNMENT SERVICES
DIVISION, INC.

By: /s/ Nathaniel J. Betts

Name: Nathaniel J. Betts
Title: Vice President

DOMINO'S PIZZA NS CO.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

BNY MIDWEST TRUST COMPANY,
as Trustee

By: /s/ Roxane Gilwanger

Name: Roxane Gilwanger
Title: Assistant Vice President

EXHIBIT A-1

(Face of Note)

CUSIP

ISIN

8 1/4% Senior Subordinated Notes due 2011

No.

\$

DOMINO'S, INC.

promises to pay to CEDE & CO., or registered assigns, the principal sum of
_____ MILLION Dollars (\$_____) on July 1, 2011.

Interest Payment Dates: January 1 and July 1, commencing January 1, 2004.

Record Dates: December 15 and June 15.

DOMINO'S, INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

This is one of the Notes referred
to in the within-mentioned Indenture:

Dated: _____

BNY MIDWEST TRUST COMPANY,
as Trustee

By: /s/ _____

Authorized Signatory

(Back of Note)

8 1/4% [Series A] [Series B] Senior Subordinated Notes due 2011

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

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

1. Interest. Domino's, Inc., a Delaware corporation (the "Company"), promises to pay interest on the principal amount of this Note at 8 1/4% per annum from June 25, 2003 until maturity and shall pay the Additional Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company shall pay interest and Additional Interest semi-annually on January 1 and July 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; provided, further, that the first Interest Payment Date shall be January 1, 2004. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Additional Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. Method of Payment. The Company, in accordance with Section 4.01 of the Indenture, will pay interest on the Notes (except defaulted interest) and Additional Interest to the Persons who are registered Holders of Notes at the close of business on the December 15 or June 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture (as herein defined) with respect to defaulted interest. The Notes will be payable as to principal, premium and Additional Interest, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest and Additional Interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest, premium and Additional Interest on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent and Registrar. Initially, BNY Midwest Trust Company, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture, dated as of June 25, 2003 (the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the indenture shall govern and be controlling.

5. Optional Redemption.

(a) Except as set forth in subparagraphs (b) and (c) of this Paragraph 5, the Notes will not be redeemable at the Company's option prior to July 1, 2007. Thereafter, the Notes will be subject to redemption at any time at the option of the Company, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Additional Interest thereon to the applicable redemption date, if redeemed during the twelve-month period beginning on July 1 of the years indicated below:

Year	Percentage
-----	-----
2007.....	104.125%
2008.....	102.063%
2009 and thereafter.....	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, before July 1, 2006, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of Notes issued under the Indenture at a redemption price of 108.250% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest thereon, if any, to the redemption date, with the net cash proceeds of any Equity Offerings; provided that at least 60% of the aggregate principal amount of Notes issued under the Indenture remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company and its Subsidiaries); and provided further that such redemption shall occur within 120 days of the date of the closing of any such Equity Offering.

(c) Before July 1, 2007, the Notes may also be redeemed, as a whole but not in part, at the option of the Company upon the occurrence of a Change of Control, upon not less than 30 nor more than 60 days prior notice (but in no event may any such redemption occur more than 90 days after the occurrence of such Change of Control) mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest thereon, if any, to, the date of redemption (the "Redemption Date").

6. Mandatory Redemption. Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. Repurchase at Option of Holder.

(a) If there is a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Additional Interest thereon, if any, to the date of purchase

(the "Change of Control Payment"). Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) When the aggregate amount of Excess Proceeds exceeds \$15.0 million, the Company will make an Asset Sale Offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount plus accrued and unpaid interest and Additional Interest, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

8. Notice of Redemption. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$1,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before the mailing of a notice of redemption or during the period between a record date and the corresponding Interest Payment Date.

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

11. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's or

the Guarantor's obligations to Holders of the Notes in case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the Commission in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture, or to allow any Guarantor to execute a supplemental indenture to the Indenture and/or a Subsidiary Guarantee with respect to the Notes.

12. Defaults and Remedies. Events of Default include: (i) default for 30 days in the payment when due of interest, on, or Additional Interest with respect to, the Notes whether or not prohibited by Article 10 of the Indenture; (ii) the default in payment when due of the principal of or premium, if any, on the Notes, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company or any of its Restricted Subsidiaries for 30 days after specified notice from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes to comply with any of the other agreements in the Indenture or the Notes; (iv) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries) whether such Indebtedness or guarantee now exists, or is created after the date of the Indenture, if that default: (A) is caused by a failure to pay principal at the final stated maturity of such Indebtedness (giving effect to any applicable grace periods and any extension thereof) (a "Payment Default"); or (B) results in the acceleration of such Indebtedness prior to its express maturity, and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$20.0 million or more; (v) failure by the Company or any of its Restricted Subsidiaries to pay final judgments aggregating in excess of \$20.0 million (excluding amounts covered by an enforceable insurance policy issued by an insurer with a Best's rating of at least B+, as to which the insurer has acknowledged liability), which judgments are not paid, discharged or stayed for a period of 60 consecutive days after such judgments become final and non-appealable; and (vi) certain events of bankruptcy or insolvency with respect to the Company or any of its Significant Restricted Subsidiaries. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. Subordination. Each Holder by accepting a Note agrees that the Indebtedness evidenced by the Note is subordinated in right of payment, to the extent and in the manner provided in Article 10 of the Indenture, prior to the payment in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and (y) foreign curren-

cies) of all Senior Debt (whether outstanding on the date of the Indenture or thereafter created, incurred assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

14. **Subsidiary Guarantees.** The payment of principal of, premium, and interest and Additional Interest, if any, on the Notes are unconditionally guaranteed, jointly and severally, on a senior subordinated basis by the Guarantors. Each Guarantor agrees, and each Holder by accepting a Note agrees, that the Obligations of each Guarantor under its Subsidiary Guarantee are subordinated and junior in right of payment to the prior payment of all Guarantor Senior Debt on the same basis as the Obligations on, or relating to the Notes, are subordinated and junior in right of payment to the prior payment of all Senior Debt of the Company pursuant to Article 10 of the Indenture.

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

16. **No Recourse Against Others.** A director, officer, manager, member, employee, incorporator, stockholder or equity holder of the Company, Parent or any Guarantor, as such, shall not have any liability for any obligations of the Company or such Guarantor under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

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

18. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

19. **Additional Rights of Holders of Restricted Global Notes and Restricted Definitive Notes.** In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Registration Rights Agreement, dated as of June 25, 2003, among the Company and the parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, between the Company and the other parties thereto, relating to rights given by the Company to the purchasers of any Additional Notes (collectively, the "Registration Rights Agreement").

20. **CUSIP Numbers.** Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon, and any such redemption shall not be affected by any defect in or omission of such numbers.

21. **THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS NOTE WITHOUT GIVING EFFECT TO APPLICABLE**

PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

A-1-7

ASSIGNMENT FORM

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

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

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

Date: _____

Your Signature: _____
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: _____

SIGNATURE GUARANTEE:

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the box below:

Section 4.10 Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased: \$_____

Date: _____

Your Signature: _____
(Sign exactly as your name
appears on the face of this
Note)

Tax Identification No: _____

SIGNATURE GUARANTEE:

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE]/1/

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

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal amount of this Global Note following such decrease (or increase)	Signature of authorized Signatory of Trustee or Note Custodian
-----	-----	-----	-----	-----

/1/ This should be included only if the Note is issued in global form.

EXHIBIT A-2

(Face of Regulation S Temporary Global Note)

CUSIP -----

ISIN -----

8 1/4% Senior Subordinated Notes due 2011

No. ----- \$ -----

DOMINO'S, INC.

promises to pay to CEDE & CO., or registered assigns, the principal sum of _____ MILLION Dollars (\$_____) on July 1, 2011.

Interest Payment Dates: January 1 and July 1, commencing January 1, 2004.

Record Dates: December 15 and June 15.

DOMINO'S, INC.

By: -----

Name:
Title:

By: -----

Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

Dated: -----

BNY MIDWEST TRUST COMPANY
as Trustee

By: -----

Authorized Signatory

(Back of Regulation S Temporary Global Note)

8 1/4% Series A Senior Subordinated Notes due 2011

THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN). NEITHER THE HOLDER NOR THE BENEFICIAL OWNERS OF THIS REGULATION S TEMPORARY GLOBAL NOTE SHALL BE ENTITLED TO RECEIVE PAYMENT OF INTEREST HEREON.

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR IN ACCORDANCE WITH AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (SUBJECT TO THE DELIVERY OF SUCH EVIDENCE, IF ANY, REQUIRED UNDER THE INDENTURE PURSUANT TO WHICH THIS NOTE IS ISSUED) AND IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER JURISDICTION. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER OR ANOTHER EXEMPTION UNDER THE SECURITIES ACT. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) SUCH SECURITY MAY BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (1)(A) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (B) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES TO A FOREIGN PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 904 UNDER THE SECURITIES ACT OR (D) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE COMPANY SO REQUESTS), AS LONG AS THE REGISTRAR RECEIVES A CERTIFICATION OF THE TRANSFEROR AND AN OPINION OF COUNSEL THAT SUCH TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT, (2) TO THE COMPANY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL AND EACH SUBSEQUENT HOLDER IS REQUIRED TO NOTIFY ANY PURCHASER FROM IT OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTION SET FORTH IN (A) ABOVE.

THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(A) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE,

AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.

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

1. Interest. Domino's Inc., a Delaware corporation (the "Company"), promises to pay interest on the principal amount of this Note at 8 1/4% per annum from June 25, 2003 until maturity and shall pay the Additional Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company shall pay interest and Additional Interest semi-annually on January 1 and July 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; provided, further, that the first Interest Payment Date shall be January 1, 2004. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Additional Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Until this Regulation S Temporary Global Note is exchanged for one or more Regulation S Permanent Global Notes, the Holder hereof shall not be entitled to receive payments of interest hereon; until so exchanged in full, this Regulation S Temporary Global Note shall in all other respects be entitled to the same benefits as other Notes under the Indenture.

2. Method of Payment. The Company, in accordance with Section 4.01 of the Indenture, will pay interest on the Notes (except defaulted interest) and Additional Interest to the Persons who are registered Holders of Notes at the close of business on the December 15 or June 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture (as herein defined) with respect to defaulted interest. The Notes will be payable as to principal, premium and Additional Interest, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest and Additional Interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest, premium and Additional Interest on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. Paying Agent and Registrar. Initially, BNY Midwest Trust Company, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. Indenture. The Company issued the Notes under an Indenture, dated as of June 25, 2003 (the "Indenture"), among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. Optional Redemption.

(a) Except as set forth in subparagraphs (b) and (c) of this Paragraph 5, the Notes will not be redeemable at the Company's option prior to July 1, 2007. Thereafter, the Notes will be subject to redemption at any time at the option of the Company, in whole or in part, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Additional Interest thereon to the applicable redemption date, if redeemed during the twelve-month period beginning on July 1 of the years indicated below:

Year	Percentage
2007.....	104.125%
2008.....	102.063%
2009 and thereafter....	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, before July 1, 2006, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of Notes issued under the Indenture at a redemption price of 108.250% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest thereon, if any, to the redemption date, with the net cash proceeds of any Equity Offerings; provided that at least 60% of the aggregate principal amount of Notes issued under the Indenture remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company and its Subsidiaries); and provided further that such redemption shall occur within 120 days of the date of the closing of any such Equity Offering.

(c) Before July 1, 2007, the Notes may also be redeemed, as a whole but not in part, at the option of the Company upon the occurrence of a Change of Control, upon not less than 30 nor more than 60 days prior notice (but in no event may any such redemption occur more than 90 days after the occurrence of such Change of Control) mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest thereon, if any, to, the date of redemption (the "Redemption Date").

6. Mandatory Redemption. Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. Repurchase at Option of Holder.

(a) If there is a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Additional Interest thereon, if any, to the date of purchase

(the "Change of Control Payment"). Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) When the aggregate amount of Excess Proceeds exceeds \$15.0 million, the Company will make an Asset Sale Offer to all Holders of Notes and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount plus accrued and unpaid interest and Additional Interest, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use such Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and such other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other pari passu Indebtedness to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

8. Notice of Redemption. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$1,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before the mailing of a notice of redemption or during the period between a record date and the corresponding Interest Payment Date.

This Regulation S Temporary Global Note is exchangeable in whole or in part for one or more Global Notes only (i) on or after the termination of the 40-day restricted period (as defined in Regulation S) and (ii) upon presentation of certificates (accompanied by an Opinion of Counsel, if applicable) required by Article 2 of the Indenture. Upon exchange of this Regulation S Temporary Global Note for one or more Global Notes, the Trustee shall cancel this Regulation S Temporary Global Note.

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

11. Amendment, Supplement and Waiver. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if

any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's or the Guarantor's obligations to Holders of the Notes in case of a merger or consolidation, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the Commission in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture, or to allow any Guarantor to execute a supplemental indenture to the Indenture and/or a Subsidiary Guarantee with respect to the Notes.

12. Defaults and Remedies. Events of Default include: (i) default for 30 days in the payment when due of interest, on or Additional Interest with respect to, the Notes whether or not prohibited by Article 10 of the Indenture; (ii) the default in payment when due of the principal of or premium, if any, on the Notes, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company or any of its Restricted Subsidiaries for 30 days after specified notice from the Trustee or the Holders of at least 25% of the outstanding principal amount of the Notes to comply with any of the other agreements in the Indenture or the Notes; (iv) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries) whether such Indebtedness or guarantee now exists, or is created after the date of the Indenture, if that default: (A) is caused by a failure to pay principal at the final stated maturity of such Indebtedness (giving effect to any applicable grace periods and any extension thereof) (a "Payment Default"); or (B) results in the acceleration of such Indebtedness prior to its express maturity, and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$20.0 million or more; (v) failure by the Company or any of its Restricted Subsidiaries to pay final judgments aggregating in excess of \$20.0 million (excluding amounts covered by an enforceable insurance policy issued by an insurer with a Best's rating of at least B+, as to which the insurer has acknowledged liability), which judgments are not paid, discharged or stayed for a period of 60 consecutive days after such judgments become final and non-appealable; and (vi) certain events of bankruptcy or insolvency with respect to the Company or any of its Significant Restricted Subsidiaries. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compli-

ance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. Subordination. Each Holder by accepting a Note agrees that the Indebtedness evidenced by the Note is subordinated in right of payment, to the extent and in the manner provided in Article 10 of the Indenture, prior to the payment in full in cash or Cash Equivalents (other than (x) Cash Equivalents of the type referred to in clauses (3) and (4) of the definition thereof and (y) foreign currencies) (of all Senior Debt (whether outstanding on the date of the Indenture or thereafter created, incurred assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

14. Subsidiary Guarantees. The payment of principal of, premium, and interest and Additional Interest, if any, on the Notes are unconditionally guaranteed, jointly and severally, on a senior subordinated basis by the Guarantors. Each Guarantor agrees, and each Holder by accepting a Note agrees, that the Obligations of each Guarantor under its Subsidiary Guarantee are subordinated and junior in right of payment to the prior payment of all Guarantor Senior Debt on the same basis as the Obligations on, or relating to the Notes, are subordinated and junior in right of payment to the prior payment of all Senior Debt of the Company pursuant to Article 10 of the Indenture.

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

16. No Recourse Against Others. A director, officer, manager, member, employee, incorporator, stockholder or other equity holder of the Company, Parent or any Guarantor, as such, shall not have any liability for any obligations of the Company or such Guarantor under the Notes, the Subsidiary Guarantees or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

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

18. Abbreviations. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

19. Additional Rights of Holders of Restricted Global Notes and Restricted Definitive Notes. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Registration Rights Agreement, dated as of June 25, 2003, between the Company and the parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, between the Company and the other parties thereto, relating to rights given by the Company to the purchasers of any Additional Notes (collectively, the "Registration Rights Agreement").

20. CUSIP Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders.

No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon, and any such redemption shall not be affected by any defect in or the omission of such numbers.

21. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS NOTE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

A-2-8

ASSIGNMENT FORM

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

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

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

Date:

Your Signature: /s/

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

Tax Identification No: _____

SIGNATURE GUARANTEE:

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture, check the box below:

Section 4.10 Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased: \$_____

Date: _____

Your Signature: /s/

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

Tax Identification No: _____

SIGNATURE GUARANTEE:

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF EXCHANGES OF REGULATION S TEMPORARY GLOBAL NOTE

The following exchanges of a part of this Regulation S Temporary Global Note for an interest in another Global Note, or of other Restricted Global Notes for an interest in this Regulation S Temporary Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal amount of this Global Note following such decrease (or increase)	Signature of authorized Signatory of Trustee or Note Custodian
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EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

BNY Midwest Trust Company
2 North LaSalle Street, Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department

Re: 8 1/4% Senior Subordinated Notes due 2011

Reference is hereby made to the Indenture, dated as of June 25, 2003 (the "Indenture"), among Domino's, Inc., as issuer (the "Company"), the guarantors party thereto and BNY Midwest Trust Company, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$_____ in such Note[s] or interests (the "Transfer"), to _____ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE TEMPORARY REGULATION S GLOBAL NOTE, THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the

United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note, the Temporary Regulation S Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3. CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE IAI GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act; or

(b) such Transfer is being effected to the Company or a subsidiary thereof; or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act; or

(d) such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than \$250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Definitive Notes and in the Indenture and the Securities Act.

4. Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.

(a) CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: -----
Name:
Title:

Dated: -----,-----

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) a beneficial interest in the:

(i) 144A Global Note (CUSIP _____), or

(ii) Regulation S Global Note (CUSIP _____), or

(iii) IAI Global Note (CUSIP _____); or

(b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) a beneficial interest in the:

(i) Global Note (CUSIP _____), or

(ii) Regulation S Global Note (CUSIP _____), or

(iii) IAI Global Note (CUSIP _____), or

(iv) Unrestricted Global Note (CUSIP _____); or

(b) a Restricted Definitive Note; or

(c) an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

EXHIBIT C

FORM OF CERTIFICATE OF EXCHANGE

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

BNY Midwest Trust Company
2 North LaSalle Street
Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department

Re: 8 1/4% Senior Subordinated Notes due 2011

(CUSIP _____)

Reference is hereby made to the Indenture, dated as of June 25, 2003 (the "Indenture"), among Domino's, Inc., as issuer (the "Company"), the guarantors party thereto and BNY Midwest Trust Company, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

_____ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$_____ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note,

the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the

[CHECK ONE]

144A Global Note,

Regulation S Global Note,

[] IAI Global Note

with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Owner]

By: -----
Name:
Title:

Dated: -----,-----

EXHIBIT D

FORM OF CERTIFICATE FROM

ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Domino's, Inc.
30 Frank Lloyd Wright Drive
P.O. Box 997
Ann Arbor, Michigan 48106-0997
Telecopier No.: (734) 913-0377
Attention: Chief Financial Officer

BNY Midwest Trust Company
2 North LaSalle Street
Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Department

Re: 8 1/4% Senior Subordinated Notes due 2011

Reference is hereby made to the Indenture, dated as of June 25, 2003 (the "Indenture"), among Domino's, Inc., as issuer (the "Company"), the guarantors party thereto and BNY Midwest Trust Company, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$_____ aggregate principal amount of:

- (a) a beneficial interest in a Global Note, or
- (b) a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the United States Securities Act of 1933, as amended (the "Securities Act").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (c) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such trans-

fer is in respect of a principal amount of Notes, at the time of transfer of less than \$250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect. We further understand that any subsequent transfer by us of the Notes or beneficial interest therein acquired by us must be effected through one of the Placement Agents.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Owner]

By: -----
Name:
Title:

Dated: -----,-----

EXHIBIT E

FORM OF NOTATION OF SUBSIDIARY GUARANTEE

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, dated as of June 25, 2003 (the "Indenture"), among Domino's, Inc., the Guarantors party thereto and BNY Midwest Trust Company, as trustee (the "Trustee"), (a) the due and punctual payment of the principal of, premium, if any, and interest on the Notes (as defined in the Indenture), whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal and premium, and, to the extent permitted by law, interest, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Subsidiary Guarantee and the Indenture are expressly set forth in Article 11 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Subsidiary Guarantee. The obligations of the Guarantors will be released only in accordance with the provisions of Article 11 of the Indenture. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee, on behalf of such Holder, to take such action as may be necessary or appropriate to effectuate the subordination as provided in the Indenture and (c) appoints the Trustee attorney-in-fact of such Holder for such purpose; provided, however, that the Indebtedness evidenced by this Subsidiary Guarantee shall cease to be so subordinated and subject in right of payment upon any defeasance of this Note in accordance with the provisions of the Indenture.

[Name of Guarantor(s)]

By:

Name:
Title:

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EXHIBIT F

FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

Supplemental Indenture (this "Supplemental Indenture"), dated as of _____, among _____ (the "Guaranteeing Subsidiary"), a subsidiary of Domino's, Inc. (or its permitted successor), a Delaware corporation (the "Company"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and BNY Midwest Trust Company, as trustee under the indenture referred to below (the "Trustee").

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "Indenture"), dated as of June 25, 2003, providing for the issuance of an unlimited aggregate principal amount of 8 1/4% Senior Subordinated Notes due 2011 (the "Notes");

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

WHEREAS, pursuant to Section 9.06 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

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

1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees as follows:
 - (a) Along with all Guarantors named in the Indenture, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of the Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:
 - (i) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and
 - (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full

when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

- (b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.
- (c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.
- (d) This Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture.
- (e) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors, or any Custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.
- (f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.
- (g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee.
- (h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.
- (i) Pursuant to Section 11.03 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to

any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 11 of the Indenture shall result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

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

4. Guaranteeing Subsidiary May Consolidate, Etc. on Certain Terms.

(a) A Guaranteeing Subsidiary may not sell or otherwise dispose of all or substantially all of its assets, or consolidate with or merge with or into (whether or not such Guaranteeing Subsidiary is the surviving Person) another Person unless:

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

(ii) either:

(A) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger assumes all the obligations of such Guaranteeing Subsidiary, pursuant to a supplemental indenture satisfactory to the Trustee; or

(B) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of the Indenture.

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

(c) Except as set forth in Articles 4 and 5 of the Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the

Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

5. Releases.

- (a) The Subsidiary Guarantee of a Guarantor will be released (i) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation), if the disposition is to the Company or another Guarantor or if the Company applies the Net Proceeds of that sale or other disposition in accordance with the applicable provisions of the Indenture, including without limitation Section 4.10 thereof; (ii) in connection with any sale of all of the capital stock of a Guarantor, if the Company applies the Net Proceeds of that sale in accordance with the applicable provisions of the Indenture, including without limitation Section 4.10 thereof; (iii) if the Company designates any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary; or (iv) upon the release or discharge of all guarantees of such Guarantor, and all pledges of property or assets of such Guarantor securing, all other Indebtedness of the Company and the other Guarantors. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, including without limitation Section 4.10 of the Indenture, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.
- (b) Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under the Indenture as provided in Article 11 of the Indenture.

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

7. NEW YORK LAW TO GOVERN; WAIVER OF JURY TRIAL. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE

NOTES, THE SUBSIDIARY GUARANTEES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

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

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

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

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

Dated: _____,

[GUARANTEEING SUBSIDIARY]

By: _____

Name:
Title:

BNY MIDWEST TRUST COMPANY, as Trustee

By: _____

Name:
Title:

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REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT dated June 25, 2003 (the "Agreement") is entered into by and among Domino's, Inc., a Delaware corporation (the "Company"), the guarantors listed in Schedule 1 hereto (the "Guarantors"), and J.P. Morgan Securities Inc., Banc of America Securities LLC, Banc One Capital Markets, Inc., Bear, Stearns & Co. Inc., Citigroup Global Markets Inc., Credit Suisse First Boston LLC, Goldman, Sachs & Co. and Lehman Brothers Inc. (collectively the "Initial Purchasers").

The Company, the Guarantors and the Initial Purchasers are parties to the Purchase Agreement dated June 18, 2003 (the "Purchase Agreement"), which provides for the sale by the Company to the Initial Purchasers of \$403,000,000 aggregate principal amount of the Company's 8 1/4% Senior Subordinated Notes due 2011 (the "Securities"), which will be guaranteed on an unsecured senior subordinated basis by each of the Guarantors. As an inducement to the Initial Purchasers to enter into the Purchase Agreement, the Company and the Guarantors have agreed to provide to the Initial Purchasers and their direct and indirect transferees the registration rights set forth in this Agreement. The execution and delivery of this Agreement is a condition to the closing under the Purchase Agreement.

In consideration of the foregoing, the parties hereto agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Business Day" shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed.

"Closing Date" shall mean the Closing Date as defined in the Purchase Agreement.

"Company" shall have the meaning set forth in the preamble

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

"Exchange Dates" shall have the meaning set forth in Section 2(a)(ii) hereof.

"Exchange Offer" shall mean the exchange offer by the Company and the Guarantors of Exchange Securities for Registrable Securities pursuant to Section 2(a) hereof.

"Exchange Offer Registration" shall mean a registration under the Securities Act effected pursuant to Section 2(a) hereof.

"Exchange Offer Registration Statement" shall mean an exchange offer registration statement on Form S-4 (or, if applicable, on another appropriate form) and all amendments and supplements to such registration statement, in each case including the Prospectus contained therein, all exhibits thereto and any document incorporated by reference therein.

"Exchange Securities" shall mean senior subordinated notes issued by the Company and guaranteed by the Guarantors under the Indenture containing terms identical to the Securities (except that the Exchange Securities will not be entitled to registration rights hereunder and

will not be subject to restrictions on transfer or to any increase in annual interest rate for failure to comply with this Agreement) and to be offered to Holders of Securities in exchange for Securities pursuant to the Exchange Offer.

"Guarantors" shall have the meaning set forth in the preamble

"Holders" shall mean the Initial Purchasers, for so long as they own any Registrable Securities, and each of their successors, assigns and direct and indirect transferees who become owners of Registrable Securities under the Indenture; provided that for purposes of Sections 4 and 5 of this Agreement, the term "Holders" shall include Participating Broker-Dealers.

"Indenture" shall mean the Indenture relating to the Securities dated as of June 25, 2003 among the Company, the Guarantors and The Bank of New York, as trustee, and as the same may be amended from time to time in accordance with the terms thereof.

"Initial Purchasers" shall have the meaning set forth in the preamble.

"Majority Holders" shall mean the Holders of a majority of the aggregate principal amount of outstanding Registrable Securities; provided that whenever the consent or approval of Holders of a specified percentage of Registrable Securities is required hereunder, Registrable Securities owned directly or indirectly by the Company or any of its affiliates shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage or amount.

"Participating Broker-Dealers" shall have the meaning set forth in Section 4(a) hereof.

"Person" shall mean an individual, partnership, limited liability company, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

"Prospectus" shall mean (i) the prospectus included in a Registration Statement, including any preliminary prospectus and (ii) any such prospectus as amended or supplemented by any prospectus supplement, including a prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by a Shelf Registration Statement, and by all other amendments and supplements to such prospectus, and in each case including any document incorporated by reference therein.

"Purchase Agreement" shall have the meaning set forth in the preamble.

"Registrable Securities" shall mean the Securities; provided that the Securities shall cease to be Registrable Securities (i) when a Registration Statement with respect to such Securities has been declared effective under the Securities Act and the Exchange Offer has been completed or, in the case of a Shelf Registration Statement, such Securities have been disposed of pursuant to such Shelf Registration Statement, (ii) when such Securities are eligible to be sold pursuant to Rule 144(k) (or any similar provision then in force, but not Rule 144A) under the Securities Act or (iii) when such Securities are sold pursuant to Rule 144 under circumstances after which such Securities are freely transferable under the Securities Act, or (iv) when such Securities cease to be outstanding.

"Registration Expenses" shall mean any and all expenses incident to performance of or compliance by the Company and the Guarantors with this Agreement, including, without limita-

tion, (i) all SEC, stock exchange or National Association of Securities Dealers, Inc. registration and filing fees, (ii) all fees and expenses incurred in connection with compliance with state securities or blue sky laws (including reasonable fees and disbursements of one counsel for any Underwriters or Holders in connection with blue sky qualification of any Exchange Securities or Registrable Securities), (iii) all expenses of any Persons approved by the Company in preparing or assisting in preparing, word processing, printing and distributing any Registration Statement, any Prospectus and any amendments or supplements thereto, any underwriting agreements, securities sales agreements or other similar agreements and any other documents relating to the performance of and compliance with this Agreement, (iv) all rating agency fees relating to the Securities or the Exchange Securities, (v) all fees and disbursements relating to the qualification of the Indenture under applicable securities laws, (vi) the fees and disbursements of the Trustee and its counsel relating to the Indenture, the Securities or the Exchange Securities, (vii) the fees and disbursements of counsel for the Company and the Guarantors and, in the case of a Shelf Registration Statement, the reasonable fees and disbursements of one counsel for the Holders (which counsel shall be selected by the Majority Holders and which counsel may also be counsel for the Initial Purchasers) and (viii) the fees and disbursements of the independent public accountants of the Company and the Guarantors, including the expenses of any special audits or "comfort" letters required by or incident to the performance of and compliance with this Agreement, but excluding fees and expenses of counsel to the Underwriters (other than fees and expenses set forth in clause (ii) above) or the Holders and underwriting discounts and commissions and transfer taxes, if any, relating to the sale or disposition of Registrable Securities by a Holder.

"Registration Statement" shall mean any registration statement of the Company and the Guarantors that covers any of the Exchange Securities or Registrable Securities pursuant to the provisions of this Agreement and all amendments and supplements to any such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and any document incorporated by reference therein.

"SEC" shall mean the Securities and Exchange Commission.

"Securities" shall have the meaning set forth in the preamble.

"Securities Act" shall mean the Securities Act of 1933, as amended from time to time.

"Shelf Effectiveness Period" shall have the meaning set forth in Section 2(b) hereof.

"Shelf Registration" shall mean a registration effected pursuant to Section 2(b) hereof.

"Shelf Registration Statement" shall mean a "shelf" registration statement of the Company and the Guarantors that covers all the Registrable Securities (but no other securities unless approved by the Holders whose Registrable Securities are to be covered by such Shelf Registration Statement) on an appropriate form under Rule 415 under the Securities Act, or any similar rule that may be adopted by the SEC, and all amendments and supplements to such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and any document incorporated by reference therein.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended from time to time.

"Trustee" shall mean the trustee with respect to the Securities under the Indenture.

"Underwriter" shall have the meaning set forth in Section 3 hereof.

"Underwritten Offering" shall mean an offering in which Registrable Securities are sold to an Underwriter for reoffering to the public.

2. Registration Under the Securities Act. (a) To the extent not prohibited by any applicable law or applicable interpretations of the Staff of the SEC, the Company and the Guarantors shall use their reasonable best efforts to (i) cause to be filed an Exchange Offer Registration Statement covering an offer to the Holders to exchange all the Registrable Securities for Exchange Securities and (ii) have such Registration Statement remain effective until the earlier of (1) 180 days after the closing of the Exchange Offer, and (2) such time as no broker-dealer that receives Exchange Securities in exchange for Securities in the Exchange Offer holds any such Exchange Securities. The Company and the Guarantors shall commence the Exchange Offer promptly after the Exchange Offer Registration Statement is declared effective by the SEC and use their reasonable best efforts to complete the Exchange Offer not later than 60 days after such effective date.

The Company and the Guarantors shall commence the Exchange Offer by mailing the related Prospectus, appropriate letters of transmittal and other accompanying documents to each Holder stating, in addition to such other disclosures as are required by applicable law,

- (i) that the Exchange Offer is being made pursuant to this Agreement and that all Registrable Securities validly tendered and not properly withdrawn will be accepted for exchange;
- (ii) the dates of acceptance for exchange (which shall be a period of at least 20 Business Days from the date such notice is mailed) (the "Exchange Dates");
- (iii) that any Registrable Security not tendered will remain outstanding and continue to accrue interest but will not retain any rights under this Agreement;
- (iv) that any Holder electing to have a Registrable Security exchanged pursuant to the Exchange Offer will be required to surrender such Registrable Security, together with the appropriate letters of transmittal, to the institution and at the address (located in the Borough of Manhattan, The City of New York) and in the manner specified in the notice, prior to the close of business on the last Exchange Date; and
- (v) that any Holder will be entitled to withdraw its election, not later than the close of business on the last Exchange Date, by sending to the institution and at the address (located in the Borough of Manhattan, The City of New York) specified in the notice, a telegram, telex, facsimile transmission or letter setting forth the name of such Holder, the principal amount of Registrable Securities delivered for exchange and a statement that such Holder is withdrawing its election to have such Securities exchanged.

As a condition to participating in the Exchange Offer, a Holder (including any participating Broker-Dealer) will be required to represent to the Company and the Guarantors that (i) any Exchange Securities to be received by it will be acquired in the ordinary course of its business, (ii) it is not engaged in, and the time of the commencement of the Exchange Offer it has no ar-

agement or understanding with any Person to participate in, any distribution (within the meaning of the Securities Act) of the Exchange Securities in violation of the provisions of the Securities Act, (iii) it is not an "affiliate" (within the meaning of Rule 405 under Securities Act) of the Company or any Guarantor and (iv) if such Holder is a broker-dealer that will receive Exchange Securities for its own account in exchange for Registrable Securities that were acquired as a result of market-making or other trading activities, then, in accordance with current interpretations by the SEC's staff of Section 5 of the Securities Act, such Holder will deliver a Prospectus in connection with any resale of such Exchange Securities.

As soon as practicable after the last Exchange Date, the Company and the Guarantors shall

- (i) accept for exchange Registrable Securities or portions thereof validly tendered and not properly withdrawn pursuant to the Exchange Offer; and
- (ii) deliver, or cause to be delivered, to the Trustee for cancellation all Registrable Securities or portions thereof so accepted for exchange by the Company and issue, and cause the Trustee to promptly authenticate and deliver to each Holder, Exchange Securities equal in principal amount to the principal amount of the Registrable Securities surrendered by such Holder.

The Company and the Guarantors shall use their reasonable best efforts to complete the Exchange Offer as provided above and shall comply with the applicable requirements of the Securities Act, the Exchange Act and other applicable laws and regulations in connection with the Exchange Offer. The Exchange Offer shall not be subject to any conditions, other than that the Exchange Offer does not violate any applicable law or applicable interpretations of the Staff of the SEC.

(b) In the event that (i) the Company and the Guarantors determine that the Exchange Offer Registration provided for in Section 2(a) above is not available or may not be completed as soon as practicable after the last Exchange Date because it would violate any applicable law or applicable interpretations of the Staff of the SEC, (ii) the Exchange Offer is not for any other reason completed within 210 days after the Closing Date or (iii) upon completion of the Exchange Offer, any Initial Purchaser shall, upon advise of counsel, so request in connection with any offering or sale of Registrable Securities originally purchased and still held by such Initial Purchaser, the Company and the Guarantors shall use their reasonable best efforts to cause to be filed as soon as practicable after such determination, date or request, as the case may be, a Shelf Registration Statement providing for the sale of all the Registrable Securities by the Holders thereof and to have such Shelf Registration Statement declared effective by the SEC. To the extent a Shelf Registration Statement is required to be filed pursuant to clause (ii) and the Exchange Offer is completed on a date later than 210 days after the Closing Date, upon the completion of the Exchange Offer, the Company and the Guarantors will no longer be required to file, make effective or continue the effectiveness of the Shelf Registration Statement, except as may be required pursuant to clause (i) or (iii).

In the event that the Company and the Guarantors are required to file a Shelf Registration Statement pursuant to clause (iii) of the preceding sentence, the Company and the Guarantors shall use their reasonable best efforts to file and have declared effective by the SEC both an Exchange Offer Registration Statement pursuant to Section 2(a) with respect to all Registrable Securities and a Shelf Registration Statement (which may be a combined Registration

Statement with the Exchange Offer Registration Statement) with respect to offers and sales of Registrable Securities held by the Initial Purchasers after completion of the Exchange Offer.

The Company and the Guarantors agree to use their reasonable best efforts to keep the Shelf Registration Statement continuously effective until the expiration of the period referred to in Rule 144(k) under the Securities Act with respect to the Registrable Securities or such shorter period that will terminate when all the Registrable Securities covered by the Shelf Registration Statement have been sold pursuant to the Shelf Registration Statement or are no longer outstanding (the "Shelf Effectiveness Period"). The Company and the Guarantors further agree to supplement or amend the Shelf Registration Statement and the related Prospectus if required by the rules, regulations or instructions applicable to the registration form used by the Company for such Shelf Registration Statement or by the Securities Act or by any other rules and regulations thereunder for shelf registration or if reasonably and timely requested by a Holder of Registrable Securities with respect to information relating to such Holder, and to use their reasonable best efforts to cause any such amendment to become effective and such Shelf Registration Statement and Prospectus to become usable as soon as thereafter practicable. The Company and the Guarantors agree to furnish to the Holders of Registrable Securities copies of any such supplement or amendment promptly after its being used or filed with the SEC.

(c) The Company and the Guarantors shall pay all Registration Expenses in connection with the registration pursuant to Section 2(a) and Section 2(b) hereof. Each Holder shall pay all underwriting discounts and commissions and transfer taxes, if any, relating to the sale or disposition of such Holder's Registrable Securities pursuant to the Shelf Registration Statement.

(d) An Exchange Offer Registration Statement pursuant to Section 2(a) hereof or a Shelf Registration Statement pursuant to Section 2(b) hereof will not be deemed to have become effective unless it has been declared effective by the SEC.

In the event that either the Exchange Offer is not completed or the Shelf Registration Statement, if required hereby, is not declared effective within 210 days after the Closing Date (the "Target Registration Date"), the interest rate on the Registrable Securities will be increased by (i) 0.25% per annum for the first 90-day period immediately following the Target Registration Date and (ii) an additional 0.25% per annum with respect to each subsequent 90-day period, in each case until the Exchange Offer is completed or the Shelf Registration Statement, if required hereby, is declared effective by the SEC or the Securities become freely tradable under the Securities Act, up to a maximum of 1.00% per annum of additional interest, provided that the interest rate on the Registrable Securities shall not be increased by more than 0.25% per annum in any 90 day period regardless of the number of defaults then existing.

If the Shelf Registration Statement has been declared effective and thereafter either ceases to be effective or the Prospectus contained therein ceases to be usable at any time during the Shelf Effectiveness Period in each case other than as a result of the provisions of the penultimate paragraph of Section 3(p), and such failure to remain effective or usable exists for more than 30 consecutive days or more than 60 days (whether or not consecutive) in any 12-month period, then the interest rate on the Registrable Securities will be increased by 1.00% per annum commencing on the 31st or 61st day in such 12-month period and ending on such date that the Shelf Registration Statement has again been declared effective or the Prospectus again becomes usable, provided, however that in no event will such additional interest together with

the additional interest payable pursuant to the immediately preceding paragraph, if any, exceed 1.00%.

(e) Without limiting the remedies available to the Initial Purchasers and the Holders, the Company and the Guarantors acknowledge that any failure by the Company or the Guarantors to comply with their obligations under Section 2(a) and Section 2(b) hereof may result in material irreparable injury to the Initial Purchasers or the Holders for which there is no adequate remedy at law, that it will not be possible to measure damages for such injuries precisely and that, in the event of any such failure, the Initial Purchasers or any Holder may, to the extent permitted by applicable law, obtain such relief as may be required to specifically enforce the Company's and the Guarantors' obligations under Section 2(a) and Section 2(b) hereof.

3. Registration Procedures. In connection with their obligations pursuant to Section 2(a) and Section 2(b) hereof, the Company and the Guarantors shall:

(a) prepare and file with the SEC a Registration Statement on the appropriate form under the Securities Act, which form (x) shall be selected by the Company and the Guarantors, (y) shall, in the case of a Shelf Registration, be available for the sale of the Registrable Securities by the selling Holders thereof and (z) shall comply as to form in all material respects with the requirements of the applicable form and include all financial statements required by the SEC to be filed therewith; and use their reasonable best efforts to cause such Registration Statement to become effective and remain effective for the applicable period in accordance with Section 2 hereof;

(b) prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement effective for the applicable period in accordance with Section 2 hereof and cause each Prospectus to be supplemented by any required prospectus supplement and, as so supplemented, to be filed pursuant to Rule 424 under the Securities Act; and keep each Prospectus current during the period described in Section 2 of this Agreement;

(c) in the case of a Shelf Registration, furnish to each Holder of Registrable Securities, to counsel for the Initial Purchasers, to counsel for such Holders and to each Underwriter of an Underwritten Offering of Registrable Securities, if any, without charge, as many copies of each Prospectus as reasonably requested, including each preliminary Prospectus, and any amendment or supplement thereto, in order to facilitate the sale or other disposition of the Registrable Securities thereunder; and the Company and the Guarantors consent to the use of such Prospectus and any amendment or supplement thereto in accordance with applicable law by each of the selling Holders of Registrable Securities and any such Underwriters in connection with the offering and sale of the Registrable Securities covered by and in the manner described in such Prospectus or any amendment or supplement thereto in accordance with applicable law;

(d) use their reasonable best efforts to register or qualify the Registrable Securities under all applicable state securities or blue sky laws of such jurisdictions as any Holder of Registrable Securities covered by a Registration Statement shall reasonably request in writing by the time the applicable Registration Statement is declared effective by the SEC; cooperate with the Holders in connection with any filings required to be made with the National Association of Securities Dealers, Inc.; and do any and all other acts and things that may be reasonably necessary or advisable to enable each Holder to complete the disposition in each such jurisdiction of the Registrable Securities owned by such Holder; provided that neither the Company nor any

Guarantor shall be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not so subject;

(e) in the case of a Shelf Registration, notify each Holder of Registrable Securities, counsel for such Holders and counsel for the Initial Purchasers promptly and, if requested by any such Holder or counsel, confirm such advice in writing (i) when the Shelf Registration Statement has become effective and when any post-effective amendment thereto has been filed and becomes effective, (ii) of any request by the SEC or any state securities authority for amendments and supplements to the Shelf Registration Statement and related Prospectus or for additional information after the Shelf Registration Statement has become effective, (iii) of the issuance by the SEC or any state securities authority of any stop order suspending the effectiveness of the Shelf Registration Statement or the initiation of any proceedings for that purpose, (iv) if the Company or any Guarantor receives any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation of any proceeding for such purpose, (v) of the happening of any event during the period a Shelf Registration Statement is effective that makes any statement made in such Shelf Registration Statement or the related Prospectus untrue in any material respect or that requires the making of any changes in such Shelf Registration Statement or Prospectus in order to make the statements therein not misleading and (vi) of any determination by the Company or any Guarantor that a post-effective amendment to the Shelf Registration Statement is required;

(f) use their reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement at the earliest possible moment and provide immediate notice to each Holder of the withdrawal of any such order;

(g) in the case of a Shelf Registration, if requested, furnish to each Holder of Registrable Securities, without charge, at least one conformed copy of the Shelf Registration Statement and any post-effective amendment thereto (without any documents incorporated therein by reference or exhibits thereto, unless requested);

(h) in the case of a Shelf Registration, cooperate with the selling Holders of Registrable Securities to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends and enable such Registrable Securities to be issued in such denominations and registered in such names (consistent with the provisions of the Indenture) as the selling Holders may reasonably request at least one Business Day prior to the closing of any sale of Registrable Securities;

(i) in the case of a Shelf Registration, upon the occurrence of any event contemplated by Section 3(e)(v) hereof, use their reasonable best efforts to prepare and file with the SEC a supplement or post-effective amendment to the Shelf Registration Statement or the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities, such Prospectus will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and the Company and the Guarantors shall notify the Holders of Registrable Securities to suspend use of the Prospectus as promptly as practicable after the occurrence of such an event, and such Holders hereby agree to suspend use of the Prospectus

until the Company and the Guarantors have amended or supplemented the Prospectus to correct such misstatement or omission;

(j) a reasonable time prior to the filing of any Registration Statement, any Prospectus, any amendment to a Registration Statement or amendment or supplement to a Prospectus or of any document that is to be incorporated by reference into a Registration Statement or a Prospectus after initial filing of a Registration Statement, provide copies of such document to the Initial Purchasers and their counsel (and, in the case of a Shelf Registration Statement, to the Holders of Registrable Securities and their counsel) and make such of the representatives of the Company and the Guarantors as shall be reasonably requested by the Initial Purchasers or their counsel (and, in the case of a Shelf Registration Statement, the Holders of Registrable Securities or their counsel) available for a reasonable period of time for discussion of such document; and the Company and the Guarantors shall not, at any time after initial filing of a Registration Statement, file any Prospectus, any amendment of or supplement to a Registration Statement or a Prospectus, or any document that is to be incorporated by reference into a Registration Statement or a Prospectus, of which the Initial Purchasers and their counsel (and, in the case of a Shelf Registration Statement, the Holders of Registrable Securities and their counsel) shall not have previously been advised and furnished a copy or to which the Initial Purchasers or their counsel (and, in the case of a Shelf Registration Statement, the Holders of Registrable Securities or their counsel) shall reasonably object within five Business Days after the receipt thereof, provided that to the extent of any reasonable objection pursuant to this Section 3(j), the provisions of Section 2(d) shall not be applicable to the Securities included in such Registration Statement;

(k) obtain a CUSIP number for all Exchange Securities or Registrable Securities, as the case may be, not later than the effective date of the Exchange Offer Registration Statement or Shelf Registration Statement, as applicable;

(l) cause the Indenture to be qualified under the Trust Indenture Act in connection with the registration of the Exchange Securities or Registrable Securities, as the case may be; cooperate with the Trustee and the Holders to effect such changes to the Indenture as may be required for the Indenture to be so qualified in accordance with the terms of the Trust Indenture Act; and execute, and use their reasonable best efforts to cause the Trustee to execute, all documents as may be required to effect such changes and all other forms and documents required to be filed with the SEC to enable the Indenture to be so qualified in a timely manner;

(m) in the case of a Shelf Registration, make available for inspection by a representative of the Holders of the Registrable Securities (an "Inspector"), any Underwriter participating in any disposition pursuant to such Shelf Registration Statement, and one attorney and accountant designated by the Holders, at reasonable times and in a reasonable manner, all pertinent financial and other records, documents and properties of the Company and the Guarantors, and cause the respective officers, directors and employees of the Company and the Guarantors to supply all information reasonably requested by any such Inspector, Underwriter, attorney or accountant in connection with a Shelf Registration Statement; provided that if any such information is identified by the Company or any Guarantor as being confidential or proprietary, each Person receiving such information shall take such actions as are reasonably necessary to protect the confidentiality of such information to the extent such action is otherwise not inconsistent with, an impairment of or in derogation of the rights and interests of any Inspector, Holder or Underwriter);

(n) in the case of a Shelf Registration, use their reasonable best efforts to cause all Registrable Securities to be listed on any securities exchange or any automated quotation system on which similar securities issued or guaranteed by the Company or any Guarantor are then listed if requested by the Majority Holders, to the extent such Registrable Securities satisfy applicable listing requirements;

(o) if reasonably requested by any Holder of Registrable Securities covered by a Shelf Registration Statement and required by applicable law or SEC rules, promptly incorporate in a Prospectus supplement or post-effective amendment such information with respect to such Holder as such Holder reasonably requests to be included therein and make all required filings of such Prospectus supplement or such post-effective amendment as soon as practicable after the Company has received notification of the matters to be incorporated in such filing; and

(p) in the case of a Shelf Registration, enter into such customary agreements and take all such other actions in connection therewith (including those requested in writing by the Holders of a majority in principal amount of the Registrable Securities being sold) in order to expedite or facilitate the disposition of such Registrable Securities including, but not limited to, entering into an Underwritten Agreement in connection with an Underwritten Offering and in such connection, (i) to the extent possible, make such representations and warranties to the Holders and any Underwriters of such Registrable Securities with respect to the business of the Company and its subsidiaries, the Registration Statement, Prospectus and documents incorporated by reference or deemed incorporated by reference, if any, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings and confirm the same if and when requested, (ii) use reasonable best efforts to obtain opinions of counsel to the Company and the Guarantors (which counsel and opinions, in form, scope and substance, shall be reasonably satisfactory to the Holders and such Underwriters and their respective counsel) addressed to each Underwriter of Registrable Securities, covering the matters customarily covered in opinions requested in underwritten offerings provided that the matter covered by the opinion of counsel furnished in connection with the Purchase Agreement and applicable to such Shelf Registration Statement shall be deemed to be reasonably satisfactory, (iii) use reasonable best efforts to obtain "comfort," "agreed upon procedures" or similar letters from the independent certified public accountants of the Company and the Guarantors (and, if necessary, any other certified public accountant of any subsidiary of the Company or any Guarantor, or of any business acquired by the Company or any Guarantor for which financial statements and financial data are or are required to be included in the Registration Statement) addressed to each Underwriter of Registrable Securities, such letters to be in customary form and covering matters of the type customarily covered in "comfort" letters in connection with underwritten offerings and similar to the "comfort letter" delivered pursuant to the Purchase Agreement and (iv) deliver such documents and certificates as may be reasonably requested by the Holders of a majority in principal amount of the Registrable Securities being sold or the Underwriters, and which are customarily delivered in underwritten offerings, to evidence the accuracy as of the closing date of the representations and warranties of the Company and the Guarantors made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in an underwriting agreement.

In the case of a Shelf Registration Statement, the Company may require each Holder of Registrable Securities to furnish to the Company such information regarding such Holder and the proposed disposition by such Holder of such Registrable Secu-

rities as the Company and the Guarantors may from time to time reasonably request in writing. No Holder of Registrable Securities may include any of its Registrable Securities in any Shelf Registration Statement pursuant to this Agreement unless and until such Holder furnishes to the Company in writing, within 20 days after receipt of a request therefor, the information specified in Item 507 or 508 of Regulation S-K, as applicable, of the Securities Act for use in connection with any Shelf Registration Statement or Prospectus or preliminary Prospectus included therein. No Holder of Registrable Securities who fails to comply with the requirements of the two preceding sentences within the time frame specified in the immediately preceding sentence shall be entitled to the benefits of Section 2(d) of this Agreement unless and until such Holder shall have provided all such information (it being understood that no change in the interest rate on the Registrable Securities shall be effective for the benefit of any Holder until such Holder provides such information). Each selling Holder agrees to promptly furnish to the Company additional information required to be disclosed in order to make the information previously furnished to the Company by such Holder not materially misleading.

In the case of a Shelf Registration Statement, each Holder of Registrable Securities agrees that, upon receipt of any notice from the Company and the Guarantors of the happening of any event of the kind described in Section 3(e)(iii) or 3(e)(v) hereof, such Holder will forthwith discontinue disposition of Registrable Securities pursuant to a Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 3(i) hereof and, if so directed by the Company and the Guarantors, such Holder will deliver to the Company and the Guarantors all copies in its possession, other than permanent file copies then in such Holder's possession which such Holder agrees will not be used thereafter, of the Prospectus covering such Registrable Securities that is current at the time of receipt of such notice. In addition, the Company may give notice of the suspension of the offering and sale under the Shelf Registration Statement for a period or periods upon the occurrence or existence of any pending corporate development that, in the good faith judgment of the Board of Directors of the Company, makes such suspension necessary.

If the Company and the Guarantors shall give any such notice to suspend the disposition of Registrable Securities pursuant to a Registration Statement, the Company and the Guarantors shall extend the period during which the Registration Statement shall be maintained effective pursuant to this Agreement by the number of days during the period from and including the date of the giving of such notice to and including the date when the Holders shall have received copies of the supplemented or amended Prospectus necessary to resume such dispositions or the Company advises the Holder that the use of the Prospectus may be resumed. Any such suspensions shall not exceed 60 days during any 365-day period.

The Holders of Registrable Securities covered by a Shelf Registration Statement who desire to do so may sell such Registrable Securities in an Underwritten Offering. In any such Underwritten Offering, the investment banker or investment bankers and manager or managers (the "Underwriters") that will administer the offering will be selected by the Majority Holders of the Registrable Securities included in such offering.

4. Participation of Broker-Dealers in Exchange Offer. (a) The Staff of the SEC has taken the position that any broker-dealer that receives Exchange Securities for its own account in the Exchange Offer in exchange for Securities that were acquired by such broker-dealer as a result of market-making or other trading activities (a "Participating Broker-Dealer") may be deemed to be an "underwriter" within the meaning of the Securities Act and must deliver a pro-

spectus meeting the requirements of the Securities Act in connection with any resale of such Exchange Securities.

The Company and the Guarantors understand that it is the Staff's position that if the Prospectus contained in the Exchange Offer Registration Statement includes a plan of distribution containing a statement to the above effect and the means by which Participating Broker-Dealers may resell the Exchange Securities, without naming the Participating Broker-Dealers or specifying the amount of Exchange Securities owned by them, such Prospectus may be delivered by Participating Broker-Dealers to satisfy their prospectus delivery obligation under the Securities Act in connection with resales of Exchange Securities for their own accounts, so long as the Prospectus otherwise meets the requirements of the Securities Act.

(b) In light of the above, and notwithstanding the other provisions of this Agreement, the Company and the Guarantors agree to amend or supplement the Prospectus contained in the Exchange Offer Registration Statement, as would otherwise be contemplated by Section 3(i), for a period of up to 180 days after the last Exchange Date as contemplated by Section 2(a) (as such period may be extended pursuant to the penultimate paragraph of Section 3 of this Agreement), if requested by the Initial Purchasers or by one or more Participating Broker-Dealers, in order to expedite or facilitate the disposition of any Exchange Securities by Participating Broker-Dealers consistent with the positions of the Staff recited in Section 4(a) above. The Company and the Guarantors further agree that Participating Broker-Dealers shall be authorized to deliver such Prospectus during such period in connection with the resales contemplated by this Section 4.

(c) The Initial Purchasers shall have no liability to the Company, any Guarantor or any Holder with respect to any request that they may make pursuant to Section 4(b) above.

5. Indemnification and Contribution. (a) The Company and each Guarantor, jointly and severally, agree to indemnify and hold harmless each Initial Purchaser and each Holder, their respective affiliates, directors and officers and each Person, if any, who controls any Initial Purchaser or any Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses reasonably incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or any related Prospectus provided by the Company to any Holder or any prospective purchaser of Exchange Securities or Registrable Securities or are caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Initial Purchaser or any Holder furnished to the Company in writing either directly or through J.P. Morgan Securities Inc. or any Holder expressly for use therein; provided, that with respect to any such untrue statement in or omission from any preliminary prospectus, the indemnity agreement contained in this Section 5(a) shall not inure to the benefit of any Initial Purchaser or any Holder from whom the person asserting any such loss, claim, damage or liability received Securities or Exchange Securities to the extent that any such loss, claim, damage or liability of or with respect to such Initial Purchaser or Holder results

from the fact that both (i) a copy of the final prospectus was not sent or given to such person at or prior to the written confirmation of the sale of such Securities or Exchange Securities to such person and was required by applicable law to be sent or given to such person at or prior to the written confirmation of the sale of such Securities or Exchange Securities and (ii) the untrue statement in or omission from the related preliminary prospectus was corrected in the final prospectus unless, in either case, such failure to deliver the final prospectus was a result of non-compliance by the Company with the provisions of Section 3(c) of this Agreement.

(b) Each Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, the Guarantors, the Initial Purchasers and the other selling Holders, their respective affiliates, the directors of the Company and the Guarantors, each officer of the Company and the Guarantors who signed the Registration Statement and each Person, if any, who controls the Company, the Guarantors, any Initial Purchaser and any other selling Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Holder furnished to the Company in writing by such Holder expressly for use in any Registration Statement or any Prospectus.

(c) If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any Person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such Person (the "Indemnified Person") shall promptly notify the Person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 5 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 5. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section 5 that the Indemnifying Person may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such reasonable fees and expenses shall be reimbursed as they are incurred. Any such separate firm (x) for any Initial Purchaser, its affiliates, directors and officers and any control Persons of

such Initial Purchaser shall be designated in writing by J.P. Morgan Securities Inc., (y) for any Holder, its affiliates, directors and officers and any control Persons of such Holder shall be designated in writing by the Majority Holders and (z) in all other cases shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the immediately preceding sentence, if at any time an Indemnified Person shall have requested the Company to reimburse such Indemnified Person for legal or other expenses in connection with investigating, responding to or defending any proceedings as contemplated by this Section 5, the Company shall be liable for any settlement of any proceedings effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the Company of such request for reimbursement, (ii) the Company shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into, and (iii) the Company shall not have reimbursed such Indemnified Person in accordance with such request prior to the date of such settlement; provided that the Company shall not be liable for any settlement effected without its consent if the Company, prior to the date of such settlement, (1) reimburses such Indemnified Person in accordance with such request for the amount of such legal and other expenses as the Company believes in good faith to be reasonable, and (2) provides written notice to the Indemnified Person that the Company disputes in good faith the reasonableness of the unpaid balance of such legal and other expenses. The Company shall not, without prior written consent of an Indemnified Person (which consent shall not be unreasonably withheld), effect any settlement of any pending or threatened proceedings in respect of which indemnity could have been sought hereunder by such Indemnified Person unless (i) such settlement includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such proceedings and (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) If the indemnification provided for in paragraphs (a) and (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein (other than as a result of the limitations imposed on indemnification described in such sections), then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Guarantors from the offering of the Securities and the Exchange Securities, on the one hand, and by the Holders from receiving Securities or Exchange Securities registered under the Securities Act, on the other hand, or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company and the Guarantors on the one hand and the Holders on the other in connection with the actual or alleged statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative fault of the Company and the Guarantors on the one hand and the Holders on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company and the Guarantors or by the Holders, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The Company, the Guarantors and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 5 were determined by pro rata allocation (even if the Holders were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 5, in no event shall a Holder be required to contribute any amount in excess of the amount by which the total price at which the Securities or Exchange Securities sold by such Holder exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

(f) The remedies provided for in this Section 5 are not exclusive and shall not limit any rights or remedies that may otherwise be available to any Indemnified Person at law or in equity.

(g) The indemnity and contribution provisions contained in this Section 5 shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of the Initial Purchasers or any Holder, their respective affiliates or any Person controlling any Initial Purchaser or any Holder, or by or on behalf of the Company or the Guarantors, their respective affiliates or the officers or directors of or any Person controlling the Company or the Guarantors, (iii) acceptance of any of the Exchange Securities and (iv) any sale of Registrable Securities pursuant to a Shelf Registration Statement.

6. General.

(a) No Inconsistent Agreements. The Company and the Guarantors represent, warrant and agree that (i) the rights granted to the Holders hereunder do not in any way conflict with and are not inconsistent with the rights granted to the holders of any other outstanding securities issued or guaranteed by the Company or any Guarantor under any other agreement and (ii) neither the Company nor any Guarantor has entered into, or on or after the date of this Agreement will enter into, any agreement that is inconsistent with the rights granted to the Holders of Registrable Securities in this Agreement or otherwise conflicts with the provisions hereof.

(b) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given unless the Company and the Guarantors have obtained the written consent of Holders of at least a majority in aggregate principal amount of the outstanding Registrable Securities affected by such amendment, modification, supplement, waiver or consent; provided that no amendment, modification, supplement, waiver or consent to any departure from the provisions of Section 5 hereof shall be effective as against any Holder of Registrable Securities unless consented to in writing by such Holder. Any amendments, modifications, supplements, waivers or consents pursuant to this Section 7(b) shall be by a writing executed by each of the parties hereto. Notwithstanding the foregoing, a waiver or consent to departure from the provisions hereof that relates exclusively to the rights of Holders whose securities are being tendered pursuant to the Exchange Offer, and that does not

affect directly or indirectly the rights of other Holders whose securities are not being tendered pursuant to such Exchange Offer, may be given by the Holders of a majority of the outstanding principal amount of Transfer Restricted Securities subject to such Exchange Offer.

(c) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand-delivery, registered first-class mail, telex, telecopier, or any courier guaranteeing overnight delivery (i) if to a Holder at the most current address given by such Holder to the Company by means of a notice given in accordance with the provisions of this Section 6(c), which address initially is, with respect to the Initial Purchasers, the address set forth in the Purchase Agreement and with respect to each other Holder, the address set forth in the records of the Trustee under the Indenture; (ii) if to the Company and the Guarantors, initially at the Company's address set forth in the Purchase Agreement and thereafter at such other address, notice of which is given: in accordance with the provisions of this Section 6(c); and (iii) to such other persons at their respective addresses as provided in the Purchase Agreement and thereafter at such other address, notice of which is given in accordance with the provisions of this Section 6(c). All such notices and communications shall be deemed to have been duly given at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt is acknowledged, if telecopied; and on the next Business Day if timely delivered to an air courier guaranteeing overnight delivery. Copies of all such notices, demands or other communications shall be concurrently delivered by the Person giving the same to the Trustee, at the address specified in the Indenture.

(d) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors, assigns and transferees of each of the parties, including, without limitation and without the need for an express assignment, subsequent Holders; provided that nothing herein shall be deemed to permit any assignment, transfer or other disposition of Registrable Securities in violation of the terms of the Purchase Agreement or the Indenture. If any transferee of any Holder shall acquire Registrable Securities in any manner, whether by operation of law or otherwise, such Registrable Securities shall be held subject to all the terms of this Agreement, and by taking and holding such Registrable Securities such Person shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement and such Person shall be entitled to receive the benefits hereof. The Initial Purchasers (in their capacity as Initial Purchasers) shall have no liability or obligation to the Company or the Guarantors with respect to any failure by a Holder (other than such Initial Purchasers and its affiliates that participate in the initial distribution of the Securities) to comply with, or any breach by any Holder of, any of the obligations of such Holder under this Agreement.

(e) Purchases and Sales of Securities. The Company and the Guarantors shall not, and shall use their reasonable best efforts to cause their affiliates (as defined in Rule 405 under the Securities Act) not to, purchase and then resell or otherwise transfer any Registrable Securities.

(f) Third Party Beneficiaries. Each Holder shall be a third party beneficiary to the agreements made hereunder between the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other hand, and shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights or the rights of other Holders hereunder.

(g) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(h) Headings. The headings in this Agreement are for convenience of reference only, are not a part of this Agreement and shall not limit or otherwise affect the meaning hereof.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(j) Miscellaneous. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all oral statements and prior writings with respect thereto. If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable or against public policy, the remainder of the terms, provisions, covenants and restrictions contained herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The Company, the Guarantors and the Initial Purchasers shall endeavor in good faith negotiations to replace the invalid, void or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, void or unenforceable provisions.

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

DOMINO'S, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA, LLC

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA PMC, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S FRANCHISE HOLDING CO.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL PAYROLL SERVICES, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA-GOVERNMENT SERVICES
DIVISION, INC.

By: /s/ Aicha Bascaro

Name: Aicha Bascaro
Title: Secretary

DOMINO'S PIZZA NS CO.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

Confirmed and accepted as of the date
first above written:

J.P. MORGAN SECURITIES INC.

For itself and on behalf of the several
Initial Purchasers

By: /s/ Ken A. Lang

Authorized Signatory

SCHEDULE 1

Domino's Pizza, LLC
Domino's Pizza PMC, Inc.
Domino's Franchise Holding Co.
Domino's Pizza International Payroll
Services, Inc.
Domino's Pizza International, Inc.
Domino's Pizza-Government Services
Division, Inc.
Domino's Pizza NS Co.

\$ 403,000,000

DOMINO'S, INC.

8 1/4% Senior Subordinated Notes due 2011

Purchase Agreement

June 18, 2003

J.P. Morgan Securities Inc.
As Representative of the
several Initial Purchasers listed
in Schedule 1 hereto
c/o J.P. Morgan Securities Inc.
270 Park Avenue
New York, New York 10017

Ladies and Gentlemen:

Domino's, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the several Initial Purchasers listed in Schedule 1 hereto (the "Initial Purchasers"), for whom you are acting as representative (the "Representative"), \$403,000,000 principal amount of its 8 1/4% Senior Subordinated Notes due 2011 (the "Securities"). The Securities will be issued pursuant to an Indenture to be dated as of June 25, 2003 (the "Indenture") among the Company, the guarantors listed on the signature page hereof (the "Guarantors") and BNY Midwest Trust Company, as trustee (the "Trustee"), and will be guaranteed on an unsecured senior subordinated basis by each of the Guarantors (the "Guarantees").

The Securities will be sold to the Initial Purchasers without being registered under the Securities Act of 1933, as amended (the "Securities Act"), in reliance upon an exemption therefrom. The Company has prepared a preliminary offering memorandum dated June 5, 2003 (the "Preliminary Offering Memorandum") and will prepare a final offering memorandum dated the date hereof (the "Offering Memorandum") setting forth information concerning the Company and the Securities. Copies of the Preliminary Offering Memorandum have been, and copies of the Offering Memorandum will be, delivered by the Company to the Initial Purchasers pursuant to the terms of this Agreement. The Company hereby confirms that it has authorized the use of the Preliminary Offering Memorandum and the Offering

Memorandum in connection with the offering and resale of the Securities by the Initial Purchasers in the manner contemplated by this Agreement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Offering Memorandum.

Holders of the Securities (including the Initial Purchasers and their direct and indirect transferees) will be entitled to the benefits of a Registration Rights Agreement, to be dated the Closing Date (as defined below) and substantially in the form attached hereto as Exhibit A (the "Registration Rights Agreement"), pursuant to which the Company and the Guarantors will agree to file one or more registration statements with the Securities and Exchange Commission (the "Commission") providing for the registration under the Securities Act of the Securities or the Exchange Securities referred to (and as defined) in the Registration Rights Agreement.

The Company hereby confirms its agreement with the several Initial Purchasers concerning the purchase and resale of the Securities, as follows:

1. Purchase and Resale of the Securities. (a) The Company agrees to issue and sell the Securities to the several Initial Purchasers as provided in this Agreement, and each Initial Purchaser, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company the respective principal amount of Securities set forth opposite such Initial Purchaser's name in Schedule 1 hereto at a price equal to 96.528% of the principal amount thereof plus accrued interest, if any, from June 25, 2003 to the Closing Date (as defined below). The Company will not be obligated to deliver any of the Securities except upon payment for all the Securities to be purchased as provided herein.

(b) The Company understands that the Initial Purchasers intend to offer the Securities for resale on the terms set forth in the Offering Memorandum. Each Initial Purchaser, severally and not jointly, represents, warrants and agrees that:

(i) it is a qualified institutional buyer within the meaning of Rule 144A under the Securities Act (a "QIB") and an accredited investor within the meaning of Rule 501(a) under the Securities Act;

(ii) neither it, nor to its knowledge any person acting on its behalf, has solicited offers for, or offered or sold, or will solicit offers for, or offer or sell, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D under the

Securities Act ("Regulation D") or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act; and

(iii) neither it, nor to its knowledge any person acting on its behalf, has solicited offers for, or offered or sold, or will solicit offers for, or offer or sell, the Securities as part of their initial offering except:

(A) within the United States to persons whom it reasonably believes to be QIBs in transactions pursuant to Rule 144A under the Securities Act ("Rule 144A") and in connection with each such sale, it has taken or will take reasonable steps to ensure that the purchaser of the Securities is aware that such sale is being made in reliance on Rule 144A; or

(B) outside the United States in accordance with the restrictions set forth in Annex A hereto.

(c) Each Initial Purchaser acknowledges and agrees that the Company and, for purposes of the opinions to be delivered to the Initial Purchasers pursuant to Sections 5(f) and 5(g) counsel for the Company and counsel for the Initial Purchasers, respectively, may rely upon the accuracy of the representations and warranties of the Initial Purchasers, and compliance by the Initial Purchasers with their agreements, contained in paragraph (b) above (including Annex A hereto), and each Initial Purchaser hereby consents to such reliance.

(d) The Company acknowledges and agrees that the Initial Purchasers may offer and sell Securities to or through any affiliate of an Initial Purchaser and that any such affiliate may offer and sell Securities purchased by it to or through any Initial Purchaser, in each case subject to and in accordance with the terms and provisions of this Agreement (including Annex A hereto).

2. Payment and Delivery. (a) Payment for and delivery of the Securities will be made at the offices of Ropes & Gray LLP, 45 Rockefeller Plaza, New York, New York 10111 at 10:00 A.M., New York City time, on June 25, 2003, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representative and the Company may agree upon in writing. The time and date of such payment and delivery is referred to herein as the "Closing Date".

(b) Payment for the Securities shall be made by wire transfer in immediately available funds to the account(s) specified by the Company to the

Representative against delivery to the nominee of The Depository Trust Company, for the account of the Initial Purchasers, of one or more global notes representing the Securities (collectively, the "Global Note"), with any transfer taxes payable in connection with the sale of the Securities duly paid by the Company. The Global Note will be made available for inspection by the Representative not later than 1:00 P.M., New York City time, on the business day prior to the Closing Date.

3. Representations and Warranties of the Company and the Guarantors. The Company and the Guarantors jointly and severally represent and warrant to each Initial Purchaser that:

(a) Offering Memorandum. The Preliminary Offering Memorandum, as of its date, did not, and the Offering Memorandum, in the form first used by the Initial Purchasers to confirm sales of the Securities and as of the Closing Date, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company and the Guarantors make no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser either directly or through the Representative expressly for use in the Preliminary Offering Memorandum and the Offering Memorandum.

(b) Financial Statements. The financial statements and the related notes thereto included in the Preliminary Offering Memorandum and the Offering Memorandum present fairly in all material respects the financial position of the Company and its subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods covered thereby; the other financial information included in the Preliminary Offering Memorandum and the Offering Memorandum has been derived from the accounting records of the Company and its subsidiaries and presents fairly in all material respects the information shown thereby; and the pro forma financial information and the related notes thereto included in the Preliminary Offering Memorandum and the Offering Memorandum has been prepared in accordance with the Commission's rules and guidance with respect to pro forma financial information, and the assumptions underlying such pro forma financial information are believed by the Company to be reasonable and are set forth in the Preliminary Offering Memorandum and the Offering Memorandum.

(c) No Material Adverse Change. Since the date of the most recent financial statements of the Company included in the Offering Memorandum and except as described in the Offering Memorandum, (i) there has not been any change in the capital stock or long-term debt of the Company or any of its subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock, or any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, management, financial position or results of operations of the Company and its subsidiaries taken as a whole; and (ii) neither the Company nor any of its subsidiaries has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, except in each case as otherwise disclosed in the Preliminary Offering Memorandum and the Offering Memorandum.

(d) Organization and Good Standing. The Company and each of its subsidiaries have been duly organized and is validly existing and in good standing (or the equivalent thereof with respect to the law of foreign countries) under the laws of its respective jurisdiction of organization, is duly qualified to do business and is in good standing (or the equivalent thereof with respect to the law of foreign countries) in each jurisdiction in which its respective ownership or lease of property or the conduct of its respective business requires such qualification, and has all power and authority necessary to own or hold its respective properties and to conduct the business in which it is engaged, except where the failure to be so qualified or have such power or authority would not, individually or in the aggregate, have a material adverse effect on the business, properties, management, financial position or results of operations of the Company and its subsidiaries taken as a whole or on the performance by the Company and the Guarantors of their obligations under the Securities and the Guarantees (a "Material Adverse Effect"). The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Schedule 2 to this Agreement.

(e) Capitalization. The Company has an authorized capitalization as set forth in the Offering Memorandum under the heading "Capitalization"; and all the outstanding shares of capital stock or other equity interests of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except, in the case of any foreign subsidiary, for directors' qualifying shares and except as otherwise described in the Offering Memorandum) are owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest or restriction on voting or transfer.

(f) Due Authorization. The Company and each of the Guarantors have full right, power and authority to execute and deliver this Agreement, the Securities, the Indenture (including each Guarantee set forth therein), the Exchange Securities and the Registration Rights Agreement (collectively, the "Transaction Documents") and to perform their respective obligations hereunder and thereunder (except, in the case of the Registration Rights Agreement, no representation or warranty is made as to the enforceability of the indemnification and contribution provisions of such Registration Rights Agreement); and all action required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents by the Company and the Guarantors and the consummation of the transactions contemplated thereby has been duly and validly taken.

(g) The Indenture. The Indenture has been duly authorized by the Company and each of the Guarantors and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company and each of the Guarantors enforceable against the Company and each of the Guarantors in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws relating to or affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability (collectively, the "Enforceability Exceptions"); and on the Closing Date, the Indenture will conform in all material respects to the requirements of the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), and the rules and regulations of the Commission applicable to an indenture that is qualified thereunder.

(h) The Securities and the Guarantees. The Securities have been duly authorized by the Company and, when duly executed, authenticated, issued and delivered as provided in the Indenture and paid for as provided herein, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the Indenture; and the Guarantees have been duly authorized by each of the Guarantors and, when the Securities have been duly executed, authenticated, issued and delivered as provided in the Indenture and paid for as provided herein, will be valid and legally binding obligations of each of the Guarantors, enforceable against each of the Guarantors in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the Indenture.

(i) The Exchange Securities. On the Closing Date, the Exchange Securities (including the related guarantees) will have been duly authorized by the Company and each of the Guarantors and, when duly executed, authenticated,

issued and delivered as contemplated by the Registration Rights Agreement, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Company, as issuer, and each of the Guarantors, as guarantor, enforceable against the Company and each of the Guarantors in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the Indenture.

(j) Purchase and Registration Rights Agreements. This Agreement has been duly authorized, executed and delivered by the Company and each of the Guarantors; and the Registration Rights Agreement has been duly authorized by the Company and each of the Guarantors and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company and each of the Guarantors enforceable against the Company and each of the Guarantors in accordance with its terms, subject to the Enforceability Exceptions, and except that no representation or warranty is made as to the enforceability of the indemnification and contribution provisions of such Registration Rights Agreement.

(k) Other Transaction Documents. The New Senior Secured Credit Facility (as defined in the Offering Memorandum) has been duly authorized by the Company and the Guarantors, and when executed and delivered by the Company, the Guarantors and the other parties thereto, will constitute valid and legally binding agreements of the Company enforceable against the Company in accordance with their terms, subject to the Enforceability Exceptions.

(l) Descriptions of the Transaction Documents. Each Transaction Document conforms in all material respects to the description thereof, if any, contained in the Offering Memorandum.

(m) No Violation or Default. Neither the Company nor any of its subsidiaries is (i) in violation of its charter or by-laws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject; or (iii) in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (i) (in the case of non-guarantor subsidiaries only), (ii)

and (iii) above, for any such default or violation that would not, individually or in the aggregate, have a Material Adverse Effect.

(n) No Conflicts. The execution, delivery and performance by the Company and each of the Guarantors of each of the Transaction Documents to which each is a party, the issuance and sale of the Securities (including the Guarantees) and compliance by the Company and each of the Guarantors with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of the Company or any of its subsidiaries or (iii) (assuming the accuracy of the representations, warranties and agreements of the Initial Purchasers contained herein) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority having jurisdiction over the Company or any of its subsidiaries, except, in the case of clauses (i), (ii) (in the case of non-guarantor subsidiaries only) and (iii) above, for any such conflict, breach or violation that would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

(o) No Consents Required. No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by the Company and each of the Guarantors of each of the Transaction Documents to which each is a party, the issuance and sale of the Securities (including the Guarantees) and compliance by the Company and each of the Guarantors with the terms thereof and the consummation of the transactions contemplated by the Transaction Documents, except for such consents, approvals, authorizations, orders and registrations or qualifications as may be required (i) under applicable state securities laws in connection with the purchase and resale of the Securities by the Initial Purchasers and (ii) with respect to the Exchange Securities (including the related guarantees) under the Securities Act and applicable state securities laws as contemplated by the Registration Rights Agreement.

(p) Legal Proceedings. Except as described in the Offering Memorandum, there are no legal, governmental or regulatory investigations, actions, suits or proceedings pending to which the Company or any of its subsidiaries is or may be a party or to which any property of the Company or any of its subsidiaries is or may be the subject that, individually or in the aggregate, if determined adversely to the Company or any of its subsidiaries, could reasonably be expected to have a Material Adverse Effect; and to the Company's knowledge no such investigations, actions, suits or proceedings are threatened or contemplated by any governmental or regulatory authority or threatened by others.

(q) Independent Accountants. PricewaterhouseCoopers LLP, who have certified certain financial statements of the Company and its subsidiaries are independent public accountants with respect to the Company and its subsidiaries within the meaning of Rule 101 of the Code of Professional Conduct of the American Institute of Certified Public Accountants and its interpretations and rulings thereunder.

(r) Title to Real and Personal Property. The Company and its subsidiaries have good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real property and have good title or a valid legal right to lease or otherwise use all personal property that are material to the respective businesses of the Company and its subsidiaries, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries or (ii) would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(s) Title to Intellectual Property. The Company and its subsidiaries own or possess the right to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses and know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) presently employed by them in connection with the operation of the business now operated by the Company and its subsidiaries; and except as described in the Offering Memorandum, none of the Company or any subsidiary has received any notice of infringement or conflict with the asserted rights of others, which individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(t) Investment Company Act. Neither the Company nor any of its subsidiaries is, and after giving effect to the offering and sale of the Securities and

the application of the proceeds thereof as described in the Offering Memorandum none of them will be, an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, "Investment Company Act").

(u) Public Utility Holding Company Act. Neither the Company nor any of its subsidiaries is a "holding company" or a "subsidiary company" of a holding company or an "affiliate" thereof within the meaning of the Public Utility Holding Company Act of 1935, as amended.

(v) Taxes. The Company and its subsidiaries have paid all federal, state, local, foreign and franchise taxes and filed all tax returns required to be paid or filed through the date hereof; and except as otherwise disclosed in the Offering Memorandum, there is no material tax deficiency that has been asserted or to the knowledge of the Company threatened against the Company or any of its subsidiaries or any of their respective properties or assets.

(w) Licenses and Permits. The Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Offering Memorandum, except where the failure to possess or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and except as described in the Offering Memorandum, neither the Company nor any of its subsidiaries has received notice of any revocation or modification of any such license, certificate, permit or authorization.

(x) No Labor Disputes. No labor disturbance by or dispute with employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company and each of the Guarantors, is contemplated or threatened except for such disturbances and disputes as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(y) Compliance With Environmental Laws. The Company and its subsidiaries (i) are in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, decisions and orders relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"); (ii) have received and are in compliance with all permits, licenses or other approvals required

of them under applicable Environmental Laws to conduct their respective businesses; and (iii) have not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except in any such case for any such failure to comply with, or failure to receive required permits, licenses or approvals, or liability, as would not, individually or in the aggregate, have a Material Adverse Effect.

(z) Compliance With ERISA. Each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is maintained, administered or contributed to by the Company or any of its affiliates controlled by the Company for employees or former employees of the Company and its affiliates controlled by the Company has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to ERISA and the Internal Revenue Code of 1986, as amended (the "Code"); no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any such plan excluding transactions effected pursuant to a statutory or administrative exemption; and for each such plan (and plan of an ERISA affiliate under Section 414 of the Code) that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no "accumulated funding deficiency" as defined in Section 412 of the Code has been incurred, whether or not waived, and the fair market value of the assets of each such plan (excluding for these purposes accrued but unpaid contributions) exceeds the present value of all benefits accrued under such plan determined using reasonable actuarial assumptions, except in each case as would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

(aa) Compliance with Federal Trade Commission. The Company and its subsidiaries are in compliance with the applicable requirements of the Federal Trade Commission (the "FTC") rules governing franchising and applicable provisions of federal, state, local and other laws or regulations governing the business of a franchise or that are applicable to its business as presently conducted, except in each case as would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect.

(bb) Accounting Controls. The Company maintains systems of internal accounting controls for the benefit of the Company and its subsidiaries sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with United

States generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(cc) Insurance. The Company and its subsidiaries have insurance covering their respective properties, operations, personnel and businesses, which insurance is in amounts and insures against such losses and risks as are customary for the businesses such as the Company's and the subsidiaries'; and neither the Company nor any of its subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business.

(dd) No Unlawful Payments. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company and each of the Guarantors, any director, officer, employee or other person acting on behalf of the Company or any of its subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or (iv) made any unlawful payment including any bribe, rebate, payoff, influence payment or kickback.

(ee) Solvency. On and immediately after the Closing Date, the Company (after giving effect to the issuance of the Securities and the other transactions related thereto as described in the Offering Memorandum) will be Solvent. As used in this paragraph, the term "Solvent" means, with respect to a particular date, that on such date (A) the aggregate value of the Company's assets, at fair value and present fair saleable value, exceeds (i) its total liabilities (including contingent, subordinated unmatured and unliquidated liabilities) and (ii) the amount required to pay such liabilities as they become absolute and matured in the normal course of business; (B) the Company has the ability to pay its debts and liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) as they become absolute and matured in the normal course of business; (C) the Company does not have an unreasonably small amount of capital with which to conduct its business; and (D) the Company does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due. 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.

(ff) No Restrictions on Subsidiaries. Except as described in the Offering Memorandum, no subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's properties or assets to the Company or any other subsidiary of the Company.

(gg) No Broker's Fees. Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid claim against any of them or any Initial Purchaser for a brokerage commission, finder's fee or like payment to any person other than the Initial Purchasers and their affiliates in connection with the offering and sale of the Securities.

(hh) Rule 144A Eligibility. On the Closing Date, the Securities will not be of the same class as securities listed on a national securities exchange registered under Section 6 of the Exchange Act or quoted in an automated inter-dealer quotation system; and each of the Preliminary Offering Memorandum and the Offering Memorandum, as of its respective date, contains or will contain all the information that, if requested by a prospective purchaser of the Securities as of such date, would be required to be provided to such prospective purchaser pursuant to Rule 144A(d)(4) under the Securities Act.

(ii) No Integration. Neither the Company nor any other person acting on its behalf has, directly or through any agent, sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the Securities in a manner that would require registration of the Securities under the Securities Act, except that the Company makes no representation or warranty as to any Initial Purchaser or any affiliate thereof with respect to this Section 5(ii).

(jj) No General Solicitation or Directed Selling Efforts. Neither the Company nor any of its subsidiaries, nor any person acting on its or their behalf (other than the Initial Purchasers and their affiliates that assist in the distribution of the Securities, as to which no representation is made) has (i) solicited offers for, or offered or sold, the Securities by means of any form of general solicitation or general

advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act or (ii) engaged in any directed selling efforts within the meaning of Regulation S under the Securities Act ("Regulation S"), and all such persons have complied with the offering restrictions requirement of Regulation S.

(kk) Securities Law Exemptions. Assuming the accuracy of the representations and warranties of the Initial Purchasers contained in Section 1(b) (including Annex A hereto) and their compliance with their agreements set forth therein, it is not necessary, in connection with the issuance and sale of the Securities to the Initial Purchasers and the offer, resale and delivery of the Securities by the Initial Purchasers in the manner contemplated by this Agreement and the Offering Memorandum, to register the Securities under the Securities Act or to qualify the Indenture under the Trust Indenture Act.

(ll) No Stabilization. Neither the Company nor any of the Guarantors has taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities.

(mm) Margin Rules. Neither the issuance, sale and delivery of the Securities nor the application of the proceeds thereof by the Company as described in the Offering Memorandum will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(nn) Forward-Looking Statements. No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Preliminary Offering Memorandum and the Offering Memorandum has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(oo) Statistical and Market Data. Nothing has come to the attention of the Company that has caused the Company to believe that the statistical and market-related data prepared by third parties included in the Preliminary Offering Memorandum and the Offering Memorandum is not based on or derived from sources that are reliable and accurate in all material respects.

4. Further Agreements of the Company and the Guarantors. The Company and each of the Guarantors jointly and severally covenant and agree with each Initial Purchaser that:

(a) Delivery of Copies. The Company will deliver to the Initial Purchasers as many copies of the Preliminary Offering Memorandum and the Offering Memorandum (including all amendments and supplements thereto) as the Representative may reasonably request.

(b) Amendments or Supplements. Before making or distributing any amendment or supplement to the Preliminary Offering Memorandum or the Offering Memorandum, the Company will furnish to the Representative and counsel for the Initial Purchasers a copy of the proposed amendment or supplement for review, and will not distribute any such proposed amendment or supplement to which the Representative reasonably objects.

(c) Notice to the Representative. The Company will advise the Representative promptly, and confirm such advice in writing, (i) of the issuance by any governmental or regulatory authority of any order preventing or suspending the use of the Preliminary Offering Memorandum or the Offering Memorandum, upon becoming aware, or the initiation or threatening of any proceeding for that purpose; (ii) of the occurrence of any event at any time prior to the completion of the initial offering of the Securities as a result of which the Offering Memorandum as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (iii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Securities for offer and sale in any jurisdiction or, upon becoming aware, the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order preventing or suspending the use of the Preliminary Offering Memorandum or the Offering Memorandum or suspending any such qualification of the Securities and, if any such order is issued, will use its reasonable best efforts to obtain as soon as possible the withdrawal thereof.

(d) Ongoing Compliance of the Offering Memorandum. If at any time prior to the earlier of the completion of the initial offering of the Securities and the date that is nine months after the date hereof (i) any event shall occur or condition shall exist as a result of which the Offering Memorandum as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (ii) it is necessary to amend or supplement the Offering Memorandum to comply with law, the Company will immediately notify the Initial Purchasers thereof and forthwith prepare and, subject to paragraph (b) above, furnish to the Initial Purchasers such amendments or

supplements to the Offering Memorandum as may be necessary so that the statements in the Offering Memorandum as so amended or supplemented will not, in the light of the circumstances under which they were made, be misleading or so that the Offering Memorandum will comply with applicable law.

(e) Blue Sky Compliance. The Company will qualify the Securities for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representative shall reasonably request and will continue such qualifications in effect so long as required for the offering and resale of the Securities; provided that neither the Company nor any of the Guarantors shall be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(f) Clear Market. During the period from the date hereof through and including the date that is six months after the date hereof, the Company and each of the Guarantors will not, without the prior written consent of the Representative, offer, sell, contract to sell or otherwise issue any debt securities issued or guaranteed by the Company or any of the Guarantors having a tenor of more than one year, other than debt issued under any credit facility or debt securities issued to any employee or franchisee of the Company or any Guarantor.

(g) Use of Proceeds. The Company will apply the net proceeds from the sale of the Securities as described in the Offering Memorandum under the heading "Use of Proceeds".

(h) Supplying Information. While the Securities remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, the Company and each of the Guarantors will, during any period in which the Company is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act, make available, including by means of filings pursuant to the Commission's EDGAR database, to holders of the Securities and prospective purchasers of the Securities designated by such holders, upon the request of such holders or such prospective purchasers, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(i) PORTAL and DTC. The Company will assist the Initial Purchasers in arranging for the Securities to be designated Private Offerings, Resales and Trading through Automated Linkages ("PORTAL") Market securities in accordance with the rules and regulations adopted by the National Association of Securities Dealers, Inc.

("NASD") relating to trading in the PORTAL Market and for the Securities to be eligible for clearance and settlement through The Depository Trust Company ("DTC").

(j) No Resales by the Company. Until the issuance of the Exchange Securities during the period of two years after the Closing Date, the Company will not, and will not permit any of its affiliates (as defined in Rule 144 under the Securities Act) to, resell any of the Securities that have been acquired by any of them, except for Securities purchased by the Company or any of its affiliates and resold in a transaction registered under the Securities Act.

(k) No Integration. The Company will not and the Company will use its reasonable best efforts to cause its affiliates (as defined in Rule 501(b) of Regulation D) not to, directly or through any agent, sell, offer for sale, solicit offers to buy or otherwise negotiate in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the Securities in a manner that would require registration of the Securities under the Securities Act.

(l) No General Solicitation or Directed Selling Efforts. The Company will not and the Company will use its reasonable best efforts to cause its affiliates or any other person acting on its or their behalf (other than the Initial Purchasers, as to which no covenant is given) not to (i) solicit offers for, or offer or sell, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act or (ii) engage in any directed selling efforts within the meaning of Regulation S, and all such persons will comply with the offering restrictions requirement of Regulation S.

(m) No Stabilization. Neither the Company nor any of the Guarantors will take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities.

5. Conditions of Initial Purchasers' Obligations. The obligation of each Initial Purchaser to purchase Securities on the Closing Date as provided herein is subject to the performance by the Company and each of the Guarantors of their respective covenants and other obligations hereunder and to the following additional conditions:

(a) Representations and Warranties. The representations and warranties of the Company and the Guarantors contained herein shall be true and correct on the

date hereof and on and as of the Closing Date; and the statements of the Company, the Guarantors and their respective officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date.

(b) No Downgrade. Subsequent to the execution and delivery of this Agreement, (i) no downgrading shall have occurred in the rating accorded the Securities or any other debt securities issued or guaranteed by the Company or any of the Guarantors by any "nationally recognized statistical rating organization", as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act; and (ii) no such organization shall have publicly announced that it has under surveillance or review with possible negative implications, its rating of the Securities or of any other debt securities issued or guaranteed by the Company or any of the Guarantors.

(c) No Material Adverse Change. Subsequent to the execution and delivery of this Agreement, no event or condition of a type described in Section 3(c) hereof shall have occurred or shall exist, which event or condition is not described in the Offering Memorandum (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Representative is so material and adverse as to make it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement and the Offering Memorandum.

(d) Officer's Certificate. The Representative shall have received on and as of the Closing Date a certificate of the Chief Executive Officer, Chief Financial Officer, Treasurer or other executive officer of the Company and of each Guarantor who is satisfactory to the Representative as to the accuracy of the representations and warranties of the Company and the Guarantors herein at and as of such Closing Date, as to the performance by the Company and the Guarantors of all their obligations hereunder to be performed at or prior to such Closing Date, as to the matters set forth in subsections (a) and (b) of this Section and as to such matters as you may reasonably request.

(e) Comfort Letters. On the date of this Agreement and on the Closing Date, PricewaterhouseCoopers LLP shall have furnished to the Representative, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Initial Purchasers, in form and substance reasonably satisfactory to the Representative, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Preliminary Offering Memorandum and the Offering Memorandum; provided that the letter

delivered on the Closing Date shall use a "cut-off" date no more than three business days prior to the Closing Date.

(f) Opinion of Counsel for the Company. (i) Ropes & Gray LLP, counsel for the Company, and (ii) Miller, Canfield, Paddock and Stone, P.L.C., Michigan counsel to the Company, shall have furnished to the Representative, at the request of the Company, their written opinion, dated the Closing Date and addressed to the Initial Purchasers, in form and substance reasonably satisfactory to the Representative substantially, to the effect set forth in Annexes B-1 and B-2 hereto, respectively.

(g) Opinion of Counsel for the Initial Purchasers. The Representative shall have received on and as of the Closing Date an opinion of Cahill Gordon & Reindel LLP, counsel for the Initial Purchasers, with respect to such matters as the Representative may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(h) [Intentionally Omitted]

(i) No Legal Impediment to Issuance. No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date, prevent the issuance or sale of the Securities or the issuance of the Guarantees; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date, prevent the issuance or sale of the Securities or the issuance of the Guarantees.

(j) Good Standing. The Representative shall have received on and as of the Closing Date satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing in such other jurisdictions as the Representative may reasonably request, in each case in writing or any standard form of telecommunication, from the appropriate governmental authorities of such jurisdictions.

(k) Registration Rights Agreement. The Initial Purchasers shall have received a counterpart of the Registration Rights Agreement that shall have been executed and delivered by a duly authorized officer of the Company and each of the Guarantors.

(l) PORTAL and DTC. The Securities shall have been approved by the NASD for trading in the PORTAL Market and shall be eligible for clearance and settlement through DTC.

(m) Additional Documents. On or prior to the Closing Date, the Company and the Guarantors shall have furnished to the Representative such further certificates and documents as the Representative may reasonably request.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Initial Purchasers on the Closing Date, payment for and delivery of the Securities to be conclusive evidence that such documents are satisfactory.

6. Indemnification and Contribution.

(a) Indemnification of the Initial Purchasers. The Company and each of the Guarantors jointly and severally agree to indemnify and hold harmless each Initial Purchaser, its affiliates that assist in the distribution of the Securities, directors and officers and each person, if any, who controls such Initial Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses reasonably incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Offering Memorandum or the Offering Memorandum (or any amendment or supplement thereto) or any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser either directly or through the Representative expressly for use therein; provided, that with respect to any such actual or alleged untrue statement in or omission from the Preliminary Offering Memorandum, the indemnity agreement contained in this paragraph (a) shall not inure to the benefit of any Initial Purchaser to the extent that any such loss, claim, damage or liability results from the fact that both (i) a copy of the Offering Memorandum was not sent or given to such person at or prior to the written confirmation of the sale of such Securities to such person and (ii) the untrue statement in or omission from such

Preliminary Offering Memorandum was corrected in the Offering Memorandum unless, in either case, such failure to deliver the Offering Memorandum was a result of non-compliance by the Company with the provisions of Section 4(a) hereof.

(b) Indemnification of the Company. Each Initial Purchaser agrees, severally and not jointly, to indemnify and hold harmless the Company, each of the Guarantors and their respective, directors and officers and each person, if any, who controls the Company or any of the Guarantors within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Initial Purchaser furnished to the Company in writing by such Initial Purchaser either directly or through the Representative expressly for use in the Preliminary Offering Memorandum or the Offering Memorandum (or any amendment or supplement thereto), it being understood and agreed that the only such information consists of the following: the information contained in the third paragraph, the fifth and sixth sentences of the eighth paragraph and the tenth paragraph under the heading "Plan of Distribution" in the Offering Memorandum.

(c) Notice and Procedures. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under this Section 6 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under this Section 6. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section 6 that the Indemnifying Person may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person

unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such reasonable fees and expenses shall be reimbursed as they are incurred. Any such separate firm for any Initial Purchaser, its affiliates that assist in the distribution of the Securities, directors and officers and any control persons of such Initial Purchaser shall be designated in writing by J.P. Morgan Securities Inc. and any such separate firm for the Company, the Guarantors, and their respective directors or officers and any control persons of the Company and the Guarantors shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the immediately preceding sentence, if at any time an Indemnified Person shall have requested the Company to reimburse such Indemnified Person for legal or other expenses in connection with investigating, responding to or defending any proceedings as contemplated by this Section 6, the Company shall be liable for any settlement of any proceedings effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the Company of such request for reimbursement, (ii) the Company shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into, and (iii) the Company shall not have reimbursed such Indemnified Person in accordance with such request prior to the date of such settlement; provided that the Company shall not be liable for any settlement effected without its consent if the Company, prior to the date of such settlement, (1) reimburses such Indemnified Person in accordance with such request for the amount of such legal and other expenses as the Company believes in good faith to be reasonable, and (2) provides written notice to the Indemnified Person that the Company disputes in good faith the reasonableness of the unpaid balance of such legal and other expenses. The Company shall not, without prior written consent of an Indemnified Person (which

consent shall not be unreasonably withheld), effect any settlement of any pending or threatened proceedings in respect of which indemnity could have been sought hereunder by such Indemnified Person unless (i) such settlement includes an unconditional release of such Indemnified Person in form and substance reasonably satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such proceedings and (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) Contribution. If the indemnification provided for in paragraphs (a) and (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein (other than as a result of the limitations imposed on indemnification described in such sections), then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Guarantors on the one hand and the Initial Purchasers on the other from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company and the Guarantors on the one hand and the Initial Purchasers on the other in connection with the actual or alleged statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Guarantors on the one hand and the Initial Purchasers on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities and the total discounts and commissions received by the Initial Purchasers in connection therewith, as provided in this Agreement, bear to the aggregate offering price of the Securities. The relative fault of the Company and the Guarantors on the one hand and the Initial Purchasers on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or any Guarantor or by the Initial Purchasers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) Limitation on Liability. The Company, the Guarantors and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to

this Section 6 were determined by pro rata allocation (even if the Initial Purchasers were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 6, in no event shall an Initial Purchaser be required to contribute any amount in excess of the amount by which the total discounts and commissions received by such Initial Purchaser with respect to the offering of the Securities exceeds the amount of any damages that such Initial Purchaser has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Initial Purchasers' obligations to contribute pursuant to this Section 6 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) Non-Exclusive Remedies. The remedies provided for in this Section 6 are not exclusive and shall not limit any rights or remedies that may otherwise be available to any Indemnified Person at law or in equity.

7. Termination. This Agreement may be terminated in the absolute discretion of the Representative, by written notice to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (i) trading generally shall have been suspended or materially limited on the New York Stock Exchange or the over-the-counter market; (ii) trading of any securities issued or guaranteed by the Company or any of the Guarantors shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representative, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the terms and in the manner contemplated by this Agreement and the Offering Memorandum.

8. Defaulting Initial Purchaser. (a) If, on the Closing Date, any Initial Purchaser defaults on its obligation to purchase the Securities that it has agreed to purchase hereunder, the non-defaulting Initial Purchasers may in their discretion

arrange for the purchase of such Securities by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Initial Purchaser, the non-defaulting Initial Purchasers do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Initial Purchasers to purchase such Securities on such terms. If other persons become obligated or agree to purchase the Securities of a defaulting Initial Purchaser, either the non-defaulting Initial Purchasers or the Company may postpone the Closing Date for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Initial Purchasers may be necessary in the Offering Memorandum or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Offering Memorandum that effects any such changes. As used in this Agreement, the term "Initial Purchaser" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 8, purchases Securities that a defaulting Initial Purchaser agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased does not exceed one-eleventh of the aggregate principal amount of all the Securities, then the Company shall have the right to require each non-defaulting Initial Purchaser to purchase the principal amount of Securities that such Initial Purchaser agreed to purchase hereunder plus such Initial Purchaser's pro rata share (based on the principal amount of Securities that such Initial Purchaser agreed to purchase hereunder) of the Securities of such defaulting Initial Purchaser or Initial Purchasers for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remains unpurchased exceeds one-eleventh of the aggregate principal amount of all the Securities, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement shall terminate without liability on the part of the non-defaulting Initial Purchasers. Any termination of this Agreement pursuant to this Section 8 shall be without liability on the part of the Company or the Guarantors, except that the Company and each of the Guarantors will continue to be liable for the payment of

expenses to the extent set forth in Section 9 hereof and except that the provisions of Section 6 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Initial Purchaser of any liability it may have to the Company, the Guarantors or any non-defaulting Initial Purchaser for damages caused by its default.

9. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company and each of the Guarantors jointly and severally agree to pay or cause to be paid all costs and expenses incident to the performance of their respective obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Securities and any taxes payable in that connection; (ii) the costs incident to the preparation and printing of the Preliminary Offering Memorandum and the Offering Memorandum (including any amendment or supplement thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's and the Guarantors' counsel and independent accountants; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Securities under the laws of such jurisdictions as the Representative may reasonably designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related reasonable fees and expenses of counsel for the Initial Purchasers); (vi) any fees charged by rating agencies for rating the Securities; (vii) the fees and expenses of the Trustee and any paying agent relating to the Securities (including related fees and expenses of any counsel to such parties); (viii) all expenses and application fees incurred in connection with the application for the inclusion of the Securities on the PORTAL Market and the approval of the Securities for book-entry transfer by DTC; and (ix) all expenses incurred directly by the Company in connection with any "road show" presentation to potential investors.

(b) If (i) this Agreement is terminated pursuant to Section 7, (ii) the Company for any reason fails to tender the Securities for delivery to the Initial Purchasers or (iii) the Initial Purchasers decline to purchase the Securities for any reason permitted under this Agreement, the Company and each of the Guarantors jointly and severally agrees to reimburse the Initial Purchasers or such Initial Purchasers as have so terminated this Agreement with respect to themselves severally and are not in default hereunder in the case of a termination pursuant to Section 8 for all out-of-pocket costs and expenses (including the fees and expenses of their counsel) reasonably incurred by the Initial Purchasers in connection with this Agreement and the offering contemplated hereby.

10. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and any controlling persons referred to herein, and the officers and directors of the Company and the Guarantors and the affiliates, officers and directors of each Initial Purchaser referred to in Section 6 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Securities from any Initial Purchaser shall be deemed to be a successor merely by reason of such purchase.

11. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company, the Guarantors and the Initial Purchasers contained in this Agreement or made by or on behalf of the Company, the Guarantors or the Initial Purchasers pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Securities and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company, the Guarantors or the Initial Purchasers.

12. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; (c) the term "Exchange Act" means the Securities Exchange Act of 1934, as amended and; (d) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act.

13. Miscellaneous. (a) Authority of the Representative. Any action by the Initial Purchasers hereunder may be taken by J.P. Morgan Securities Inc. on behalf of the Initial Purchasers, and any such action taken by J.P. Morgan Securities Inc. shall be binding upon the Initial Purchasers.

(b) Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Initial Purchasers shall be given to the Representative c/o J.P. Morgan Securities Inc., 270 Park Avenue, New York, New York 10017 (fax: (212) 270-1063); Attention: Ken Lang. Notices to the Company and the Guarantors shall be given to them at 30 Frank Lloyd Wright Drive, Ann Arbor, MI 48106, (fax: (734) 747-6210); Attention: General Counsel.

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(d) Counterparts. This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(e) Amendments or Waivers. No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(f) Headings. The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

DOMINO'S INC.

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S PIZZA, LLC

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S PIZZA PMC, INC.

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S FRANCHISE HOLDING CO.

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S PIZZA INTERNATIONAL PAYROLL
SERVICES, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA-GOVERNMENT SERVICES
DIVISION, INC.

By: /s/ Nathaniel J. Betts

Name: Nathaniel J. Betts
Title: Vice President

DOMINO'S PIZZA NS CO.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

Accepted: June 18, 2003

J.P. MORGAN SECURITIES INC.

For itself and on behalf of the
several Initial Purchasers listed
in Schedule 1 hereto.

By: /s/ Ken A. Lang

Authorized Signatory

Schedule 1

Initial Purchaser	Principal Amount
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J.P. Morgan Securities Inc.	\$ 149,110,000
Citigroup Global Markets Inc.	60,450,000
Banc of America Securities LLC	32,240,000
Banc One Capital Markets, Inc.	32,240,000
Bear, Stearns & Co. Inc.	32,240,000
Credit Suisse First Boston LLC	32,240,000
Goldman, Sachs & Co.	32,240,000
Lehman Brothers Inc.	32,240,000

Total	\$ 403,000,000

Subsidiaries of Domino's Inc.

Subsidiary	Jurisdiction of Organization
-----	-----
Domino's Franchise Holding Co.	Michigan
Domino's Pizza LLC	Michigan
Domino's Pizza International, Inc.	Delaware
Domino's Pizza Government Services Division, Inc.	Texas
Domino's Pizza International Payroll Services, Inc.	Florida
Domino's Pizza PMC, Inc.	Michigan
Domino's National Advertising Fund Inc.	Michigan
North American Assurance and Indemnity Company, Ltd.	Bermuda
Domino's Pizza of Canada, Inc.	Canada
Domino's Pizza NS Co.	Canada
Domino's Pizza Distribution GmbH	Germany
Domino's Pizza International - Servicos de Gestao de Franchising, LDA	Madeira
Domino's Pizza Home Delivery	Spain
Domino's Pizza France S.A.S.	France
Domino's Pizza Europe	Netherlands
Domino's Pizza Netherlands BV	Netherlands

* All entities are wholly subsidiaries except for Domino's Pizza Netherlands BV, which is 70% owned by Domino's Pizza Europe.

Restrictions on Offers and Sales Outside the United States

In connection with offers and sales of Securities outside the United States:

(a) Each Initial Purchaser acknowledges that the Securities have not been registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except pursuant to an exemption from, or in transactions not subject to, the registration requirements of the Securities Act.

(b) Each Initial Purchaser, severally and not jointly, represents, warrants and agrees that:

(i) Such Initial Purchaser and any affiliates that participate in the distribution of the Securities as contemplated by Section 1(d) has offered and sold the Securities, and will offer and sell the Securities, (A) as part of their distribution at any time and (B) otherwise until 40 days after the later of the commencement of the offering of the Securities and the Closing Date, only in accordance with Regulation S under the Securities Act ("Regulation S") or Rule 144A or any other available exemption from registration under the Securities Act.

(ii) None of such Initial Purchaser or any of its affiliates or any other person acting on its or their behalf has engaged or will engage in any directed selling efforts with respect to the Securities, and all such persons have complied and will comply with the offering restrictions requirement of Regulation S.

(iii) At or prior to the confirmation of sale of any Securities sold in reliance on Regulation S, such Initial Purchaser will have sent to each distributor, dealer or other person receiving a selling concession, fee or other remuneration that purchase Securities from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The Securities covered hereby have not been registered under the U.S. Securities Act of 1933, as amended (the "Securities Act"), and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering of the Securities

and the date of original issuance of the Securities, except in accordance with Regulation S or Rule 144A or any other available exemption from registration under the Securities Act. Terms used above have the meanings given to them by Regulation S."

(iv) Such Initial Purchaser has not and will not enter into any contractual arrangement with any distributor with respect to the distribution of the Securities, except with its affiliates or with the prior written consent of the Company.

Terms used in paragraph (a) and this paragraph (b) and not otherwise defined in this Agreement have the meanings given to them by Regulation S.

(c) Each Initial Purchaser, severally and not jointly, represents, warrants and agrees that:

(i) neither it nor any of its affiliates that assist in the distribution of the Securities has offered or sold or, prior to the date six months after the Closing Date, will not offer or sell any Securities to persons in the United Kingdom except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the United Kingdom Public Offers of Securities Regulations 1995 (as amended);

(ii) it and any of its affiliates that assist in the distribution of the Securities have only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the United Kingdom Financial Services and Markets Act 2000 (the "FSMA")) received by it or any of its affiliates that assist in the distribution of the Securities in connection with the issue or sale of any Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Company or the Guarantors; and

(iii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom.

Each Initial Purchaser acknowledges that: (i) no action has been or will be taken by the Company or any Guarantor that would permit a public offering of the Securities, or possession or distribution of the Preliminary Offering

Memorandum, the Offering Memorandum or any other offering or publicity material relating to the Securities, in any country or jurisdiction where action for that purpose is required and (ii) it will comply with applicable laws and regulations pertaining to the sale of the Securities in each jurisdiction in which it acquires, offers, sells or delivers Securities or has in its possession or distributes the Offering Memorandum.

Form of Opinion of Ropes & Gray LLP

(i) The Company is a corporation validly existing and in good standing under the laws of the State of Delaware with the corporate power and authority to own its properties and conduct its business as described in the Offering Memorandum.

(ii) Domino's Pizza International, Inc., a Delaware corporation (the "Delaware Guarantor") is a corporation validly existing and in good standing under the laws of the State of Delaware. All of the outstanding shares of capital stock of the Delaware Guarantor have been duly authorized and validly issued and are fully paid and non-assessable. To our knowledge, all of the outstanding shares of capital stock of the Delaware Guarantor are owned by the Company, directly or indirectly through one or more subsidiaries. The foregoing opinion with respect to the outstanding capital stock of the Delaware Guarantor is based solely upon our review of the stock ledger of the Delaware Guarantor.

(iii) The Purchase Agreement has been duly authorized, executed and delivered by the Company and the Delaware Guarantor.

(iv) The Registration Rights Agreement has been duly authorized, executed and delivered by the Company and the Delaware Guarantor and assuming the due authorization, execution and delivery thereof by the Guarantors organized under the laws of a State of the United States (the "Domestic Guarantors") (other than the Delaware Guarantor) will (subject to the qualifications in the final paragraph set forth below) constitute the legal, valid and binding obligation of the Company and the Domestic Guarantors, enforceable against the Company and the Domestic Guarantors in accordance with its terms.

(v) The Indenture has been duly authorized, executed and delivered by the Company and the Delaware Guarantor and assuming the due authorization, execution and delivery thereof by the Domestic Guarantors (other than the Delaware Guarantor) and the Trustee and the corporate power of the Domestic Guarantors (other than the Delaware Guarantor) therefor and for the performance thereof, will (subject to the qualifications in the final paragraph set forth below) constitute the legal, valid and binding obligation of the Company and the Domestic Guarantors, enforceable against the Company and the Domestic Guarantors in accordance with its terms.

(vi) The Securities have been duly authorized, executed, and delivered by

the Company and assuming (a) the due authorization, execution and delivery of the Indenture by the Trustee, (b) the due authentication and delivery of the Securities by the Trustee in accordance with the terms of the Indenture, and (c) the payment for the Securities in accordance with the terms of the Purchase Agreement, will be duly and validly issued and outstanding and (subject to the qualifications in the final paragraph set forth below) will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

(vii) The Exchange Securities have been duly authorized by the Company and assuming (a) the due execution and delivery thereof by the Company in accordance with the terms of the Registration Rights Agreement and the Indenture, (b) the due authorization, execution and delivery of the Indenture by the Trustee, and (c) the due authentication and delivery of the Exchange Securities by the Trustee in accordance with the terms of the Indenture, will (subject to the qualifications in the final paragraph set forth below) constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

(viii) The Guarantees have been duly authorized, executed and delivered by the Delaware Guarantor and assuming the due authorization, execution and delivery thereof by the Domestic Guarantors (other than the Delaware Guarantor), the corporate power of the Domestic Guarantors (other than the Delaware Guarantor) therefor and for the performance thereof, and the due authorization, execution and delivery of the Indenture by the Domestic Guarantors (other than the Delaware Guarantor) and the Trustee and the corporate power of the Domestic Guarantors (other than the Delaware Guarantor) therefor and for the performance thereof, will (subject to the qualifications in the final paragraph set forth below) constitute the legal, valid and binding obligation of the Domestic Guarantors, enforceable against the Domestic Guarantors in accordance with their terms.

(ix) The Exchange Guarantees have been duly authorized by the Delaware Guarantor and assuming (a) the due execution and delivery of the Exchange Guarantees by the Delaware Guarantor in accordance with the terms of the Registration Rights Agreement and the Indenture, (b) the due authorization, execution and delivery of the Exchange Guarantees by the Domestic Guarantors (other than the Delaware Guarantor) and the corporate power of the Domestic Guarantors (other than the Delaware Guarantor) therefor and for the performance thereof, (c) the due authorization, execution and delivery of the Indenture by the Domestic Guarantors (other than the Delaware Guarantor) and the Trustee and the corporate power of the Domestic Guarantors (other than the Delaware Guarantor) therefor and for the performance thereof, (d) the due authentication and delivery of the Exchange Securities by the Trustee in accordance with the terms of the Indenture, and (e) no change in applicable law, will (subject to the qualifications in the final paragraph set forth below) constitute the legal, valid and binding obligation

of the Domestic Guarantors, enforceable against the Domestic Guarantors in accordance with their terms.

(x) The issuance and sale of the Securities by the Company and the issuance of the Guarantees by the Domestic Guarantors and the performance by the Company and the Domestic Guarantors of their respective obligations under the Purchase Agreement, the Registration Rights Agreement and the Indenture do not and will not violate or result in a breach or default under (i) any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument listed on Schedule I hereto, (ii) any provision of the charter or by-laws of the Company or the Delaware Guarantor, (iii) the Delaware General Corporation Law or applicable New York or federal law or governmental regulation to which the Company or the Domestic Guarantors or any of their respective properties is subject, or (iv) to our knowledge, any judgment, injunction, order or decree of any New York or federal or, with respect to the Delaware General Corporation Law, Delaware court, arbitrator, governmental body, agency or official specifically naming the Company or the Domestic Guarantors or any of their respective properties.

(xi) To our knowledge, no consent, approval, authorization, filing with or order of any New York or federal governmental agency or body (or with respect to the Delaware General Corporation Law, Delaware governmental agency or body) not obtained or in effect as of the date hereof is required for the execution and delivery by the Company or the Domestic Guarantors of the Purchase Agreement, the Registration Rights Agreement and the Indenture and the issuance and sale of the Securities in the manner set forth and subject to the terms and conditions in the Purchase Agreement and the Offering Memorandum.

(xii) Assuming (a) the accuracy of the representations and warranties of the Company, the Guarantors and the Initial Purchasers set forth in the Purchase Agreement, (b) the due performance of and compliance with the covenants and agreements set forth in the Purchase Agreement by the Company, the Guarantors and the Initial Purchasers, and (c) compliance by the Initial Purchasers with the offering, resale and transfer procedures and restrictions described in the Purchase Agreement and the Offering Memorandum, the offer and sale of the Securities to the Initial Purchasers, and the initial resales of the Securities by the Initial Purchasers, each in the manner contemplated by the Purchase Agreement and the Offering Memorandum, do not require registration of the Securities under the Securities Act or qualification of the Indenture under the Trust Indenture Act (it being understood that we express no opinion in this paragraph as to any reoffer or resale of any Securities initially sold by the Initial Purchasers).

(xiii) None of the Company or the Domestic Guarantors is subject to regulation as an "investment company" under the Investment Company Act of 1940,

as amended.

(xiv) Neither the issuance and sale of the Securities nor the application by the Company of the net proceeds thereof as set forth in the Offering Memorandum will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

In the course of the preparation by the Company of the Offering Memorandum, we have participated in discussions with your representatives and those of the Company and its independent accountants, in which the business and affairs of the Company and the contents of the Offering Memorandum were discussed. On the basis of the information that we have gained in the course of our representation of the Company in connection with its preparation of the Offering Memorandum and our participation in the discussions referred to above, nothing that has come to our attention has caused us to believe that the Offering Memorandum as of its date or as of the date hereof contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. We express no opinion, however, as to financial statements, including the notes and schedules thereto, or any other financial, accounting or statistical information set forth or referred to in the Offering Memorandum.

The limitations inherent in the independent verification of factual matters and the character of the determinations involved in our review are such that we do not assume any responsibility for the accuracy, completeness or fairness of the statements made or the information contained in the Offering Memorandum except for those made under the captions "Description of Notes" and "Material United States federal income tax considerations," insofar as such statements constitute matters of law, summaries of legal matters or legal conclusions, which statements have been reviewed by us and accurately summarize in all material respects the provisions of the laws and documents referred to therein.

Our opinion in paragraphs (iv), (v), (vi), (vii), (viii) and (ix) that the Registration Rights Agreement, the Indenture, the Securities, the Exchange Securities, the Guarantees and the Exchange Guarantees each constitute the legal, valid and binding obligation of the Company or the Domestic Guarantors, as applicable, enforceable against the Company or the Domestic Guarantors in accordance with their respective terms, is subject to, and we express no opinion with respect to, (i) bankruptcy, insolvency, reorganization, receivership, liquidation, fraudulent conveyance, moratorium or similar laws of general application affecting the rights and remedies of creditors and secured parties, and (ii) general principles of equity. In addition, we express no opinion as to (i) the applicability of Section 548 of the Bankruptcy Code or any other fraudulent conveyance provision, (ii) the extent to

which broadly worded waivers may be enforced, or (iii) the extent to which provisions providing for conclusive presumptions or determinations, non-effectiveness of oral modifications, arbitration, submission to jurisdiction, waiver of or consent to service of process and venue or waiver of offset or defenses will be enforced. The opinions expressed herein are also subject to the qualification that the validity, binding effect and enforceability of provisions in the Registration Rights Agreement providing for indemnification or contribution may be limited by public policy considerations or court decisions that may limit the right of the indemnified party to obtain indemnification or contribution and we express no opinion as to the validity, binding effect or enforceability of provisions of the Registration Rights Agreement providing for indemnification or contribution.

Form of Opinion of Miller, Canfield, Paddock and Stone P.L.C.

(i) Each of Domino's Franchise Holding Co. ("Franchise") and Domino's Pizza PMC, Inc. ("PMC") is a corporation validly existing and in good standing under the laws of the State of Michigan with the corporate power and authority to execute, deliver and perform its obligations under the Purchase Agreement, the Registration Rights Agreement and the Indenture. Domino's Pizza LLC ("Pizza") is a limited liability company validly existing and in good standing under the laws of the State of Michigan with the limited liability company power and authority to execute, deliver and perform its obligations under the Purchase Agreement, the Registration Rights Agreement and the Indenture.

(ii) To the actual knowledge of the core group of attorneys, there is no action, suit or proceeding pending or overtly threatened in writing against the Company or any of Franchise, PMC, or Pizza before or by any Michigan or federal or, with respect to the Delaware General Corporation Law, Delaware court or arbitrator or any Michigan or federal or, with respect to the Delaware General Corporation Law, Delaware governmental body, agency or official, which questions the validity or enforceability of the Purchase Agreement, the Registration Rights Agreement and the Indenture.

(iii) The Purchase Agreement has been duly authorized, executed and delivered by each of Franchise, PMC, and Pizza.

(iv) The Registration Rights Agreement has been duly authorized, executed and delivered by each of Franchise, PMC and Pizza.

(v) The Indenture has been duly authorized, executed and delivered by each of Franchise, PMC, and Pizza.

(vi) The Guarantees have been duly authorized, executed and delivered by each of Franchise, PMC, and Pizza.

(vii) The Exchange Guarantees have been duly authorized by each of Franchise, PMC, and Pizza.

[Form of Registration Rights Agreement]

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CREDIT AGREEMENT,
DATED AS OF JULY 29, 2002 AND
AMENDED AND RESTATED AS OF JUNE 25, 2003,

AMONG

DOMINO'S, INC.,
AS BORROWER,

TISM, INC., AS GUARANTOR,

THE LENDERS LISTED HEREIN,
AS LENDERS,

JPMORGAN CHASE BANK,
AS ADMINISTRATIVE AGENT,

CITICORP NORTH AMERICA, INC.,
AS SYNDICATION AGENT,

AND

BANK ONE, NA,
AS DOCUMENTATION AGENT

J.P. MORGAN SECURITIES INC.
AND
CITIGROUP GLOBAL MARKETS INC.,
AS JOINT LEAD ARRANGERS
AND
JOINT BOOK RUNNERS

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Exhibit III	-	Form of Term Note
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Exhibit VI	-	Form of Notice of Issuance of Letter of Credit
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Exhibit XVII	-	Form of Mortgage

CREDIT AGREEMENT

This CREDIT AGREEMENT is dated as of July 29, 2002, and amended and restated as of June 25, 2003, and entered into by and among Domino's, Inc., a Delaware corporation ("Borrower"), TISM, INC., a Michigan corporation ("TISM"), J.P. MORGAN SECURITIES INC. ("JPMSI") and CITIGROUP GLOBAL MARKETS INC. ("Citigroup"), as joint lead arrangers and joint book runners (in such capacity, collectively, "Arrangers"), THE FINANCIAL INSTITUTIONS FROM TIME TO TIME PARTY HERETO (each individually referred to herein as a "Lender" and collectively as "Lenders"), JPMORGAN CHASE BANK ("JPMorgan Chase Bank"), as administrative agent for Lenders (in such capacity, "Administrative Agent"), CITICORP NORTH AMERICA, INC. ("Citicorp"), as syndication agent (in such capacity, "Syndication Agent"), and BANK ONE, NA ("Bank One"), as documentation agent (in such capacity, "Documentation Agent").

RECITALS

WHEREAS, Holdings, Borrower, Domino's Franchise Holding Co. (f/k/a Bluefence, Inc.), the Original Lenders, JPMSI, as arranger, JPMorgan Chase Bank, as administrative agent, Bank One, NA, as syndication agent and Comerica Bank, as documentation agent, are parties to a Credit Agreement, dated as of July 29, 2002 (as the same has been amended, modified or supplemented to, but not including, the Restatement Effective Date, the "Original Credit Agreement"); and

WHEREAS, the parties hereto wish to amend and restate the Original Credit Agreement in the form of this Agreement to, inter alia, permit the Transaction and the financing therefor on the terms and subject to the conditions provided herein and make available to Borrower the respective credit facilities provided for herein;

NOW, THEREFORE, the parties hereto agree that the Original Credit Agreement shall be and hereby is amended and restated in its entirety as follows:

SECTION 1. DEFINITIONS

1.1 Certain Defined Terms.

The following terms used in this Agreement shall have the following meanings:

"Accounting Period" means each of the thirteen four-week periods or one five-week period and twelve four-week periods, as the case may be, comprising a Fiscal Year.

"Accounting Quarter" means, for any Fiscal Year, each of (i) the first three Accounting Periods of such Fiscal Year, (ii) the fourth through the sixth Accounting Periods of such Fiscal Year, (iii) the seventh through the ninth Accounting Periods of such Fiscal Year and (iv) the tenth through the thirteenth Accounting Periods of such Fiscal Year, as the case may be.

"Additional Mortgage" has the meaning assigned to that term in subsection 6.9B.

"Additional Mortgage Policy" has the meaning assigned to that term in subsection 6.9B.

"Additional Mortgaged Property" has the meaning assigned to that term in subsection 6.9B.

"Adjusted Consolidated Excess Cash Flow" means, for any period, the remainder of (i) Consolidated Excess Cash Flow for such period minus (ii) the product of (I) the aggregate amount of principal repayments of Loans pursuant to Section 2.4B(i) to the extent (and only to the extent) not funded with Net Common Equity Proceeds, Net Insurance/Condemnation Proceeds or Net Asset Sale Proceeds (but in the case of a voluntary prepayment of Revolving Loans or Swing Line Loans, only to the extent accompanied by a permanent reduction to the Revolving Loan Commitments) during such period multiplied by (II) the quotient of (x) 100% divided by (y) the applicable "sweep percentage" in effect for such period (as determined pursuant to subsection 2.4B(iii)(d)).

"Adjusted Eurodollar Rate" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate per annum obtained by dividing (i) the Eurodollar Rate on such Interest Rate Determination Date by (ii) a percentage equal to 100% minus the stated maximum rate of all reserve requirements (including any marginal, emergency, supplemental, special or other reserves) applicable on such Interest Rate Determination Date to any member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" as defined in Regulation D (or any successor category of liabilities under Regulation D).

"Administrative Agent" has the meaning assigned to that term in the first paragraph of this Agreement and also means and includes any successor Administrative Agent appointed pursuant to subsection 9.5A.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by Administrative Agent.

"Affected Lender" has the meaning assigned to that term in subsection 2.6C.

"Affected Loans" has the meaning assigned to that term in subsection 2.6C.

"Affiliate", as applied to any Person, means any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise.

"Agent" means, individually, each Arranger, Administrative Agent, Syndication Agent and Documentation Agent, and for the purposes of Section 9 only (except as expressly noted), Collateral Agent, and "Agents" means Arrangers, Administrative Agent, Syndication Agent, and Documentation Agent, and for the purposes of Section 9 only (except as expressly noted), Collateral Agent, collectively.

"Agreement" means this Credit Agreement, dated as of June 25, 2003, as it may be amended, supplemented or otherwise modified from time to time.

"Applicable Base Rate Margin" means, as to Term Loans or Revolving Loans, (a) for the period from the Restatement Effective Date up to (but excluding) the date of commencement of the first Pricing Period, the applicable Level V percentage for such type of Loan set forth below and (b) for any date thereafter, a rate per annum equal to the percentage set forth below for such type of Loan opposite the Applicable Leverage Ratio in effect as of such date of determination, any change in any such Applicable Base Rate Margin to be effective on the date of any corresponding change in the Applicable Leverage Ratio:

Level	Applicable Leverage Ratio	Applicable Term Loans Base Rate Margin	Applicable Revolving Loans Base Rate Margin
V	Greater than or equal to 4.75x	2.00%	2.00%
IV	less than 4.75x and greater than or equal to 4.25x	2.00%	2.00%
III	less than 4.25x and greater than or equal to 3.75x	1.75%	1.75%
II	less than 3.75x and greater than or equal to 3.25x	1.75%	1.50%
I	less than 3.25x	1.75%	1.25%

; provided that notwithstanding anything to the contrary contained in this definition, at any time an Event of Default is then in existence, the Applicable Base Rate Margin shall be the applicable Level V percentage for the respective type of Loan set forth above.

"Applicable Commitment Fee Percentage" means 0.50%.

"Applicable Eurodollar Rate Margin" means, as to Term Loans or Revolving Loans, (a) for the period from the Restatement Effective Date up to (but excluding) the date of commencement of the first Pricing Period, the applicable Level V percentage for such type of Loan set forth below and (b) for any date thereafter, a rate per annum equal to the percentage set forth below for such type of Loan opposite the Applicable Leverage Ratio in effect as of such date of determination, any change in any such Applicable Eurodollar Rate Margin to be effective on the date of any corresponding change in the Applicable Leverage Ratio:

Level	Applicable Leverage Ratio	Applicable Term Loans Eurodollar Rate Margin	Applicable Revolving Loans Eurodollar Rate Margin
V	Greater than or equal to 4.75x	3.00%	3.00%
IV	less than 4.75x and greater than or equal to 4.25x	3.00%	3.00%
III	less than 4.25x and greater than or equal to 3.75x	2.75%	2.75%
II	less than 3.75x and greater than or equal to 3.25x	2.75%	2.50%
I	less than 3.25x	2.75%	2.25%

; provided that notwithstanding anything to the contrary contained in this definition, at any time an Event of Default is then in existence, the Applicable Eurodollar Rate Margin shall be the applicable Level V percentage for the respective type of Loan set forth above.

"Applicable Leverage Ratio" means, with respect to any date of determination, the Leverage Ratio set forth in the Pricing Certificate (as defined below) in effect for the Pricing Period (as defined below) in which such date of determination occurs. For purposes of this definition, (i) "Pricing Certificate" means an Officer's Certificate of Holdings certifying as to the Leverage Ratio as of the last day of any Accounting Quarter and setting forth the calculation of such Leverage Ratio in reasonable detail, which Officer's Certificate may be delivered to Administrative Agent at any time on or after the date of delivery by Holdings of the Compliance Certificate (the "Related Compliance Certificate") with respect to the period ending on the last day of such Accounting Quarter pursuant to subsection 6.1(iii), and (ii) "Pricing Period" means each period commencing on the first Business Day after the delivery to Administrative Agent of a Pricing Certificate and ending on the first Business Day after the next Pricing Certificate is delivered to Administrative Agent; provided that, anything contained in this definition to the contrary notwithstanding, (a) the first Pricing Period for purposes of calculating the Applicable Leverage Ratio shall commence no earlier than the date on which Holdings shall have delivered to Administrative Agent the financial statements and Related Compliance Certificate for the Accounting Quarter ended closest to September 30, 2003, (b) subject to the provisos at the end of the definitions of Applicable Base Rate Margin and Applicable Eurodollar Rate Margin, the Applicable Leverage Ratio for the period from the Restatement Effective Date to but excluding the date of commencement of such first Pricing Period shall be deemed to be Level V for purposes of making the relevant calculation referred to above, and (c) in the event that, after the commencement of such first Pricing Period, Holdings fails to deliver a Pricing Certificate to Administrative Agent setting forth the Leverage Ratio as of the last day of any Accounting Quarter on or before the last day on which Holdings is required to deliver the Related Compliance Certificate (such last day being the "Cutoff Date"), then the Applicable Leverage Ratio in effect for purposes of making the relevant calculation referred to above for the period from the Cutoff Date to the date of delivery by Holdings of the next Pricing Certificate shall be deemed to be Level V.

"Applied Amount" has the meaning assigned to that term in subsection 2.4B(iv)(b).

"Approved Fund" has the meaning assigned to that term in Section 10.1B.

"Arrangers" has the meaning assigned to that term in the first paragraph of this Agreement.

"Asset Sale" means the sale by Holdings or any of its Subsidiaries to any Person other than Holdings or any of its wholly owned Subsidiaries of (i) any of the stock of any of Holdings' Subsidiaries, (ii) substantially all of the assets of any division or line of business of Holdings or any of its Subsidiaries, or (iii) any other assets (whether tangible or intangible) of Holdings or any of its Subsidiaries (excluding (a) assets acquired for resale to Franchisees and inventory sold in the ordinary course of business and (b) any such other assets to the extent that the aggregate fair market value of such assets (at the time of sale thereof) sold in any single

transaction or related series of transactions is equal to \$2,500,000 or less); provided, however, that Asset Sales shall not include (1) any sale or discount, in each case without recourse, of accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof, (2) any sale or exchange of specific items of equipment, so long as the purpose of each such sale or exchange is to acquire (and results within 180 days of such sale or exchange in the acquisition of) replacement items of equipment which are the functional equivalent of the item of equipment so sold or exchanged, (3) the leasing (pursuant to leases in the ordinary course of business) or licensing of real or personal property, including intellectual property and the licensing to Franchisees in the ordinary course of business of rights to the Domino's PULSE System, (4) disposals of obsolete, uneconomical, negligible, worn out or surplus property in the ordinary course of business or (5) sales or liquidations of Cash Equivalents for Cash at fair market value (as reasonably determined by management of Borrower).

"Assignment Agreement" means an Assignment Agreement in substantially the form of Exhibit VII annexed hereto.

"Bain" means Bain Capital, LLC and/or one or more of its Affiliates.

"Bain Advisory Services Agreement" means that certain Advisory Services Agreement by and among Holdings, certain Subsidiaries of Holdings and Bain, in the form delivered to JPMSI and Administrative Agent prior to the Closing Date and as such agreement may thereafter be amended, supplemented or otherwise modified from time to time to the extent permitted under Subsection 7.14A.

"Bain Management Fees" means the fees (including one-time fees payable in connection with acquisitions, divestitures, recapitalizations, financings and refinancings) payable by Holdings and its Subsidiaries to Bain pursuant to the Bain Advisory Services Agreement.

"Bank One" has the meaning assigned to that term in the first paragraph of this Agreement.

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

"Base Rate" means a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the higher of:

- (i) the rate of interest announced publicly by JPMorgan Chase Bank in New York, New York, from time to time, as JPMorgan Chase Bank's base rate; and
- (ii) 1/2 of 1% per annum above the Federal Funds Effective Rate.

"Base Rate Loans" means Loans bearing interest at rates determined by reference to the Base Rate as provided in subsection 2.2A.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any

particular Person, such Person shall be deemed to have beneficial ownership of all securities that such Person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of subsequent condition.

"Borrower" has the meaning assigned to that term in the first paragraph of this Agreement.

"Business Day" means (i) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close, and (ii) with respect to all notices, determinations, fundings and payments in connection with the Adjusted Eurodollar Rate or any Eurodollar Rate Loans, any day that is a Business Day described in clause (i) above and that is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"Capital Lease", as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, would be required to be accounted for as a capital lease on the balance sheet of that Person.

"Cash" means money, currency or a credit balance in a Deposit Account.

"Cash Equivalents" means: (i) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition thereof; (ii) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Ratings Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"); (iii) commercial paper maturing no more than one year from the date of creation thereof and at the time of acquisition, having a rating of at least "A-1" from S&P or at least "P-1" from Moody's; (iv) certificates of deposit or bankers' acceptances (or, with respect to foreign banks, similar instruments) maturing within one year from the date of acquisition thereof issued by any bank organized under the laws of the United States of America or any state thereof or the District of Columbia, Japan or any member of the European Economic Community or any U.S. branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than \$200,000,000; (v) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (i) above entered into with any bank meeting the qualifications specified in clause (iv) above; and (vi) investments in money market funds which invest substantially all of their assets in securities of the types described in clauses (i) through (v) above.

"Certificate re Non-Bank Status" means a certificate substantially in the form of Exhibit VIII annexed hereto delivered by a Lender to Administrative Agent pursuant to subsection 2.7B(iii).

"Citicorp" has the meaning assigned to that term in the first paragraph of this Agreement.

"Class" means, as applied to Lenders, each of the following classes of Lenders: (i) Lenders having Term Loan Exposure and (ii) Lenders having Revolving Loan Exposure.

"CLO" has the meaning assigned to that term in Section 10.1B.

"Closing Date" has the meaning assigned to that term in the Original Credit Agreement.

"Closing Date Mortgage" has the meaning assigned to that term in the Original Credit Agreement.

"Closing Date Mortgage Policies" has the meaning assigned to that term in the Original Credit Agreement.

"Closing Date Mortgaged Property" has the meaning assigned to that term in the Original Credit Agreement.

"Collateral" means, collectively, all of the real, personal and mixed property (including, without limitation, capital stock, intellectual property, inventory, equipment, receivables and franchise agreements) in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

"Collateral Agent" means JPMorgan Chase Bank acting in its capacity as collateral agent under the applicable Collateral Documents on behalf of the Lenders.

"Collateral Documents" means the Security Agreement, the Pledge Agreement, the Mortgages and all other instruments or documents delivered by any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to grant to Collateral Agent, on behalf of Secured Creditors, a Lien on any real, personal or mixed property of that Loan Party as security for the Obligations.

"Commercial Letter of Credit" means any letter of credit or similar instrument issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by Borrower or any of its Subsidiaries in the ordinary course of business of Borrower or such Subsidiary.

"Commitments" means the commitments of Lenders to make Loans as set forth in subsection 2.1A.

"Commodity Agreements" means commodity agreements, hedging agreements and other similar agreements or arrangements designed to protect against price fluctuations of commodities used in the business of the Borrower and its Subsidiaries.

"Common Stock Dividend" means (x) the payment by Holdings on the Restatement Effective Date of a cash dividend to the holders of Holdings Common Stock and (y) the payment by Holdings or Borrower on the Restatement Effective Date of compensatory "make-whole" payments to certain option holders, officers, directors and certain shareholders, in

an aggregate amount (for all such payments described in preceding clauses (x) and (y)) equal to approximately \$200,500,000.

"Compliance Certificate" means a certificate substantially in the form of Exhibit IX annexed hereto delivered to Administrative Agent by Holdings pursuant to subsection 6.1(iii).

"Confidential Information Memorandum" means the confidential information memorandum, dated June, 2003, prepared by JPMSI (and approved by Holdings and the Borrower) and distributed to certain Persons (including, without limitation, the Lenders and the Agents) in respect to the credit facilities contemplated by this Agreement.

"Conforming Leasehold Interest" means any Recorded Leasehold Interest as to which the lessor has substantially agreed in writing for the benefit of Administrative Agent (which writing has been delivered to Administrative Agent), whether under the terms of the applicable lease, under the terms of a Landlord Consent and Estoppel, or otherwise, to the matters described in the definition of "Landlord Consent and Estoppel," which interest, if a subleasehold or sub-subleasehold interest, is not subject to any contrary restrictions contained in a superior lease or sublease.

"Consolidated Adjusted EBITDA" means, for any period, (x) the sum of the amounts for such period, without duplication, of (i) Consolidated Net Income, (ii) Consolidated Interest Expense, (iii) provisions for taxes based on income (including, without duplication, foreign withholding taxes, the Michigan Single Business Tax and other similar state taxes), (iv) total depreciation expense, (v) total amortization expense, (vi) other non-cash items reducing Consolidated Net Income (including, without limitation, (x) non-cash write-offs of goodwill and long-lived assets in accordance with FAS 142 and FAS 144, as applicable, (y) non-cash purchase accounting adjustments in accordance with FAS 141 and debt extinguishment costs and (z) non-cash expenses incurred in connection with stock options, stock appreciation rights or similar equity rights but excluding accruals of expenses and the establishment of reserves in the ordinary course of business) less other non-cash items increasing Consolidated Net Income (other than accruals of revenue or reversals of reserves in the ordinary course of business), (vii) to the extent deducted in determining Consolidated Net Income, those items described on Schedule 1.1(i) annexed hereto, (viii) non-cash income subtracted in calculating Consolidated Adjusted EBITDA in a prior period to the extent such non-cash income is paid in cash in the current period and (ix) the cumulative effect of accounting changes to the extent such changes result in a reduction of Consolidated Net Income less (y) the sum of (i) non-cash charges added in calculating Consolidated Adjusted EBITDA in a prior period to the extent such non-cash charges are paid in cash in the current period and (ii) the cumulative effect of accounting changes to the extent such changes result in an increase in Consolidated Net Income, all of the foregoing as determined on a consolidated basis for Holdings and its Subsidiaries in conformity with GAAP.

"Consolidated Capital Expenditures" means, for any period, the aggregate of all expenditures (whether paid in cash or other consideration or accrued as a liability and including that portion of Capital Leases which is capitalized during such period on the consolidated balance sheet of Holdings and its Subsidiaries) by Holdings and its Subsidiaries during that period that, in conformity with GAAP, are included in "purchases of property, plant or equipment" or comparable items reflected in the consolidated statement of cash flows of Holdings and its

Subsidiaries; provided, however, that the following shall in any event be excluded from the definition of Consolidated Capital Expenditures: (a) any such expenditures made with, or subsequently reimbursed out of, the proceeds of insurance, condemnation awards (or payments in lieu thereof), indemnity payments or payments in respect of judgments or settlements received from third parties for purposes of replacing or repairing the assets in respect of which such proceeds, awards or payments were received, so long as such expenditures are commenced within 270 days, and completed within 360 days, of the later of the occurrence of the damage to or loss of the assets being replaced or repaired and the receipt of such proceeds, awards or payments in respect thereof and (b) any such expenditures constituting the reinvestment of proceeds from the sales of assets in equipment or other productive assets of Borrower and its Subsidiaries, so long as such expenditures are commenced within 270 days and completed within 360 days of the receipt of such proceeds; and provided, further, however, that Consolidated Capital Expenditures shall not include any expenditures made by Borrower or any of its Subsidiaries (x) to acquire in a Permitted Acquisition the business, property or fixed assets of any Person, or the stock or other evidence of beneficial ownership of any Person that, as a result of such acquisition, becomes a Subsidiary of Borrower or a Joint Venture to which Borrower or any of its Subsidiaries is a party or (y) to acquire the business, property and/or related assets of any Person which collectively represent an ongoing business concern (it being understood that the acquisition of an individual asset (e.g., an empty store site) that is not acquired as part of an ongoing business concern shall not be excluded from Consolidated Capital Expenditures pursuant to this clause (y)).

"Consolidated Cash Interest Expense" means, for any period, Consolidated Interest Expense for such period excluding, however, any interest expense not payable in Cash (including interest expense paid in kind and amortization of discount, of deferred financing fees, of premiums paid on Hedge Agreements and Commodity Agreements and of debt issuance costs).

"Consolidated Excess Cash Flow" means, for any period, an amount (if positive) equal to (i) the amount for such period of Consolidated Adjusted EBITDA minus (ii) the sum, without duplication, of the amounts for such period (to the extent not financed with the proceeds of related financings) of (a) scheduled repayments of Consolidated Total Debt, (b) Consolidated Capital Expenditures (net of any proceeds of any related financings with respect to such expenditures), (c) Consolidated Cash Interest Expense, (d) any add-backs to Consolidated Adjusted EBITDA made during such period with respect to items set forth on Schedule 1.1(i) annexed hereto, (e) the provision for current taxes based on income (including, without duplication, foreign withholding taxes, the Michigan Single Business Tax and other similar state taxes) of Holdings and its Subsidiaries and payable in cash with respect to such period, including taxes payable in cash within 90 days following the end of such period, (f) to the extent not otherwise deducted in determining Consolidated Excess Cash Flow, fees and expenses paid during such period in connection with the issuance of Permitted Additional Subordinated Indebtedness, (g) to the extent not deducted in determining Consolidated Net Income and Consolidated Adjusted EBITDA, cash payments made with respect to non-current liabilities during such period, provided that the aggregate amount of such cash payments included for purposes of determining Consolidated Excess Cash Flow shall not exceed \$2,000,000 in any period and (h) the amount of cash expended in respect of Permitted Acquisitions during such period.

"Consolidated Interest Expense" means, for any period, total cash and non-cash interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of Holdings and its Subsidiaries on a consolidated basis in accordance with GAAP with respect to all outstanding Indebtedness of Holdings and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing, net costs under Interest Rate Agreements, commitment fees accrued under subsection 2.3A and any administrative agent's fees payable to Administrative Agent. Notwithstanding anything to the contrary contained above, to the extent Consolidated Interest Expense is to be determined for any Test Period which ends prior to the first anniversary of the Restatement Effective Date, Consolidated Interest Expense for all portions of such period occurring prior to the Restatement Effective Date shall be calculated in accordance with the definition of Test Period contained herein.

"Consolidated Net Income" means, for any period, the net income (or loss) of Holdings and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP; provided that there shall be excluded (i) the income (or loss) of any Person (other than a Subsidiary of Holdings) in which any other Person (other than Holdings or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Holdings or any of its Subsidiaries by such Person during such period, (ii) except as expressly required by the pro forma adjustment provisions set forth in subsection 7.6D, the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Holdings or is merged into or consolidated with Holdings or any of its Subsidiaries or that Person's assets are acquired by Holdings or any of its Subsidiaries, (iii) the income of any Subsidiary of Holdings to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (iv) any after-Tax gains or losses attributable to sales of assets or returned surplus assets of any Pension Plan, and (v) (to the extent not included in clauses (i) through (iv) above) any net extraordinary, unusual or non-recurring gains or net extraordinary, unusual or non-recurring losses.

"Consolidated Senior Debt" means at any time (x) Consolidated Total Debt at such time less (y) the aggregate outstanding principal amount of all Subordinated Indebtedness at such time.

"Consolidated Total Debt" means, as at any date of determination, (x) the aggregate stated balance sheet amount of all Indebtedness of Holdings and its Subsidiaries, determined on a consolidated basis in accordance with GAAP less (y) the aggregate amount of the Seller Contingent Note, to the extent included as balance sheet Indebtedness pursuant to clause (x).

"Contingent Obligation", as applied to any Person, means any direct or indirect liability, contingent or otherwise, of that Person (i) with respect to any Indebtedness, lease, dividend or other obligation of another if the primary purpose or intent thereof by the Person incurring the Contingent Obligation is to provide assurance to the obligee of such obligation of another that such obligation of another will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such obligation will be protected (in whole or in part) against loss in respect thereof, (ii) with respect to any letter of credit issued for the

account of that Person or as to which that Person is otherwise liable for reimbursement of drawings, or (iii) under Hedge Agreements or Commodity Agreements. Contingent Obligations shall include (a) the direct or indirect guaranty, endorsement (otherwise than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another, (b) the obligation to make take-or-pay or similar payments if required regardless of non-performance by any other party or parties to an agreement, and (c) any liability of such Person for the obligation of another through any agreement (contingent or otherwise) (X) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (Y) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under subclauses (X) or (Y) of this sentence, the primary purpose or intent thereof is as described in the preceding sentence. The amount of any Contingent Obligation shall be equal to (A) the amount of the obligation so guaranteed or otherwise supported or, if less, the amount to which such Contingent Obligation is specifically limited (including netting of obligations under Hedge Agreements and Commodity Agreements), or (B) if neither amount in clause (A) is stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform) as determined by such Person in good faith. Notwithstanding the foregoing, Contingent Obligations shall not include standard contractual indemnities entered into in the ordinary course of business.

"Continuing Director" means, as of any date of determination, any member of the Board of Directors of any Person who (i) was a member of the Board of Directors of such Person on the Restatement Effective Date or (ii) was nominated for election or elected to such Board of Directors with the affirmative vote of Bain and the Other Investors or (iii) on and after the consummation of a Qualified IPO, was nominated for election or elected to the Board of Directors by a majority vote of the then Continuing Directors.

"Contractual Obligation", as applied to any Person, means any provision of any Security issued by that Person or of any material indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

"Credit Agreement Party" means and includes Holdings and Borrower.

"Currency Agreement" means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement to which Holdings or any of its Subsidiaries is a party.

"Default Excess" has the meaning assigned to that term in subsection 2.9.

"Default Period" has the meaning assigned to that term in subsection 2.9.

"Defaulted Revolving Loan" has the meaning assigned to that term in subsection 2.9.

"Defaulting Lender" has the meaning assigned to that term in subsection 2.9.

"Deposit Account" means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

"Disqualified Preferred Stock" means all Preferred Stock of Holdings that is not Qualified Preferred Stock.

"Documentation Agent" has the meaning assigned to that term in the first paragraph of this Agreement.

"Dollars" and the sign "\$" mean the lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary of Holdings which is organized under the laws of the United States or any state thereof.

"Domino's Canada" means Domino's Pizza NS Co., a Canadian corporation.

"Domino's PULSE System" means the point of sale system developed by Borrower and called "Domino's Pulse".

"Eligible Assets" has the meaning assigned to that term in subsection 2.4B(iii)(a).

"Eligible Assignee" means (A) (i) a commercial bank organized under the laws of the United States or any state thereof; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof; (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country; and (iv) any other entity which is an "accredited investor" (as defined in Regulation D under the Securities Act) which extends credit or buys loans as one of its businesses including insurance companies, funds, investment companies and lease financing companies; and (B) any Lender, any Affiliate of any Lender and, with respect to any Lender that is an investment fund that invests in commercial loans, any other investment fund that invests in commercial loans and that is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor; provided that no Affiliate of Holdings shall be an Eligible Assignee.

"Employee Benefit Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is maintained or contributed to by (or to which there is an obligation to contribute of) Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates and, with respect to each such employee benefit plan which is a "pension plan" (as defined in Section 3(2) of ERISA) which is subject to Title IV of ERISA, each such pension plan for the five-year period immediately following the latest date on which Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates maintained, contributed to or had an obligation to contribute to such pension plan.

"Environmental Claim" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any governmental authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law, (ii) in connection with any Hazardous Materials or any actual or alleged Hazardous Materials Activity, or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"Environmental Laws" means any and all current or future statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other requirements of governmental authorities relating to (i) environmental matters, including those relating to any Hazardous Materials Activity, (ii) the generation, use, storage, transportation or disposal of Hazardous Materials, or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare from environmental hazards (including Hazardous Materials), in any manner applicable to Holdings or any of its Subsidiaries or any Facility, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.), the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.), the Oil Pollution Act (33 U.S.C. Section 2701 et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Section 11001 et seq.), each as amended or supplemented, any analogous present or future state or local statutes or laws, and any regulations promulgated pursuant to any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor thereto, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" means, as applied to any Person, (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member. Any former ERISA Affiliate of Holdings or any of its Subsidiaries shall continue to be considered an ERISA Affiliate of Holdings or such Subsidiary within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of Holdings or such Subsidiary and with respect to liabilities arising after such period for which Holdings or such Subsidiary could be liable under the Internal Revenue Code or ERISA.

"ERISA Event" means (i) a "reportable event" within the meaning of Section 4043(c) of ERISA with respect to a Pension Plan that is subject to Title IV of ERISA other than those events as to which the 30-day notice period is waived under subsection .22, .23, .25, .27 or

.28 of PBGC Regulation Section 4043; (ii) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 412(m) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability pursuant to Section 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (vi) the imposition of liability on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the withdrawal of Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (viii) the occurrence of an act or omission which could give rise to the imposition on Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates of material fines, material penalties, material taxes or material related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (1), or Section 4071 of ERISA in respect of any Employee Benefit Plan; (ix) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan other than a Multiemployer Plan or the assets thereof, or against Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (x) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401 (a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code if such trust was intended to so qualify; or (xi) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan.

"Eurodollar Rate" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate appearing on Page 3750 of the Telerate Market Service (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to such Interest Rate Determination Date, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the "Eurodollar Rate" with respect to such Eurodollar Rate Loan for such Interest Rate

Determination Date shall be the arithmetic average (rounded upward to the nearest 1/16 of one percent) of the offered quotations, if any, to first class banks in the interbank Eurodollar market by Reference Lenders for U.S. dollar deposits of amounts in same day funds comparable to the respective principal amounts of the Eurodollar Rate Loans of Reference Lenders for which the Eurodollar Rate is then being determined (which principal amount shall be deemed to be \$1,000,000 in the case of any Reference Lender not making, converting to or continuing such a Eurodollar Rate Loan) with maturities comparable to such Interest Period as of approximately 11:00 A.M., London time, two Business Days prior to such Interest Rate Determination Date.

"Eurodollar Rate Loans" means Loans bearing interest at rates determined by reference to the Adjusted Eurodollar Rate as provided in subsection 2.2A.

"Event of Default" means each of the events set forth in Section 8.

"Excess Proceeds Amount" means \$0 as of the Restatement Effective Date, which amount shall be (i) increased on the date of delivery in any Fiscal Year of an Officer's Certificate setting forth the calculation of the Adjusted Consolidated Excess Cash Flow for the preceding Fiscal Year pursuant to subsection 2.4B(iii)(f) (each such date being an "Excess Cash Payment Date"), so long as any prepayment required pursuant to subsection 2.4B(iii)(d) has been made, by an amount equal to the remainder of (x) Consolidated Excess Cash Flow for such Fiscal Year less (y) the sum of (I) the aggregate principal amount of prepayments of Loans pursuant to Section 2.4B(i) to the extent (and only to the extent) not funded with Net Common Equity Proceeds, Net Insurance/Condemnation Proceeds or Net Asset Sale Proceeds (but in the case of a voluntary prepayment of Revolving Loans or Swing Line Loans, only to the extent accompanied by a permanent reduction to the Revolving Loan Commitments) during such period plus (II) the aggregate principal amount of Loans repaid pursuant to subsection 2.4B(iii)(d) on the respective Excess Cash Payment Date and (ii) reduced (a) to \$0 on the close of business on the Business Day immediately preceding each succeeding Excess Cash Payment Date, (b) at the time any Consolidated Capital Expenditure is made pursuant to subsection 7.8B, by the amount of such expenditure and (c) at any time that any repurchase of Senior Subordinated Notes and/or Permitted Additional Subordinated Indebtedness is made pursuant to subsection 7.5(iii) (to the extent repurchased in reliance on sub-clause (x) thereof), by the amount of cash proceeds expended in connection with such repurchase.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"Excluded Special Purpose Subsidiary" means Domino's National Advertising Fund Inc., a Michigan not-for-profit corporation and any successor to Domino's National Advertising Fund, Inc., provided that such successor shall be permitted only to engage in the business conducted by Domino's National Advertising Fund, Inc. on the Restatement Effective Date.

"Existing Lender" means each Person which was a Lender under, and as defined in, the Original Credit Agreement.

"Existing Letter of Credit" has the meaning assigned to that term in subsection 3.1D.

"Existing Senior Subordinated Note Indenture" means the indenture, dated as of December 21, 1998, between Borrower, the Guarantors (as defined therein) signatory thereto and The Bank of New York, successor in interest to IBJ Schroder Bank & Trust Company, as trustee, pursuant to which the Existing Senior Subordinated Notes have been issued, as such indenture may be amended, modified or supplemented from time to time to the extent permitted under subsection 7.14B.

"Existing Senior Subordinated Note Indenture Amendment" has the meaning assigned to that term in subsection 4.1H(iii).

"Existing Senior Subordinated Noteholders" has the meaning assigned to that term in subsection 4.1H(iii).

"Existing Senior Subordinated Notes" means 10-3/8% Senior Subordinated Notes due 2009 of Borrower issued pursuant to the Existing Senior Subordinated Note Indenture in an aggregate outstanding principal amount of approximately \$217,940,000 (as such amount may be reduced by repayments of principal thereof after the Restatement Effective Date).

"Existing Senior Subordinated Notes Tender Offer/Consent Solicitation" has the meaning assigned to that term in subsection 4.1H(iii).

"Existing Senior Subordinated Notes Tender Offer/Consent Solicitation Consummation" has the meaning assigned to that term in subsection 4.1H(iii).

"Existing Shareholders" means certain existing shareholders of Holdings disclosed to JPMSI and Administrative Agent.

"Existing Swap Agreements" means those certain Interest Rate Agreements listed on Schedule 1.1(ii), as in effect on the Restatement Effective Date and without giving effect to any extension of the termination date thereof after the Restatement Effective Date.

"Facilities" means any and all real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or (for purposes of subsection 5.13 only) heretofore owned, leased, operated or used by Holdings or any of its Subsidiaries or any of their respective predecessors or Affiliates.

"Federal Funds Effective Rate" means, for any period, a fluctuating interest rate equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Administrative Agent from three Federal funds brokers of recognized standing selected by Administrative Agent.

"Financial Plan" has the meaning assigned to that term in subsection 6.1(xii).

"First Priority" means, with respect to any Lien purported to be created in any Collateral pursuant to any Collateral Document, that (i) such Lien has priority over any other Lien on such Collateral (other than Permitted Encumbrances of the type referred to in clauses (v), (vi), (vii), (xiii), (xiv) and (xv) of the definition thereof, Permitted Encumbrances of the type that are, under applicable law and notwithstanding their subsequent creation, accorded priority over Liens on the Collateral created pursuant to the Collateral Documents and Liens permitted pursuant to subsection 7.2A(iii) or 7.2A(iv)) and (ii) such Lien is the only Lien (other than Permitted Encumbrances and Liens permitted pursuant to subsection 7.2) to which such Collateral is subject.

"Fiscal Year" means the fiscal year of Holdings and its Subsidiaries ending on the Sunday nearest to December 31 of each calendar year. For purposes of this Agreement, any particular Fiscal Year shall be designated by reference to the calendar year in which the majority of such Fiscal Year falls.

"Flood Hazard Property" means a Mortgaged Property located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

"Foreign Cash Equivalents" means certificates of deposit or bankers acceptances of any bank organized under the laws of Canada, Japan or any country that is a member of the European Economic Community whose short-term commercial paper rating from S&P is at least A-2 or the equivalent thereof or from Moody's is at least P-2 or the equivalent thereof, in each case with maturities of not more than one year from the date of acquisition.

"Foreign Subsidiary" means a Subsidiary of Holdings other than a Domestic Subsidiary.

"Foreign Subsidiary Working Capital Indebtedness" has the meaning assigned to that term in subsection 7.1(x).

"Franchisee" means any franchisee or licensee which owns and operates any pizza franchise of Holdings and its Subsidiaries, provided, however, that in no event shall any Subsidiary of Holdings be a Franchisee hereunder.

"Franchisee Affiliate" means any trust or other entity which "controls" (within the meaning provided in the definition of "Affiliate" herein) a Franchisee of Holdings or any of its Subsidiaries, provided, however, that in no event shall any Subsidiary of Holdings be a Franchisee Affiliate hereunder.

"Funding and Payment Office" means (i) the office of Administrative Agent and Swing Line Lender located at 1 Chase Manhattan Plaza, New York, New York or (ii) such other office of Administrative Agent and Swing Line Lender as may from time to time hereafter be designated as such in a written notice delivered by Administrative Agent and Swing Line Lender to Borrower and each Lender.

"Funding Date" means the date of the funding of a Loan.

"Funding Default" has the meaning assigned to that term in subsection 2.9.

"GAAP" means, subject to the limitations on the application thereof set forth in subsections 1.2 and 1.4, generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

"Governmental Acts" has the meaning assigned to that term in subsection 3.5A.

"Governmental Authorization" means any permit, license, authorization, plan, directive, consent order or consent decree of or from any federal, state or local governmental authority, agency or court.

"Guaranteed Creditors" means and include each of each Agent, Collateral Agent, each Issuing Lender, the Lenders and each party (other than any Loan Party) party to an Interest Rate Agreement or Currency Agreement to the extent such party constitutes a Secured Creditor under the Security Documents.

"Guaranteed Obligations" means (i) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of the principal and interest on each Note issued by, and all Loans made to, Borrower under this Agreement and all reimbursement obligations and unpaid drawings with respect to Letters of Credit, together with all the other obligations (including obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due), indebtedness and liabilities (including, without limitation, indemnities, fees and interest (including any interest accruing after the commencement of any bankruptcy, insolvency, receivership or similar proceeding at the rate provided for herein, whether or not such interest is an allowed claim in any such proceeding) thereon) of Borrower to the Lenders, each Issuing Lender, Administrative Agent and Collateral Agent now existing or hereafter incurred under, arising out of or in connection with this Agreement and each other Credit Document to which Borrower is party and the due performance and compliance by Borrower with all the terms, conditions and agreements contained in this Agreement and in each such other Loan Document and (ii) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations (including obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due), liabilities and indebtedness (including any interest accruing after the commencement of any bankruptcy, insolvency, receivership or similar proceeding at the rate provided for herein, whether or not such interest is an allowed claim in any such proceeding) of Borrower owing under any Interest Rate Agreement or Currency Agreement entered into by Borrower with any Lender or any affiliate thereof (even if, in the case of a Lender, such Lender subsequently ceases to be a Lender under this Agreement for any reason) and under any Existing Swap Agreement, so long as such Lender or affiliate (or, in the case of any Existing Swap Agreement, the respective Person listed opposite such Existing Swap Agreement on Schedule 1.1(ii)) participates in such Interest Rate

Agreement or Currency Agreement and their subsequent assigns, if any, whether now in existence or hereafter arising, and the due performance and compliance with all terms, conditions and agreements contained therein.

"Guarantor" means, collectively, Holdings and each Subsidiary Guarantor.

"Guaranty" means the Holdings Guaranty and the Subsidiaries Guaranty.

"Hazardous Materials" means (i) any chemical, material or substance at any time defined in any statute or regulation as or included in the definition in any statute or regulation of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "biohazardous waste", "pollutant", "toxic pollutant", "contaminant", "restricted hazardous waste", "infectious waste", "toxic substances", or any other term or expression intended to define, list or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment (including harmful properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "TCLP toxicity" or "EP toxicity" or words of similar meaning and regulatory effect under any applicable Environmental Laws); (ii) any oil, petroleum, petroleum fraction or petroleum derived substance; (iii) any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; (iv) any flammable substances or explosives; (v) any radioactive materials; (vi) any asbestos-containing materials; (vii) urea formaldehyde foam insulation; (viii) polychlorinated biphenyls, including any oil or dielectric fluid containing polychlorinated biphenyls; (ix) pesticides; and (x) any other chemical, material or substance which could pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

"Hazardous Materials Activity" means any past, present or future activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, migration, Release, threatened Release, discharge, placement, generation, transportation, processing, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"Hedge Agreement" means an Interest Rate Agreement or a Currency Agreement designed to hedge against fluctuations in interest rates or currency values, respectively.

"Holdings" means TISM or, after any merger of TISM in accordance with the requirements of Section 7.7(xix), the surviving entity of such merger.

"Holdings Common Stock" means non-redeemable common stock of Holdings.

"Holdings Guaranty" means the guaranty of Holdings pursuant to Section 11.

"Immaterial Subsidiaries" means, with respect to any Person, any Subsidiary or Subsidiaries of such Person the assets of which constitute, individually or in the aggregate, less than 5 % of the total assets of such Person and its Subsidiaries on a consolidated basis; provided that in no event shall the term "Immaterial Subsidiary" include Borrower.

"Increased-Cost Lender" has the meaning assigned to that term in subsection 2.10A(i).

"Indebtedness", as applied to any Person, means (i) all indebtedness for borrowed money, (ii) that portion of obligations with respect to Capital Leases that is properly classified as a liability on a balance sheet in conformity with GAAP, (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (iv) any obligation owed for all or any part of the deferred purchase price of property or services (including any earn-out obligations owed by such Person which are required by GAAP to be shown as a liability on the balance sheet of such Person but excluding any such obligations incurred under ERISA, any accrued expenses or trade payables and any obligations in respect of employment agreements of Holdings and its Subsidiaries), (a) which obligation in accordance with GAAP would be shown as a liability on the balance sheet of such Person or (b) which purchase price is evidenced by a note or similar written instrument, and (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person. The amount of any Indebtedness which is non-recourse to the obligor thereunder or to any other obligor and for which recourse is limited to an identified asset or assets shall be equal to the lesser of (1) the stated amount of such obligation and (2) the fair market value of such asset or assets. Obligations under Interest Rate Agreements, Currency Agreements and Commodity Agreements constitute (X) in the case of Hedge Agreements and Commodity Agreements, Contingent Obligations, and (Y) in all other cases, Investments, and in neither case constitute Indebtedness.

"Indemnitee" has the meaning assigned to that term in subsection 10.3.

"Independent Public Accountant" means any of the four largest public accounting firms in the United States selected by Holdings or Borrower.

"Initial Period" means the period commencing on and including the Restatement Effective Date and ending on (but excluding) the earlier of (i) the date on which JPMSI notifies Borrower that it has concluded its primary syndication of the Loans and Commitments and (ii) the date which is 30 days after the Restatement Effective Date.

"Intellectual Property" means all patents, trademarks, tradenames, copyrights, technology, know-how and processes which are used in the conduct of the business of Holdings and its Subsidiaries as currently conducted that are material to the condition (financial or otherwise), business or operations of Holdings and its Subsidiaries, taken as a whole.

"Interest Payment Date" means (i) with respect to any Base Rate Loan, each March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Restatement Effective Date, and (ii) with respect to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan; provided that in the case of each Interest Period of longer than three months, "Interest Payment Date" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

"Interest Period" has the meaning assigned to that term in subsection 2.2B.

"Interest Rate Agreement" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement or arrangement to which Holdings or any of its Subsidiaries is a party.

"Interest Rate Determination Date" means, with respect to any Interest Period, the second Business Day prior to the first day of such Interest Period.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute, and the regulations promulgated by the Internal Revenue Service thereunder.

"Investment" means (i) any direct or indirect purchase or other acquisition by Holdings or any of its Subsidiaries of, or of a beneficial interest in, any Securities of any other Person (including any Subsidiary of Holdings), (ii) any direct or indirect redemption, retirement, purchase or other acquisition for value, by any Subsidiary of Holdings from any Person other than Holdings or any of its Subsidiaries, of any equity Securities of such Subsidiary, (iii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business), capital contribution or other extension of credit by Holdings or any of its Subsidiaries to any other Person, including any Contingent Obligation in respect of the Indebtedness of such other Person but excluding accounts receivable from that other Person to the extent (and only to the extent) same are current assets or arise from sales to that other Person in the ordinary course of business or (iv) Interest Rate Agreements or Currency Agreements not constituting Hedge Agreements. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment.

"IP Collateral" means all the trademarks, patents, copyrights and related intellectual property rights pledged pursuant to the Security Agreement.

"Issuing Lender" means, with respect to any Letter of Credit, the Lender which issues or is otherwise obligated to issue such Letter of Credit, determined as provided in subsection 3.1B(ii), provided that with respect to any Existing Letter of Credit, Bank One, NA (successor in interest to NBD Bank) shall be deemed to be the "Issuing Lender" for all purposes of this Agreement.

"Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form, provided that in no event shall any corporate Subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

"JPMorgan Chase Bank" has the meaning assigned to that term in the first paragraph of this Agreement.

"Landlord Consent and Estoppel" means, with respect to any Leasehold Property, a letter, certificate or other instrument in writing from the lessor under the related lease, reason-

ably satisfactory in form and substance to Administrative Agent, pursuant to which such lessor substantially agrees, for the benefit of Administrative Agent, (i) that without any further consent of such lessor or any further action on the part of the Loan Party holding such Leasehold Property, such Leasehold Property may be encumbered pursuant to a Mortgage and may be assigned to the purchaser at a foreclosure sale or in a transfer in lieu of such a sale (and to a subsequent third party assignee if Administrative Agent, any Lender, or an Affiliate of either so acquires such Leasehold Property), (ii) that such lessor shall not terminate such lease as a result of a default by such Loan Party thereunder without first giving Administrative Agent notice of such default and at least 60 days (or, if such default cannot reasonably be cured by Administrative Agent within such period, such longer period as may reasonably be required) to cure such default and (iii) to such other matters relating to such Leasehold Property as Administrative Agent may reasonably request; provided, however, that Administrative Agent may determine in its reasonable discretion that any one or more of the agreements set forth in clauses (i) through (iii) may be modified or omitted from a Landlord Consent and Estoppel with respect to a particular Leasehold Property.

"Leasehold Property" means any leasehold interest of any U.S. Loan Party as lessee under any lease of real property, other than any such leasehold interest designated from time to time by Administrative Agent in its reasonable discretion as not being required to be included in the Collateral.

"Lender" and "Lenders" means the Persons with Commitments listed on Schedule 2.1 annexed hereto (as amended from time to time), together with their successors and permitted assigns pursuant to subsection 10.1, and the term "Lenders" shall include Swing Line Lender unless the context otherwise requires; provided that the term "Lenders", when used in the context of a particular Commitment, shall mean Lenders having that Commitment.

"Letter of Credit" or "Letters of Credit" means Commercial Letters of Credit and Standby Letters of Credit issued or to be issued by Issuing Lenders for the account of Borrower pursuant to subsection 3.1.

"Letter of Credit Usage" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is or, at any time thereafter, may become available for drawing under all Letters of Credit then outstanding plus (ii) the aggregate amount of all drawings under Letters of Credit honored by Issuing Lenders and not theretofore reimbursed by Borrower (including any such reimbursement out of the proceeds of Revolving Loans pursuant to subsection 3.3B).

"Leverage Ratio" means, at any time of determination, the ratio of (i) Consolidated Total Debt as of the last day of the Test Period then most recently ended to (ii) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case as set forth in the most recent Compliance Certificate delivered by Holdings to Administrative Agent pursuant to clause (iii) of subsection 6.1 (or, for purposes of the definition of Applicable Leverage Ratio, in the relevant Pricing Certificate), provided that for purposes of subsections 7.1(xii) and 7.7(xvi)(c), Consolidated Total Debt shall be determined in accordance with the relevant requirements of said subsections and shall be as set forth in the Officer's Certificate delivered pursuant said subsections. For purposes of determining the Leverage Ratio in this

Agreement, Consolidated Adjusted EBITDA shall be determined on a pro forma basis in accordance with the provisions of subsection 7.6D.

"Lien" means any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing.

"Liquidity" means, at any time, an amount equal to the remainder of (x) the aggregate amount of Revolving Loan Commitments of the Lenders at such time less (y) the sum of (i) the aggregate principal amount of all outstanding Revolving Loans and Swing Line Loans at such time plus (ii) the Letter of Credit Usage at such time.

"Loan" or "Loans" means one or more of the Term Loans, Revolving Loans or Swing Line Loans or any combination thereof.

"Loan Documents" means this Agreement, the Notes, the Letters of Credit (and any applications for, or reimbursement agreements or other documents or certificates executed by Borrower in favor of an Issuing Lender relating to, the Letters of Credit), the Guaranties and the Collateral Documents.

"Loan Party" means each Credit Agreement Party and any of Holdings' Subsidiaries from time to time executing a Loan Document, and "Loan Parties" means all such Persons, collectively.

"Margin Stock" has the meaning assigned to that term in Regulation U (or any successor regulation) of the Board of Governors of the Federal Reserve System as in effect from time to time.

"Material Adverse Effect" means (i) a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Holdings and its Subsidiaries, taken as a whole or (ii) the impairment of the legal ability of any Credit Agreement Party to perform, or of Administrative Agent, Collateral Agent or Lenders to enforce, the Obligations.

"Material Contract" means any contract or arrangement to which Holdings or any of its Subsidiaries is a party (other than the Loan Documents) for which breach, nonperformance, cancellation or failure to renew would reasonably be expected to have a Material Adverse Effect.

"Material Leasehold Property" means any Leasehold Property set forth on Schedule 4.1I to the Original Credit Agreement and any Leasehold Property reasonably determined by Administrative Agent after the Restatement Effective Date to be of material value as Collateral or of material importance to the operations of Holdings or any of its Subsidiaries; provided, however, that, no Leasehold Property with respect to which the aggregate amount of all rents payable during any one Fiscal Year does not exceed \$500,000 shall be a "Material Leasehold Property".

"Maximum Consolidated Capital Expenditures Amount" has the meaning assigned to that term in subsection 7.8A.

"Mortgage" means (i) a security instrument (whether designated as a deed of trust or a mortgage or by any similar title) executed and delivered by any U.S. Loan Party, substantially in the form of Exhibit XVII hereto or in such other form or with such changes thereto or omissions therefrom as may be approved by Administrative Agent in its reasonable discretion, in each case with such changes thereto as may be recommended by Administrative Agent's local counsel based on local laws or customary local mortgage or deed of trust practices, or (ii) at Administrative Agent's option, in the case of an Additional Mortgaged Property, an amendment to an existing Mortgage, in form and substance reasonably satisfactory to Administrative Agent, adding such Additional Mortgaged Property to the Real Property Assets encumbered by such existing Mortgage, in either case as such security instrument or amendment may be amended, restated, supplemented and/or otherwise modified from time to time. "Mortgages" means all such instruments, including the Closing Date Mortgages and any Additional Mortgages, collectively.

"Mortgage Amendments" has the meaning assigned to that term in subsection 4.1I(i).

"Mortgaged Property" means a Closing Date Mortgaged Property or an Additional Mortgaged Property.

"Multiemployer Plan" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA.

"NAIC" means the National Association of Insurance Commissioners.

"Net Asset Sale/Net Insurance Proceeds Payment Period" has the meaning assigned to that term in subsection 2.4B(iii)(a).

"Net Asset Sale Proceeds" means, with respect to any Asset Sale, Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received from such Asset Sale, net of any bona fide costs incurred in connection with such Asset Sale, including (i) income taxes reasonably estimated to be actually payable within two years of the date of such Asset Sale as a result of any gain recognized in connection with such Asset Sale and (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is repaid as a result of such Asset Sale.

"Net Capital Contribution Proceeds" means Cash proceeds, net of reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, from any capital contribution to Holdings or any of its Subsidiaries after the Restatement Effective Date.

"Net Common Equity Proceeds" means Cash proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, from the issuance of any common equity Securities of Holdings after the Restatement Effective Date.

"Net Disqualified Preferred Stock Proceeds" means Cash proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, from the issuance of any Disqualified Preferred Stock or other redeemable equity of Holdings on or after the Restatement Effective Date.

"Net Indebtedness Proceeds" has the meaning assigned to that term in subsection 2.4B(iii)(c).

"Net Insurance/Condemnation Proceeds" means any Cash payments or proceeds received by Holdings or any of its Subsidiaries (a) under any business interruption insurance policy or casualty insurance policy in respect of a covered loss thereunder or (b) as a result of the taking of any assets of Holdings or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, in each case net of any actual and documented costs incurred by Holdings or any of its Subsidiaries in connection with the adjustment or settlement of any claims of Holdings or such Subsidiary in respect thereof, including (i) income taxes reasonably estimated to be actually payable within two years of the date of receipt of such payments or proceeds as a result of any gain recognized in connection with the receipt of such payment or proceeds and (ii) payment of the outstanding amount of premium or penalty, if any, and interest of any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is repaid as a result of receipt of such payments or proceeds.

"Net Proceeds Amount" has the meaning assigned to that term in subsection 2.4B(iii)(f).

"Net Qualified Preferred Stock Proceeds" means Cash proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, from the issuance of any Qualified Preferred Stock on or after the Restatement Effective Date.

"Net Subsidiary Equity Proceeds" means Cash proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, from the issuance of any equity Securities of any Subsidiary of Holdings after the Restatement Effective Date.

"New Business" means any assets, product line or business acquired by Borrower or any of its Subsidiaries pursuant to a Permitted Acquisition.

"New Lender" means each Person listed on Schedule 2.1 that is not an Existing Lender.

"New Senior Subordinated Note Indenture" means the indenture, dated as of June 25, 2003, between Borrower, the Guarantors (as defined therein) signatory thereto and The Bank of New York, as trustee, pursuant to which the New Senior Subordinated Notes have been issued, as such indenture may be amended, modified or supplemented from time to time to the extent permitted under subsection 7.14B.

"New Senior Subordinated Notes" means 8.25% Senior Subordinated Notes due 2011 of Borrower issued on or prior to the Restatement Effective Date pursuant to the New Senior Subordinated Note Indenture in an aggregate outstanding principal amount of \$403,000,000 (as such amount may be reduced by repayments of principal thereof after the Restatement Effective Date).

"New Senior Subordinated Notes Issuance" has the meaning assigned to that term in subsection 4.1H(ii).

"1998 Credit Agreement" means that certain Credit Agreement, dated as of December 21, 1998, by and among the Borrowers, Holdings, the financial institutions listed on the signature pages thereto, JPMorgan Chase Bank (formerly known as Morgan Guaranty Trust Company of New York), as administrative agent, Bank One, NA (successor in interest to NBD Bank), as syndication agent, and Comerica Bank, as documentation agent.

"Non-Consenting Lender" has the meaning assigned to that term in subsection 2.10A(iii).

"Non-US Lender" has the meaning assigned to that term in subsection 2.7B(iii)(a).

"Notes" means one or more of the Term Notes, Revolving Notes or Swing Line Note or any combination thereof.

"Notice of Borrowing" means a notice substantially in the form of Exhibit IV annexed hereto delivered by Borrower to Administrative Agent pursuant to subsection 2.1B with respect to a proposed borrowing.

"Notice of Conversion/Continuation" means a notice substantially in the form of Exhibit V annexed hereto delivered by Borrower to Administrative Agent pursuant to subsection 2.2D with respect to a proposed conversion or continuation of the applicable basis for determining the interest rate with respect to the Loans specified therein.

"Notice of Issuance of Letter of Credit" means a notice substantially in the form of Exhibit VI annexed hereto delivered by Borrower to Administrative Agent pursuant to subsection 3.1B(i) with respect to the proposed issuance of a Letter of Credit.

"Obligations" means all obligations of every nature of each Loan Party from time to time owed to Agents, Issuing Lenders, Lenders or their respective Affiliates or any of them under the Loan Documents, whether for principal, interest, reimbursement of amounts drawn under Letters of Credit, fees, expenses, indemnification or otherwise.

"Officers' Certificate" means, as applied to any corporation, a certificate executed on behalf of such corporation by its chairman of the board (if an officer) or its president or one of its vice presidents and by its principal financial officer or principal accounting officer or its treasurer; provided that every Officers' Certificate with respect to the compliance with a condition precedent to the making of any Loans hereunder shall include (i) a statement that the officer or officers making or giving such Officers' Certificate have read such condition and any defini-

tions or other provisions contained in this Agreement relating thereto, (ii) a statement that, in the opinion of the signers, they have made or have caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such condition has been complied with, and (iii) a statement as to whether, in the opinion of the signers, such condition has been complied with.

"Original Additional Mortgage" has the meaning assigned to the term "Additional Mortgage" in the Original Credit Agreement.

"Original Additional Mortgage Policies" has the meaning assigned to the term "Additional Mortgage Policies" in the Original Credit Agreement.

"Original Additional Mortgaged Property" has the meaning assigned to the term "Additional Mortgaged Property" in the Original Credit Agreement.

"Original Credit Agreement" has the meaning assigned to that term in the second paragraph of this Agreement.

"Original Lenders" means those lenders party to the Original Credit Agreement.

"Original Revolving Lender" means each Lender under, and as defined in, the Original Credit Agreement with an Original Revolving Loan Commitment on the Restatement Effective Date (immediately prior to giving effect thereto) which is party to this Agreement on the Restatement Effective Date and is continuing such Original Revolving Loan Commitment as a Revolving Loan Commitment pursuant to subsection 2.1A(ii) hereof.

"Original Revolving Loan" means a "Revolving Loan" under, and as defined in, the Original Credit Agreement.

"Original Revolving Loan Commitment" means a "Revolving Loan Commitment" under, and as defined in, the Original Credit Agreement.

"Original Term Loan Lender" means each Lender under, and as defined in, the Original Credit Agreement with outstanding Tranche B Term Loans on the Restatement Effective Date (immediately prior to giving effect thereto) which is party to this Agreement on the Restatement Effective Date and is continuing such Tranche B Term Loans as Term Loans pursuant to subsection 2.1A(i) hereof.

"Operating Lease" means, as applied to any Person, any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) that is not a Capital Lease other than any such lease under which that Person is the lessor.

"Other Investors" means, collectively, (i) RGIP, LLC, (ii) DP Investors I, LLC, DP Investors II, LLC, J.P. Morgan Capital Corporation and Sixty Wall Street Fund, L.P. and (iii) any trust formed for the benefit of (and to hold the investments of) the investors referred to in preceding clause (ii).

"Participant" has the meaning assigned to that term in Section 10.1C.

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

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"Permitted Acquired Debt" means Indebtedness assumed in connection with a Permitted Acquisition, so long as (a) such Indebtedness was not incurred in connection with or in anticipation or contemplation of such Permitted Acquisition, (b) such Indebtedness does not exceed the total value of the assets of the Subsidiary so acquired, or the assets so acquired, as the case may be, and (c) such Indebtedness does not constitute debt for borrowed money (other than debt for borrowed money incurred in connection with industrial revenue or industrial development bond financings), it being understood and agreed that Capital Lease Obligations and purchase money Indebtedness shall not constitute debt for borrowed money for purposes of this clause (c).

"Permitted Acquisition" means the acquisition of assets, stock or other equity interests of a business effected in accordance with the provisions of subsection 7.7(xvi).

"Permitted Acquisition Cost" means, with respect to any Permitted Acquisition, the sum (without duplication) of (i) all cash paid by Holdings or any of its Subsidiaries in connection with any such Permitted Acquisition, (ii) the fair market value of Holdings Common Stock (based on the good faith determination of senior management of Holdings or, after an initial public offering, the closing trading price of Holdings Common Stock on the date of such Permitted Acquisition on the stock exchange on which such stock is listed) issued as consideration pursuant to such Permitted Acquisition, (iii) the aggregate amount (determined by using the face amount of the debt or the amount payable up to and including maturity thereof, whichever is greater) of Permitted Seller Notes issued by Borrower in connection with such Permitted Acquisition, (iv) the amount of all Permitted Acquired Debt assumed in connection with such Permitted Acquisition and (v) the aggregate amount of all Qualified Preferred Stock issued by Holdings in connection with such Permitted Acquisition (determined by using (x) the maximum liquidation preference thereof, (y) the gross cash proceeds from the issuance thereof or (z) the fair market value (as determined in good faith by senior management of Holdings) of the assets received from the direct issuance thereof as consideration, whichever is greatest).

"Permitted Additional Subordinated Indebtedness" means Indebtedness of Borrower so long as (a) such Indebtedness has a Weighted Average Life to Maturity greater than or equal to the Weighted Average Life to Maturity of the New Senior Subordinated Notes, (b) such Indebtedness is unsecured, (c) such Indebtedness does not add guarantors or obligors which were not guarantors or obligors, as the case may be, in respect of the New Senior Subordinated Notes at any time, except for such additional guarantors as shall have entered into counterparts of the Subsidiaries Guaranty, (d) such Indebtedness has substantially the same (or, from the perspective of the Lenders, more favorable) subordination provisions, if any, as applied to the New Senior Subordinated Notes, (e) the interest rate in respect of such Indebtedness is not greater than the then prevailing market rate for such Indebtedness (or such other interest rate as is satisfactory to Administrative Agent and the Requisite Lenders), (f) all other terms of such Indebtedness (including, without limitation, with respect to the amortization schedules, redemp-

tion provisions, maturities, covenants, defaults and remedies), are not, taken as a whole, materially less favorable to the Holdings and its Subsidiaries than those previously existing with respect to the New Senior Subordinated Notes and (g) all of the Net Indebtedness Proceeds from the incurrence of such Indebtedness are first used to refinance any then outstanding New Senior Subordinated Notes or then outstanding Permitted Additional Subordinated Indebtedness before such Net Indebtedness Proceeds are used for any other purpose.

"Permitted Encumbrances" means the following types of Liens (excluding any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA, any such Lien relating to or imposed in connection with any Environmental Claim, and any such Lien expressly prohibited by any applicable terms of any of the Collateral Documents):

(i) Liens for taxes, assessments or governmental charges or claims the payment of which is not, at the time, required by subsection 6.3;

(ii) statutory Liens of landlords, statutory Liens of banks and rights of set-off, statutory Liens of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law, in each case incurred in the ordinary course of business (a) for amounts not yet overdue or (b) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of 30 days) are being contested in good faith by appropriate proceedings, so long as (1) such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts, and (2) in the case of a Lien with respect to any portion of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral on account of such Lien;

(iii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(iv) any attachment or judgment Lien not constituting an Event of Default under subsection 8.8;

(v) leases or subleases granted to third parties in the ordinary course of business and not interfering in any material respect with the ordinary conduct of the business of Holdings or any of its Subsidiaries or resulting in a material diminution in the value of any Collateral as security for the Obligations;

(vi) easements, rights-of-way, restrictions, encroachments, and other defects or irregularities in title, in each case which do not and will not interfere in any material respect with the ordinary conduct of the business of Holdings or any of its Subsidiaries or result in a material diminution in the value of any Collateral as security for the Obligations;

(vii) any (a) interest or title of a lessor or sublessor under any lease not prohibited hereby, (b) restriction or encumbrance that the interest or title of such lessor or sublessor may be subject to, or (c) subordination of the interest of the lessee or sublessee under such lease to any restriction or encumbrance referred to in the preceding clause (b);

(viii) Liens arising from filing UCC financing statements relating solely to leases not prohibited by this Agreement;

(ix) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(x) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;

(xi) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of Holdings and its Subsidiaries;

(xii) licenses of patents, trademarks and other intellectual property rights granted by Holdings or any of its Subsidiaries in the ordinary course of business and not interfering in any material respect with the ordinary conduct of the business of Holdings or such Subsidiary;

(xiii) Liens existing on the Closing Date and described in the Closing Date Mortgage Policies;

(xiv) Liens in existence on the Restatement Effective Date which are listed, and the property subject thereto described, in Schedule 1.1(iii), plus renewals and extensions of such Liens, provided that (x) the aggregate principal amount of the Indebtedness, if any, secured by such Liens does not increase from that amount outstanding at the time of any such renewal or extension and (y) any such renewal or extension does not encumber any additional assets or properties of Holdings or any of its Subsidiaries;

(xv) Liens on property or assets acquired pursuant to a Permitted Acquisition, or on property or assets of a Subsidiary of Borrower in existence at the time such Subsidiary is acquired pursuant to a Permitted Acquisition, provided that (i) any Indebtedness that is secured by such Liens is permitted to exist under subsection 7.1 and (ii) such Liens are not incurred in connection with, or in contemplation or anticipation of, such Permitted Acquisition and do not attach to any other asset of Holdings or any of its Subsidiaries;

(xvi) Liens solely on cash earnest money deposits made in connection with any letter of intent or purchase agreement; and

(xvii) such Liens affecting title to any Real Property Asset found reasonable by Administrative Agent.

"Permitted Group" means any group of investors if deemed to be a "person" (as such term is used in Section 13(d)(3) of the Exchange Act) by virtue of the Stockholders Agreement, as the same may be amended, modified or supplemented from time to time, provided that (i) Bain is party to the Stockholders Agreement, (ii) the persons party to the Stockholders Agreement as so amended, supplemented or modified from time to time that were not parties, and are not Affiliates of persons who were parties, to the Stockholders Agreement on December 21, 1998, together with their respective Affiliates (collectively, the "New Investors") are not the direct or indirect Beneficial Owners (determined without reference to the Stockholders Agreement) of more than 50% of the voting interest in Holdings' equity Securities owned by all parties to the Stockholders Agreement as so amended, supplemented or modified and (iii) the New Investors, individually or in the aggregate, do not, directly or indirectly, have the right, pursuant to the Stockholders Agreement (as so amended, supplemented or modified) or otherwise to designate more than one-half of the directors of the Board of Directors of Holdings or any direct or indirect parent entity of Holdings, provided that on and after a Qualified IPO, independent directors required to be appointed to the Board of Directors of Holdings pursuant to any securities laws or stock exchange rules shall not be included when determining whether New Investors have the right to designate more than one-half of the Board of Directors of Holdings.

"Permitted Seller Note" means a promissory note containing subordination provisions in substantially the form of, or no less favorable to Lenders (in the reasonable judgment of Administrative Agent) than the subordination provisions contained in, Exhibit X annexed hereto (subject, in any given case, to any such modifications thereto as shall be agreed to by Administrative Agent in its sole and absolute discretion and as shall not materially and adversely affect the interests of Lenders), representing any Indebtedness of Borrower incurred in connection with any Permitted Acquisition payable to the seller in connection therewith, as such note may be amended, supplemented or otherwise modified from time to time to the extent permitted under subsection 7.14B; provided that no Permitted Seller Note shall (i) be guaranteed by Holdings or any Subsidiary of Holdings or secured by any property of Holdings or any of its Subsidiaries, (ii) bear cash interest at a rate greater than 15% per annum or (iii) provide for any prepayment or repayment of all or any portion of the principal thereof prior to the date which is six months after the date of the final scheduled installment of principal of any of the Loans, except to the extent any such prepayment or repayment is made expressly subject to the payment restrictions set forth in subsection 7.5(ix).

"Person" means and includes natural persons, corporations, limited partnerships general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments (whether federal, state or local, domestic or foreign, and including political subdivisions thereof) and agencies or other administrative or regulatory bodies thereof.

"Pledge Agreement" means the Amended and Restated Pledge Agreement executed and delivered by Holdings and its Domestic Subsidiaries (other than the Excluded Special Purpose Subsidiary) and Collateral Agent on the Restatement Effective Date, substantially in the form of Exhibit XI annexed hereto, as such Pledge Agreement may thereafter be further amended, restated, supplemented and/or otherwise modified from time to time as permitted thereunder and hereunder.

"Pledge Agreement Collateral" means the "Collateral" as defined in the Pledge Agreement.

"Potential Event of Default" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"Preferred Stock" as applied to the capital stock of any Person, means capital stock of such Person (other than common stock of such Person) of any class or classes (however designed) that ranks prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of capital stock of any other class of such Person, and shall include, on and after the issuance thereof in accordance with the requirements hereof, Qualified Preferred Stock.

"Preferred Stock Redemption" means the redemption by Holdings, on the Restatement Effective Date, of outstanding Preferred Stock of Holdings (including, without limitation, all Cumulative Preferred Stock (as defined in the Original Credit Agreement) outstanding on the Restatement Effective Date) with an aggregate redemption payment of approximately \$200,600,000.

"Pricing Certificate" has the meaning assigned to that term in the definition of Applicable Leverage Ratio.

"Pricing Period" has the meaning assigned to that term in the definition of Applicable Leverage Ratio.

"Pro Forma Financial Statements" has the meaning assigned to that term in Section 4.1K.

"Pro Rata Share" means (i) with respect to all payments, computations and other matters relating to the Term Loan Commitment or the Term Loan of any Lender, the percentage obtained by dividing (x) the Term Loan Exposure of that Lender by (y) the aggregate Term Loan Exposure of all Lenders, (ii) with respect to all payments, computations and other matters relating to the Revolving Loan Commitment or the Revolving Loans of any Lender or any Letters of Credit issued or participations therein purchased by any Lender or any participations in any Swing Line Loans purchased by any Lender, the percentage obtained by dividing (x) the Revolving Loan Exposure of that Lender by (y) the aggregate Revolving Loan Exposure of all Lenders, and (iii) for all other purposes with respect to each Lender, the percentage obtained by dividing (x) the sum of the Term Loan Exposure of that Lender plus the Revolving Loan Exposure of that Lender by (y) the aggregate Term Loan Exposure of all Lenders plus the aggregate Revolving Loan Exposure of all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to subsection 10.1. The initial Pro Rata Share of each Lender for purposes of each of clauses (i), (ii) and (iii) of the preceding sentence is set forth opposite the name of that Lender in Schedule 2.1 annexed hereto.

"Proceedings" has the meaning assigned to that term in subsection 6.1(ix).

"Projections" has the meaning assigned that term in Section 4.1L.

"Proposed Asset Sale Reinvestment Proceeds" has the meaning assigned to that term in subsection 2.4B(iii)(a).

"Proposed Insurance Reinvestment Proceeds" has the meaning assigned to that term in subsection 6.4C(ii).

"PTO" means the United States Patent and Trademark Office or any successor or substitute office in which filings are necessary in order to create or perfect Liens on any IP Collateral.

"Qualified IPO" means a bona fide underwritten sale to the public of Holdings Common Stock pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of Holdings or any of its Subsidiaries, as the case may be) that is declared effective by the SEC and such offering results in gross cash proceeds (exclusive of underwriter's discounts and commissions and other expenses) of at least \$150,000,000.

"Qualified Preferred Stock" means any Preferred Stock of Holdings, so long as (i) the express terms that are applicable thereto shall provide that dividends thereon (other than dividends payable in Holdings Common Stock or Qualified Preferred Stock) shall not be required to be paid at any time (and to the extent) that such payment would be prohibited by the terms of this Agreement or any other agreement of Holdings relating to outstanding Indebtedness and (ii) such Preferred Stock, by the terms applicable thereto (including the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event, cannot mature and is not mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable, or required to be repurchased, at the sole option of the holder thereof (including, without limitation, upon the occurrence of any Potential Event of Default or Event of Default under subsection 8.11), in whole or in part, on or prior to the date occurring June 30, 2011; provided that any Preferred Stock that would not constitute Qualified Preferred Stock as provided above solely because the holders thereof have the right to require Holdings to repurchase such Preferred Stock upon the occurrence of a "change of control" or an "asset sale" shall constitute Qualified Preferred Stock if the terms applicable thereto provide that Holdings may not repurchase or redeem any such Preferred Stock pursuant to the documentation governing same unless such repurchase or redemption complies with the requirements of subsection 7.5.

"Quarterly Payment Date" means the last Business Day of each March, June, September and December.

"Real Property Asset" means, at any time of determination, any interest then owned by any U.S. Loan Party in any real property.

"Recapitalization Agreement" has the meaning assigned to that term in the 1998 Credit Agreement.

"Recapitalization Transaction" has the meaning assigned to that term in the 1998 Credit Agreement.

"Recorded Leasehold Interest" means a Leasehold Property with respect to which a Record Document (as hereinafter defined) has been recorded in all places necessary or desirable, in Administrative Agent's reasonable judgment, to give constructive notice of such Leasehold Property to third-party purchasers and encumbrances of the affected real property. For purposes of this definition, the term "Record Document" means, with respect to any Leasehold Property, (a) the lease evidencing such Leasehold Property or a memorandum thereof, executed and acknowledged by the owner of the affected real property, as lessor, or (b) if such Leasehold Property was acquired or subleased from the holder of a Recorded Leasehold Interest, the applicable assignment or sublease documents, executed and acknowledged by such holder, in each case in form sufficient to give such constructive notice upon recordation and otherwise in form reasonably satisfactory to Administrative Agent.

"Reference Lenders" means JPMorgan Chase Bank and any two other financial institutions which actively take part in the London interbank market, as selected by Administrative Agent in its discretion from time to time.

"Refinancing" means (x) the repayment in full of all Indebtedness outstanding under the Original Credit Agreement (other than Tranche B Term Loans continued as Term Loans pursuant to subsection 2.1A(i) and Original Revolving Loans continued as Revolving Loans pursuant to subsection 2.1A(ii)), (y) the termination of any commitments to lend or make any extensions of credit under the Original Credit Agreement (other than Original Revolving Loan Commitments converted into Revolving Loan Commitments pursuant to subsection 2.1A(ii) and Existing Letters of Credit outstanding thereunder incorporated hereunder as Letters of Credit pursuant to subsection 3.1D) and (z) the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation Consummation.

"Refinancing Documents" means the documents and instruments entered into in connection with the Refinancing.

"Refunded Swing Line Loans" has the meaning assigned to that term in subsection 2.1A(iii).

"Register" has the meaning assigned to that term in subsection 2.1D.

"Regulation D" means Regulation D (or any successor regulation) of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

"Regulation T" means Regulation T (or any successor regulation) of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

"Regulation U" means Regulation U (or any successor regulation) of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

"Regulation X" means Regulation X (or any successor regulation) of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.

"Reimbursement Date" has the meaning assigned to that term in subsection 3.3B.

"Related Agreements" means, collectively, the Stockholders Agreement, the Seller Contingent Note, the Senior Subordinated Note Indentures, the Senior Subordinated Notes, the Refinancing Documents and, on and after the execution and delivery thereof, the agreements and instruments governing the Permitted Additional Subordinated Indebtedness.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), including the migration of any Hazardous Materials through the air, soil, surface water or groundwater.

"Replacement Lender" has the meaning assigned to that term in subsection 2.10B(ii).

"Requisite Lenders" means Lenders having or holding more than 50% of the sum of (i) the aggregate Term Loan Exposure of all Lenders and (ii) the aggregate Revolving Loan Exposure of all Lenders.

"Responsible Officer" means any of the chairman of the board (if an officer), the president, any senior or executive vice president, the general counsel, its principal financial officer or principal accounting officer, the secretary or the treasurer of Holdings or, as applicable, any Subsidiary of Holdings.

"Restatement Effective Date" has the meaning assigned to that term in subsection 10.20B.

"Restricted Junior Payment" means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock or other equity Securities of any Loan Party now or hereafter outstanding, except, in the case of Holdings, a dividend payable solely in shares of that class of stock (or Holdings Common Stock or Qualified Preferred Stock of any other class) to the holders of that class, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock or other equity Securities of any Loan Party now or hereafter outstanding, (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock or other equity Securities of any Loan Party now or hereafter outstanding, (iv) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance, sinking fund or similar payment

with respect to, any Subordinated Indebtedness and (v) any payment by Holdings or any of its Subsidiaries of the Bain Management Fees to Bain pursuant to the Bain Advisory Services Agreement, it being understood and agreed that in no event shall the accumulation of dividends be deemed to be a "Restricted Junior Payment".

"Revolving Loan Commitment" means the commitment of a Lender to make Revolving Loans to Borrower pursuant to subsection 2.1A(ii), to purchase participations in Swing Line Loans pursuant to subsection 2.1A(iii) and to issue and/or participate in Letters of Credit pursuant to Section 3, and "Revolving Loan Commitments" means such commitments of all Lenders in the aggregate, as same may be reduced as provided in subsection 2.4B(ii).

"Revolving Loan Commitment Termination Date" means the earlier of (i) June 25, 2009 and (ii) the date of termination in whole of the Revolving Loan Commitments pursuant to subsection 2.4B or Section 8.

"Revolving Loan Exposure" means, with respect to any Lender as of any date of determination (i) prior to the termination of the Revolving Loan Commitments, that Lender's Revolving Loan Commitment and (ii) after the termination of the Revolving Loan Commitments, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender plus (b) in the event that Lender is an Issuing Lender, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (in each case net of any participations purchased by other Lenders in such Letters of Credit or any unreimbursed drawings thereunder) plus (c) the aggregate amount of all participations purchased by that Lender in any outstanding Letters of Credit or any unreimbursed drawings under any Letters of Credit plus (d) in the case of Swing Line Lender, the aggregate outstanding principal amount of all Swing Line Loans (net of any participations therein purchased by other Lenders) plus (e) the aggregate amount of all participations purchased by that Lender in any outstanding Swing Line Loans.

"Revolving Loans" means the Loans made by Lenders to Borrower pursuant to subsection 2.1A(ii).

"Revolving Notes" means any promissory notes of Borrower issued pursuant to subsection 2.1E to evidence the Revolving Loans of any Lenders, substantially in the form of Exhibit I annexed hereto, as they may be amended, supplemented or otherwise modified from time to time.

"Secured Creditor" has the meaning assigned to that term in the respective Collateral Documents.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Security Agreement" means the Amended and Restated Security Agreement executed and delivered by Holdings and its Domestic Subsidiaries (other than the Excluded Special Purpose Subsidiary) and Collateral Agent on the Restatement Effective Date, substantially in the form of Exhibit XII annexed hereto, as such Security Agreement may thereafter be further amended, restated, supplemented and/or otherwise modified from time to time as permitted thereunder and hereunder.

"Seller Contingent Note" means, collectively, the Promissory Notes, each dated as of December 21, 1998, issued by Holdings to Thomas S. Monaghan and Marjorie Monaghan, as such notes may be amended from time to time thereafter to the extent permitted under subsection 7.14A.

"Senior Leverage Ratio" means, at any time of determination, the ratio of (i) Consolidated Senior Debt as of the last day of the Test Period then most recently ended to (ii) Consolidated Adjusted EBITDA for the Test Period then most recently ended, in each case as set forth in the most recent Compliance Certificate delivered by Holdings to Administrative Agent pursuant to clause (iii) of subsection 6.1; provided that for purposes of subsection 7.1(xii), subsections 7.5(viii) and (xi) and subsection 7.7(xvi)(c), Consolidated Senior Debt shall be determined in accordance with the relevant requirements of said subsections and shall be as set forth in the Officer's Certificate delivered pursuant to said subsections. For purposes of determining the Senior Leverage Ratio in this Agreement, Consolidated Adjusted EBITDA shall be determined on a pro forma basis in accordance with the provisions of subsection 7.6D.

"Senior Subordinated Note Indentures" means, collectively, the Existing Senior Subordinated Note Indenture (on and after the Restatement Effective Date, as amended by the Existing Senior Subordinated Note Indenture Amendment) and the New Senior Subordinated Note Indenture.

"Senior Subordinated Notes" means, collectively, (x) the Existing Senior Subordinated Notes outstanding after the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation Consummation and (y) the New Senior Subordinated Notes.

"Shareholder Subordinated Note" means an unsecured junior subordinated note issued by Holdings (and not guaranteed or supported in any way by any of its Subsidiaries) containing subordination provisions substantially in the form of, or no less favorable to Lenders (in the reasonable judgment of Administrative Agent) than the subordination provisions contained in Exhibit X annexed hereto, as such note may be amended, supplemented or otherwise modified from time to time to the extent permitted under subsection 7.14B, provided, that no Shareholder Subordinated Note shall have a maturity date prior to the date which is one year after the date of the final scheduled installment of principal of any of the Loans.

"Shareholder Subordinated PIK Note" means an unsecured junior subordinated pay-in-kind note issued by Holdings (and not guaranteed or supported in any way by any of its Subsidiaries) providing that all interest shall be payable solely in kind and containing subordina-

tion provisions substantially in the form of, or no less favorable to Lenders (in the reasonable judgment of Administrative Agent) than the subordination provisions contained in Exhibit X annexed hereto, as such note may be amended, supplemented or otherwise modified from time to time to the extent permitted under subsection 7.14B, provided, that no Shareholder Subordinated PIK Note shall have a maturity date prior to the date which is one year after the date of the final scheduled installment of principal of any of the Term Loans.

"Solvent" means, with respect to any Person, that as of the date of determination (A) the aggregate value of such Person's assets, at fair value and present fair saleable value, exceeds (i) its total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) and (ii) the amount required to pay such liabilities as they become absolute and matured in the normal course of business; (B) such Person has the ability to pay its debts and liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) as they become absolute and matured in the normal course of business; (C) such Person does not have an unreasonably small amount of capital with which to conduct its business; and (D) such Person does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due. 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.

"Standby Letter of Credit" means any standby letter of credit or similar instrument issued for the purpose of supporting (i) Indebtedness of Holdings or any of its Subsidiaries in respect of industrial revenue or development bonds or financings, (ii) workers' compensation liabilities of Holdings or any of its Subsidiaries, (iii) the obligations of third party insurers of Holdings or any of its Subsidiaries arising by virtue of the laws of any jurisdiction requiring third party insurers, (iv) obligations with respect to Capital Leases or Operating Leases of Holdings or any of its Subsidiaries, (v) performance, payment, deposit or surety obligations of Holdings or any of its Subsidiaries, in any case if required by law or governmental rule or regulation or in accordance with custom and practice in the industry, (vi) any other general insurance obligations of Holdings or any of its Subsidiaries, and (vii) such other obligations of Holdings and its Subsidiaries as are reasonably acceptable to Administrative Agent and Issuing Lender and otherwise permitted to exist pursuant to the terms of this Agreement; provided that Standby Letters of Credit may not be issued for the purpose of supporting (a) trade payables or (b) any Indebtedness constituting "antecedent debt" (as that term is used in Section 547 of the Bankruptcy Code).

"Stockholders Agreement" means that certain Stockholders Agreement, dated as of December 21, 1998, by and among Holdings, Bain, the Other Investors and the Existing Shareholders, as amended, supplemented or otherwise modified from time to time thereafter to the extent permitted under subsection 7.14A.

"Subordinated Indebtedness" means (i) the Indebtedness of Borrower evidenced by the Senior Subordinated Notes, (ii) Indebtedness of Holdings evidenced by any Shareholder Subordinated Note or Shareholder Subordinated PIK Note, (iii) Indebtedness of Borrower evidenced by any Permitted Seller Notes, (iv) Permitted Additional Subordinated Indebtedness and (v) any other Indebtedness of Holdings, Borrower or any of their respective Subsidiaries

subordinated in right of payment to the Obligations pursuant to documentation containing maturities, amortization schedules, covenants, defaults, remedies, subordination provisions and other material terms in form and substance reasonably satisfactory to Administrative Agent and Requisite Lenders.

"Subsidiaries Guaranty" means the Amended and Restated Guaranty executed and delivered by the Domestic Subsidiaries of Holdings (other than Borrower and the Excluded Special Purpose Subsidiary) and Domino's Canada on the Restatement Effective Date, substantially in the form of Exhibit XIII annexed hereto, as such Subsidiaries Guaranty may thereafter be further amended, restated, supplemented and/or otherwise modified from time to time as permitted thereunder and hereunder.

"Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof.

"Subsidiary Guarantors" means any Subsidiary of Holdings (other than Borrower and the Excluded Special Purpose Subsidiary) that executes a counterpart of the Subsidiaries Guaranty on the Restatement Effective Date or from time to time thereafter pursuant to the terms of this Agreement.

"Supplemental Collateral Agent" has the meaning assigned to that term in subsection 9.1B.

"Swing Line Lender" means JPMorgan Chase Bank, or any Person serving as a successor Administrative Agent hereunder, in its capacity as Swing Line Lender hereunder.

"Swing Line Loan Commitment" means the commitment of Swing Line Lender to make Swing Line Loans to Borrower pursuant to subsection 2.1A(iii).

"Swing Line Loans" means the Loans made by Swing Line Lender to Borrower pursuant to subsection 2.1A(iii).

"Swing Line Note" means any promissory note of Borrower issued pursuant to subsection 2.1E to evidence the Swing Line Loans of Swing Line Lender, substantially in the form of Exhibit II annexed hereto, as it may be amended, supplemented or otherwise modified from time to time.

"Syndication Agent" has the meaning assigned to that term in the first paragraph of this Agreement.

"Tax" or "Taxes" means any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever

and wherever imposed, levied, collected, withheld or assessed (including any foreign withholding tax and the Michigan Single Business Tax); provided that "Tax on the overall net income" of a Person shall be construed as a reference to a tax imposed by the jurisdiction in which that Person is organized or in which that Person's principal office (and/or, in the case of a Lender, its lending office) is located or in which that Person (and/or, in the case of a Lender, its lending office) is deemed to be doing business (unless such Person would be treated as doing business in such jurisdiction solely as a result of entering into the transactions contemplated by the Loan Documents) on all or part of the net income, profits or gains (whether worldwide, or only insofar as such income, profits or gains are considered to arise in or to relate to a particular jurisdiction, or otherwise) of that Person including a franchise tax imposed in lieu of a net income tax (and/or, in the case of a Lender, its lending office).

"Term Loan" means a Loan made (or continued) by a Lender to Borrower as a term loan pursuant to subsection 2.1A(i), and "Term Loans" means any such Loan or Loans, collectively.

"Term Loan Commitment" means the commitment of a Lender to make Term Loans to Borrower pursuant to subsection 2.1A(i), and "Term Loan Commitments" means such commitments of all Lenders in the aggregate.

"Term Loan Exposure" means, with respect to any Lender as of any date of determination (i) prior to the funding of the Term Loans, that Lender's Term Loan Commitment and (ii) after the funding of the Term Loans, the outstanding principal amount of the Term Loans of that Lender.

"Term Notes" means any promissory notes of Borrower issued pursuant to subsection 2.1E to evidence the Term Loans of any Lenders, substantially in the form of Exhibit III annexed hereto, as they may be amended, supplemented or otherwise modified from time to time.

"Terminated Lender" has the meaning assigned to that term in subsection 2.10A(iii).

"Test Period" means each period of four consecutive Accounting Quarters then last ended, in each case taken as one accounting period. Notwithstanding anything to the contrary contained above or in subsection 1.2 or otherwise required by GAAP, in the case of any Test Period ending prior to the first anniversary of the Restatement Effective Date, such period shall be a one-year period ending on the last day of the Accounting Quarter last ended, with any calculations of Consolidated Interest Expense required in determining compliance with subsection 7.6A to be made on a pro forma basis in accordance with, and to the extent provided in, the immediately succeeding sentence. To the extent the respective Test Period (i) includes the fourth Accounting Quarter of the Fiscal Year ended closest to December 31, 2002, Consolidated Interest Expense for such Accounting Quarter shall be deemed to be \$21,164,000, (ii) includes the first Accounting Quarter of the Fiscal Year ended closest to December 31, 2003, Consolidated Interest Expense for such Accounting Quarter shall be deemed to be \$15,249,000 and (iii) includes the second Accounting Quarter for the Fiscal Year ended closest to December 31, 2003, Consolidated Interest Expense shall be determined by (x) taking actual Consolidated

Interest Expense determined in accordance with the definition thereof for any period beginning on, and ending after, the Restatement Effective Date and (y) for each day of such Accounting Quarter occurring prior to the Restatement Effective Date, using a per-day Consolidated Interest Expense of \$176,000; provided that any additional pro forma adjustments required pursuant to subsection 7.6D for occurrences after the Restatement Effective Date shall also be made.

"Title Company" means, collectively, Commonwealth Land Title Insurance Company and/or one or more other title insurance companies reasonably satisfactory to JPMSI and Administrative Agent.

"Total Utilization of Revolving Loan Commitments" means, as at any date of determination, the sum of (i) the aggregate principal amount of all outstanding Revolving Loans (other than Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing the applicable Issuing Lender for any amount drawn under any Letter of Credit but not yet so applied) plus (ii) the aggregate principal amount of all outstanding Swing Line Loans plus (iii) the Letter of Credit Usage.

"Tranche B Term Loan" means each "Tranche B Term Loan" under, and as defined in, the Original Credit Agreement.

"Transaction" means, collectively, the consummation of the Refinancing, Common Stock Dividend, the Preferred Stock Redemption and the New Senior Subordinated Notes Issuance, the amendment and restatement of the Original Credit Agreement in the form of this Agreement as provided herein and the incurrence and/or continuance of Loans hereunder on the Restatement Effective Date and the payment of related fees and expenses.

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"U.S. Loan Party" means each Credit Agreement Party and each U.S. Subsidiary Guarantor, and "U.S. Loan Parties" means all such Persons, collectively.

"U.S. Subsidiary Guarantors" means any Domestic Subsidiary (other than Borrower and the Excluded Special Purpose Subsidiary) that executes a counterpart of the Subsidiaries Guaranty on the Restatement Effective Date or from time to time thereafter pursuant to the terms of this Agreement.

"Voting Stock" means, as to any Person, any equity Securities of such Person entitled (without regard to the occurrence of any contingency) to vote for the election of members of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (i) the then outstanding principal amount of such Indebtedness into (ii) the product obtained by multiplying (x) the amount of each then remaining installment or other required scheduled payments of principal, including payment at final maturity, in respect thereof, by (y) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

"WRC" means the office building, located at 30 Frank Lloyd Wright Drive, Ann Arbor, MI 48106, which serves as the world headquarters of Holdings and Borrower and related facilities (including distribution facilities).

1.2 Accounting Terms; Utilization of GAAP for Purposes of Calculations Under Agreement.

Except as otherwise expressly provided in this Agreement, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by Holdings to Lenders pursuant to clauses (i), (ii) and (xii) of subsection 6.1 shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in subsection 6.1(iv)). Calculations in connection with the definitions, covenants and other provisions of this Agreement shall utilize accounting principles and policies in conformity with those used to prepare the financial statements referred to in subsection 5.3. Notwithstanding the foregoing, except as otherwise specifically provided herein, all computations determining compliance with subsection 2.4 and Section 7, including the definitions used therein, shall utilize accounting principles and policies in effect at the time of the preparation of, and in conformity with those used to prepare, the December 29, 2002 financial statements of Holdings and its Subsidiaries delivered to the Lenders, without giving effect to purchase accounting adjustments required or permitted by FAS 141 and its interpretations (including non-cash write ups and non-cash charges relating to inventory, fixed assets and in process research and development, in each case arising in connection with any Permitted Acquisitions and non-cash charges relating to intangibles and goodwill arising in connection with any Permitted Acquisitions).

1.3 Other Definitional Provisions and Rules of Construction.

A. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference.

B. References to "Sections" and "subsections" shall be to Sections and subsections, respectively, of this Agreement unless otherwise specifically provided.

C. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

D. Each reference to an "Accounting Quarter period" of a specified number of Accounting Quarters shall be a reference to a period of consecutive Accounting Quarters of such number.

1.4 Changes in GAAP.

In the event that a change in GAAP or other accounting principles and policies after December 29, 2002 affects in any material respect the calculations of the compliance by Holdings and its Subsidiaries with the covenants contained herein, Lenders and Credit Agreement Parties agree to negotiate in good faith to amend the affected covenants (and related definitions) to compensate for the effect of such changes so that the restrictions, limitations and performance standards effectively imposed by such covenants, as so amended, are substantially identical to the restrictions, limitations and performance standards imposed by such covenants as in effect on the date hereof; provided that until Requisite Lenders and Credit Agreement Parties reach agreement with respect to such amendment, calculation of compliance by Holdings and its Subsidiaries with the covenants contained herein shall be determined in accordance with GAAP as in effect immediately prior to such change.

SECTION 2. AMOUNTS AND TERMS OF COMMITMENTS AND LOANS

2.1 Commitments: Making of Loans; Register; Notes.

A. Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Credit Agreement Parties herein set forth, each Lender hereby severally agrees to make the Loans described in subsections 2.1A(i) and 2.1A(ii) and Swing Line Lender hereby agrees to make the Loans described in subsection 2.1A(iii).

(i) Term Loans. Each Original Term Loan Lender severally agrees that, on the Restatement Effective Date, the Tranche B Term Loans previously made by such Original Term Loan Lender to the Borrower pursuant to (and as defined in) the Original Credit Agreement and outstanding on the Restatement Effective Date (immediately prior to giving effect thereto) shall be continued as Term Loans to Borrower hereunder. Each Lender with a Term Loan Commitment severally agrees to lend to Borrower on the Restatement Effective Date an amount not exceeding in the aggregate an amount equal to (x) the amount of such Lender's Pro Rata Share of the aggregate amount of the Term Loan Commitments to be used for the purposes identified in subsection 2.5A minus (y) the aggregate outstanding principal amount of the Tranche B Term Loans, if any, made by such Lender and outstanding on the Restatement Effective Date (immediately prior to giving effect thereto) as set forth on Schedule 2.1. The amount of each Lender's Term Loan Commitment and outstanding Tranche B Term Loans (if any) is set forth opposite its name on Schedule 2.1 annexed hereto. Neither the Term Loan Commitments of the Lenders nor the aggregate principal amount of (x) all Tranche B Term Loans converted into Term Loans and (y) the aggregate principal amount of Term Loans made on the Restatement Effective Date, in each case pursuant to this subsection 2.1(A)(i), shall exceed \$610,000,000. The Term Loan Commitments of Lenders shall be adjusted to give effect to any assignments of the Term Loan Commitments pursuant to subsection 10.1B. Each Lender's Term Loan Commitment shall expire immediately and without further action on July 31, 2003 if the Term Loans are not made (and/or continued) on or before that date and the Original Credit Agreement shall continue in effect unless the

Restatement Effective Date has occurred on or before such date. Borrower may make only one borrowing on or after the Restatement Effective Date under the Term Loan Commitments. The proceeds of each Term Loan shall be made available to Borrower as directed by it (with the proceeds to be used by Borrower as it may determine), it being understood and agreed that Borrower shall be obligated with respect to each Term Loan for the repayment thereof and all amounts owing with respect thereto. Amounts borrowed under this subsection 2.1A(i) or amounts borrowed as Tranche B Term Loans under the Original Credit Agreement and continued as Term Loans pursuant to this subsection 2.1(A)(i) and subsequently repaid or prepaid may not be reborrowed.

(ii) Revolving Loans. On the Restatement Effective Date, each Original Revolving Loan Commitment (as in effect on the Restatement Effective Date immediately prior to giving effect thereto) of each Original Revolving Lender under the Original Credit Agreement is hereby continued as a Revolving Loan Commitment hereunder of such Original Revolving Lender. Each Lender with a Revolving Loan Commitment severally agrees, subject to the limitations set forth below with respect to the maximum amount of Revolving Loans permitted to be outstanding from time to time, (x) that, on the Restatement Effective Date, each Original Revolving Loan made by such Lender to Borrower pursuant to the Original Credit Agreement and outstanding on the Restatement Effective Date shall be continued as a Revolving Loan to Borrower and (y) to lend to Borrower from time to time during the period from the Restatement Effective Date to but excluding the Revolving Loan Commitment Termination Date an aggregate amount not exceeding its Pro Rata Share of the aggregate amount of the Revolving Loan Commitments to be used for the purposes identified in subsection 2.5B. The original amount of (x) each Lender's Revolving Loan Commitment and (y) the aggregate principal amount of the Original Revolving Loans of each Original Revolving Lender continued as Revolving Loans as provided pursuant to this subsection 2.1A(ii) and outstanding on the Restatement Effective Date, is set forth opposite such Lender's name on Schedule 2.1 annexed hereto. The aggregate original amount of the Revolving Loan Commitments is \$125,000,000; provided that the Revolving Loan Commitments of Lenders shall be adjusted to give effect to any assignments of the Revolving Loan Commitments pursuant to subsection 10.1B; and provided further, that the amount of the Revolving Loan Commitments shall be reduced from time to time by the amount of any reductions thereto made pursuant to subsections 2.4B(ii) and 2.4B(iii). Each Lender's Revolving Loan Commitment shall expire on the Revolving Loan Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Loan Commitments shall be paid in full no later than that date; provided that each Lender's Revolving Loan Commitment shall expire immediately and without further action on July 31, 2003 if the Term Loans are not made (and/or continued) on or before that date. Amounts borrowed under this subsection 2.1A(ii) may be repaid and reborrowed to but excluding the Revolving Loan Commitment Termination Date; provided that, for the purposes of this sentence, each Original Revolving Loan continued as a Revolving Loan pursuant to this 2.1(A)(ii) shall be deemed borrowed under this Agreement as of the Restatement Effective Date (after giving effect to such conversion). The proceeds of each Revolving Loan (other than each Original Revolving Loan continued as a Revolving Loan pursuant to this 2.1(A)(ii) as of the Restatement Effective Date) shall be made available to Borrower as directed by it

(with the proceeds to be used by Borrower as it may determine), it being understood and agreed that Borrower shall be obligated with respect to each Revolving Loan for the repayment thereof and all amounts owing with respect thereto.

Anything contained in this Agreement to the contrary notwithstanding, in no event shall the Total Utilization of Revolving Loan Commitments at any time exceed the Revolving Loan Commitments then in effect.

(iii) Swing Line Loans. Swing Line Lender hereby agrees, subject to the limitations set forth below with respect to the maximum amount of Swing Line Loans permitted to be outstanding from time to time, to make a portion of the Revolving Loan Commitments available to Borrower from time to time during the period from the Restatement Effective Date to but excluding the Revolving Loan Commitment Termination Date by making Swing Line Loans to Borrower in an aggregate amount not exceeding the amount of the Swing Line Loan Commitment to be used for the purposes identified in subsection 2.5C, notwithstanding the fact that such Swing Line Loans, when aggregated with Swing Line Lender's outstanding Revolving Loans and Swing Line Lender's Pro Rata Share of the Letter of Credit Usage then in effect, may exceed Swing Line Lender's Revolving Loan Commitment. The original amount of the Swing Line Loan Commitment is \$30,000,000; provided that any reduction of the Revolving Loan Commitments made pursuant to subsection 2.4B(ii) or 2.4B(iii) which reduces the aggregate Revolving Loan Commitments to an amount less than the then current amount of the Swing Line Loan Commitment shall result in an automatic corresponding reduction of the Swing Line Loan Commitment to the amount of the Revolving Loan Commitments, as so reduced, without any further action on the part of Borrower, Administrative Agent or Swing Line Lender. The Swing Line Loan Commitment shall expire on the Revolving Loan Commitment Termination Date and all Swing Line Loans and all other amounts owed hereunder with respect to the Swing Line Loans shall be paid in full no later than that date; provided that the Swing Line Loan Commitment shall expire immediately and without further action on July 31, 2003 if the Term Loans are not made (and/or continued) on or before that date. Amounts borrowed under this subsection 2.1A(iii) may be repaid and reborrowed to but excluding the Revolving Loan Commitment Termination Date. The proceeds of each Swing Line Loan shall be made available to Borrower as directed by it (with the proceeds to be used by Borrower as it may determine), it being understood and agreed that Borrower shall be obligated with respect to each Swing Line Loan for the repayment thereof and all amounts owing with respect thereto.

Anything contained in this Agreement to the contrary notwithstanding, in no event shall the Total Utilization of Revolving Loan Commitments at any time exceed the Revolving Loan Commitments then in effect.

With respect to any Swing Line Loans which have not been voluntarily prepaid by Borrower pursuant to subsection 2.4B(i), Swing Line Lender may, at any time in its sole and absolute discretion, deliver to Administrative Agent (with a copy to Borrower), no later than 11:00 A.M. (New York City time) on the first Business Day in advance of the proposed Funding Date, a notice (which shall be deemed to be a Notice of Borrowing given by Borrower)

requesting Lenders with a Revolving Loan Commitment to make Revolving Loans that are Base Rate Loans on such Funding Date in an amount equal to the amount of such Swing Line Loans (the "Refunded Swing Line Loans") outstanding on the date such notice is given which Swing Line Lender requests such Lenders to prepay. Anything contained in this Agreement to the contrary notwithstanding, (i) the proceeds of such Revolving Loans made by such Lenders other than Swing Line Lender shall be immediately delivered by Administrative Agent to Swing Line Lender (and not to Borrower) and applied to repay a corresponding portion of the Refunded Swing Line Loans and (ii) on the day such Revolving Loans are made, Swing Line Lender's Pro Rata Share of the Refunded Swing Line Loans shall be deemed to be paid with the proceeds of a Revolving Loan made by Swing Line Lender, and such portion of the Swing Line Loans deemed to be so paid shall no longer be outstanding as Swing Line Loans and shall no longer be due under the Swing Line Note, if any, of Swing Line Lender but shall instead constitute part of Swing Line Lender's outstanding Revolving Loans and shall be due under the Revolving Note, if any, of Swing Line Lender. Borrower hereby authorizes Administrative Agent and Swing Line Lender to charge Borrower's accounts with Administrative Agent and Swing Line Lender (up to the amount available in each such account) in order to immediately pay Swing Line Lender the amount of the Refunded Swing Line Loans to the extent the proceeds of such Revolving Loans made by Lenders, including the Revolving Loan deemed to be made by Swing Line Lender, are not sufficient to repay in full the Refunded Swing Line Loans. If any portion of any such amount paid (or deemed to be paid) to Swing Line Lender should be recovered by or on behalf of Borrower from Swing Line Lender in bankruptcy, by assignment for the benefit of creditors or otherwise, the loss of the amount so recovered shall be ratably shared among all Lenders in the manner contemplated by subsection 10.5.

If for any reason (a) Revolving Loans are not made upon the request of Swing Line Lender as provided in the immediately preceding paragraph in an amount sufficient to repay any amounts owed to Swing Line Lender in respect of any outstanding Swing Line Loans or (b) the Revolving Loan Commitments are terminated at a time when any Swing Line Loans are outstanding, each Lender with a Revolving Loan Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding Swing Line Loans in an amount equal to its Pro Rata Share (calculated, in the case of the foregoing clause (b), immediately prior to such termination of the Revolving Loan Commitments) of the unpaid amount of such Swing Line Loans, together with accrued interest thereon. Upon one Business Day's notice from Swing Line Lender, each Lender with a Revolving Loan Commitment shall deliver to Swing Line Lender an amount equal to its respective participation in same day funds at the Funding and Payment Office. In order to further evidence such participation (and without prejudice to the effectiveness of the participation provisions set forth above), each such Lender agrees to enter into a separate participation agreement at the request of Swing Line Lender in form and substance reasonably satisfactory to Swing Line Lender. In the event any Lender fails to make available to Swing Line Lender the amount of such Lender's participation as provided in this paragraph, Swing Line Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon at the rate customarily used by Swing Line Lender for the correction of errors among banks for three Business Days and thereafter at the Base Rate. In the event Swing Line Lender receives a payment of any amount in which other Lenders have purchased participations as provided in this paragraph, Swing Line Lender shall promptly distribute to each such other Lender its Pro Rata Share of such payment.

Anything contained herein to the contrary notwithstanding, the obligation of each Lender with a Revolving Loan Commitment to make Revolving Loans for the purpose of repaying any Refunded Swing Line Loans pursuant to the second preceding paragraph and the obligation of each Lender with a Revolving Loan Commitment to purchase a participation in any unpaid Swing Line Loans pursuant to the immediately preceding paragraph shall be absolute and unconditional and shall not be affected by any circumstance, including (a) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against Swing Line Lender, Borrower or any other Person for any reason whatsoever; (b) the occurrence or continuation of an Event of Default or a Potential Event of Default; (c) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of Holdings or any of its Subsidiaries; (d) any breach of this Agreement or any other Loan Document by any party thereto; or (e) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing; provided that such obligations of each such Lender are subject to the condition that (X) Swing Line Lender has not received a written notice from Administrative Agent or any Lender that has not been rescinded that there is a Potential Event of Default or an Event of Default in existence hereunder prior to the time such Refunded Swing Line Loan or Unpaid Swing Line Loans were made or (Y) the satisfaction of any such condition not satisfied had been waived in accordance with subsection 10.6 prior to or at the time such Refunded Swing Line Loans or other unpaid Swing Line Loans were made.

B. Borrowing Mechanics. Term Loans or Revolving Loans made on any Funding Date (other than Revolving Loans made pursuant to a request by Swing Line Lender pursuant to subsection 2.1A(iii) for the purpose of repaying any Refunded Swing Line Loans or Revolving Loans made pursuant to subsection 3.3B for the purpose of reimbursing any Issuing Lender for the amount of a drawing under a Letter of Credit issued by it) shall be in an aggregate minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount; provided that Term Loans or Revolving Loans made on any Funding Date as Eurodollar Rate Loans with a particular Interest Period shall be in an aggregate minimum amount of \$1,000,000, and integral multiples of \$100,000 in excess of that amount. Swing Line Loans made on any Funding Date shall be in an aggregate minimum amount of \$100,000 and integral multiples of \$100,000 in excess of that amount. Whenever Borrower desires that Lenders make Term Loans or Revolving Loans they shall deliver to Administrative Agent a Notice of Borrowing no later than 12:00 Noon (New York City time) at least three Business Days in advance of the proposed Funding Date (in the case of a Eurodollar Rate Loan) or at least one Business Day in advance of the proposed Funding Date (in the case of a Base Rate Loan). Whenever Borrower desires that Swing Line Lender make a Swing Line Loan, it shall deliver to Administrative Agent a Notice of Borrowing no later than 12:00 Noon (New York City time) on the proposed Funding Date. The Notice of Borrowing shall specify (i) the proposed Funding Date (which shall be a Business Day), (ii) the amount and type of Loans requested, (iii) in the case of Swing Line Loans, that such Loans shall be Base Rate Loans, (iv) in the case of Term Loans and Revolving Loans, whether such Loans shall be Base Rate Loans or Eurodollar Rate Loans, and (v) in the case of any Loans requested to be made as Eurodollar Rate Loans, the initial Interest Period requested therefor. Term Loans and Revolving Loans may be continued as or converted into Base Rate Loans and Eurodollar Rate Loans in the manner provided in subsection 2.2D. In lieu of delivering the above-described Notice of Borrowing, Borrower may give Administrative Agent telephonic notice by the required time of any proposed borrowing under this subsection 2.1B;

provided that such notice shall be promptly confirmed in writing by delivery of a Notice of Borrowing to Administrative Agent on or before the applicable Funding Date.

Neither Administrative Agent nor any Lender shall incur any liability to Borrower in acting upon any telephonic notice referred to above that Administrative Agent believes in good faith to have been given by a duly authorized officer or other Person authorized to borrow on behalf of Borrower or for otherwise acting in good faith under this subsection 2.1B, and upon funding of Loans by Lenders in accordance with this Agreement pursuant to any such telephonic notice Borrower shall have effected Loans hereunder.

Borrower shall notify Administrative Agent prior to the funding of any Loans in the event that any of the matters to which Borrower is required to certify in the applicable Notice of Borrowing is no longer true and correct as of the applicable Funding Date, and the acceptance by Borrower of the proceeds of any Loans shall constitute a re-certification by Borrower, as of the applicable Funding Date, as to the matters to which Borrower is required to certify in the applicable Notice of Borrowing.

Except as otherwise provided in subsections 2.6B, 2.6C and 2.6G, a Notice of Borrowing for a Eurodollar Rate Loan (or telephonic notice in lieu thereof) shall be irrevocable on and after the related Interest Rate Determination Date, and Borrower shall be bound to make a borrowing in accordance therewith.

C. Disbursement of Funds. Term Loans and Revolving Loans under this Agreement shall be made by Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that no Lender shall be responsible for any default by any other Lender in that other Lender's obligation to make a Loan requested hereunder nor shall the Commitment of any Lender to make the particular type of Loan requested be increased or decreased as a result of a default by any other Lender in that other Lender's obligation to make a Loan requested hereunder. Promptly after receipt by Administrative Agent of a Notice of Borrowing pursuant to subsection 2.1B (or telephonic notice in lieu thereof), Administrative Agent shall notify each Lender or Swing Line Lender, as the case may be, of the proposed borrowing. Each Lender shall make the amount of its Loan available to Administrative Agent not later than 1:00 P.M. (New York City time) on the applicable Funding Date, and Swing Line Lender shall make the amount of its Swing Line Loan available to Administrative Agent not later than 2:00 P.M. (New York City time) on the applicable Funding Date, in each case in same day funds in Dollars, at the Funding and Payment Office. Except as provided in subsection 2.1A(iii) or subsection 3.3B with respect to Revolving Loans used to repay Refunded Swing Line Loans or to reimburse any Issuing Lender for the amount of a drawing under a Letter of Credit issued by it, upon satisfaction or waiver of the conditions precedent specified in subsections 4.1 (in the case of Loans made on the Restatement Effective Date) and 4.2 (in the case of all Loans), Administrative Agent shall make the proceeds of such Loans available to Borrower on the applicable Funding Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by Administrative Agent from Lenders or Swing Line Lender, as the case may be, to be credited to the account(s) of Borrower at the Funding and Payment Office.

Unless Administrative Agent shall have been notified by any Lender prior to the Funding Date for any Loans that such Lender does not intend to make available to Administrative Agent the amount of such Lender's Loan requested on such Funding Date, Administrative Agent may assume that such Lender has made such amount available to Administrative Agent on such Funding Date and Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to Borrower a corresponding amount on such Funding Date. If such corresponding amount is not in fact made available to Administrative Agent by such Lender, Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from such Funding Date until the date such amount is paid to Administrative Agent, at the customary rate set by Administrative Agent for the correction of errors among banks for three Business Days and thereafter at the Base Rate. If such Lender does not pay such corresponding amount forthwith upon Administrative Agent's demand therefor, Administrative Agent shall promptly notify Borrower and Borrower agrees to pay immediately such corresponding amount to Administrative Agent together with interest thereon, for each day from such Funding Date until the date such amount is paid to Administrative Agent, at the rate of interest then applicable to the Loan for which Administrative Agent has demanded payment. Nothing in this subsection 2.1C shall be deemed to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Borrower may have against any Lender as a result of any default by such Lender hereunder.

D. The Register.

(i) Administrative Agent (acting on behalf of Borrower) shall maintain, at its address referred to in subsection 10.8, a register for the recordation of the names and addresses of Lenders and the Commitments and Loans of each Lender from time to time (the "Register"). The Register shall be available for inspection by Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(ii) Administrative Agent shall record in the Register the Term Loan Commitment and Revolving Loan Commitment and Term Loans and Revolving Loans from time to time of each Lender, the Swing Line Loan Commitment and the Swing Line Loans from time to time of Swing Line Lender, and each repayment or prepayment in respect of the principal amount of the Term Loans or Revolving Loans of each Lender or the Swing Line Loans of Swing Line Lender. Any such recordation shall be conclusive and binding, on Borrower and each Lender, absent manifest error; provided that failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments or Borrower's Obligations in respect of any applicable Loans.

(iii) Each Lender shall record on its internal records (including the Notes held by such Lender) the amount of any Term Loan and Revolving Loan made (and/or continued) by it and each payment in respect thereof. Any such recordation shall be conclusive and binding on Borrower, absent manifest error; provided that failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitments or Borrower's Obligations in respect of any applicable Loans; and provided further, that in the event of any inconsistency between the Register and any

Lender's records, the recordations in the Register shall govern and be conclusive and binding on such Lender, absent manifest error.

(iv) Borrower, Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments and Loans listed therein for all purposes hereof, and no assignment or transfer of any such Commitment or Loan shall be effective, in each case unless and until an Assignment Agreement effecting the assignment or transfer thereof shall have been accepted by Administrative Agent and recorded in the Register as provided in subsection 10.1B(ii). Prior to such recordation, all amounts owed with respect to the applicable Commitment or Loan shall be owed to the Lender listed in the Register as the owner thereof, and any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans.

(v) Borrower hereby designates JPMorgan Chase Bank to serve as Borrower's agent solely for purposes of maintaining the Register as provided in this subsection 2.1D, and Borrower hereby agrees that, to the extent JPMorgan Chase Bank serves in such capacity, JPMorgan Chase Bank and its officers, directors, employees, agents and affiliates shall constitute Indemnitees for all purposes under subsection 10.3.

E. Optional Notes. If so requested by any Lender by written notice to Borrower (with a copy to Administrative Agent) at least two Business Days prior to the Restatement Effective Date or at any time thereafter, Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to subsection 10.1) on the Restatement Effective Date (or, if such notice is delivered after the Restatement Effective Date, promptly after Borrower's receipt of such notice) a promissory note or promissory notes to evidence such Lender's Term Loan, Revolving Loans or Swing Line Loans, substantially in the form of Exhibit III, Exhibit I or Exhibit II annexed hereto, respectively, with appropriate insertions.

2.2 Interest on the Loans.

A. Rate of Interest. Subject to the provisions of subsections 2.6 and 2.7, each Term Loan and Revolving Loan shall bear interest on the unpaid principal amount thereof from the date made through maturity (whether by acceleration or otherwise) at a rate determined by reference to the Base Rate or the Adjusted Eurodollar Rate. Subject to the provisions of subsection 2.7, each Swing Line Loan shall bear interest on the unpaid principal amount thereof from the date made through maturity (whether by acceleration or otherwise) at a rate determined by reference to the Base Rate. The applicable basis for determining the rate of interest with respect to any Term Loan or any Revolving Loan shall be selected by Borrower initially at the time a Notice of Borrowing is given with respect to such Loan pursuant to subsection 2.1B. The basis for determining the interest rate with respect to any Term Loan or any Revolving Loan may be changed from time to time pursuant to subsection 2.2D. If on any day a Term Loan or Revolving Loan is outstanding with respect to which notice has not been delivered to Administrative Agent in accordance with the terms of this Agreement specifying the applicable

basis for determining the rate of interest, then for that day that Loan shall bear interest determined by reference to the Base Rate.

(i) Subject to the provisions of subsections 2.2E and 2.7, the Term Loans and Revolving Loans shall bear interest through maturity as follows:

(a) if a Base Rate Loan, then at the sum of the Base Rate plus the Applicable Base Rate Margin; or

(b) if a Eurodollar Rate Loan, then at the sum of the Adjusted Eurodollar Rate plus the Applicable Eurodollar Rate Margin.

(ii) Subject to the provisions of subsections 2.2E and 2.7, the Swing Line Loans shall bear interest through maturity at the sum of the Base Rate plus the Applicable Base Rate Margin for Revolving Loans.

B. Interest Periods. In connection with each Eurodollar Rate Loan, Borrower may, pursuant to the applicable Notice of Borrowing or Notice of Conversion/Continuation, as the case may be, select an interest period (each, an "Interest Period") to be applicable to such Loan, which Interest Period shall be, at Borrower's option, either a one, two, three or six-month period or (x) in the case of any Revolving Loans to be made or maintained as a Eurodollar Rate Loan, if deposits in the interbank Eurodollar market are generally available for such period (as determined by each Lender making, converting to or continuing such Eurodollar Rate Loan), a two-week period, (y) in the case of any Revolving Loans to be made or maintained as a Eurodollar Rate Loan, if agreed to by each Lender making, converting to or continuing such Eurodollar Rate Loan, a nine-month or twelve-month period or (z) in the case of any Term Loan to be made or maintained as a Eurodollar Rate Loan, if agreed to by each Lender making, converting to or continuing such Eurodollar Rate Loan, a two-week, nine-month or twelve-month period; provided that:

(i) the initial Interest Period for any Eurodollar Rate Loan shall commence on the Funding Date in respect of such Loan, in the case of a Loan initially made as a Eurodollar Rate Loan, or on the date specified in the applicable Notice of Conversion/Continuation, in the case of a Loan converted to a Eurodollar Rate Loan;

(ii) in the case of immediately successive Interest Periods applicable to a Eurodollar Rate Loan continued as such pursuant to a Notice of Conversion/Continuation, each successive Interest Period shall commence on the day on which the next preceding Interest Period expires;

(iii) if an 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 would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(iv) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar

month at the end of such Interest Period) shall, subject to clause (v) of this subsection 2.2B, end on the last Business Day of a calendar month;

(v) no Interest Period with respect to any portion of the Term Loans shall extend beyond June 25, 2010 and no Interest Period with respect to any portion of the Revolving Loans shall extend beyond the Revolving Loan Commitment Termination Date;

(vi) no Interest Period with respect to any borrowing of Term Loans shall extend beyond a date on which a mandatory repayment of such Term Loans is required to be made under subsection 2.4A unless the sum of (a) the aggregate principal amount of such Term Loans that are Base Rate Loans plus (b) the aggregate principal amount of such Term Loans that are Eurodollar Rate Loans with Interest Periods expiring on or before such date equals or exceeds the principal amount of such mandatory repayment of Term Loans required to be paid on such date;

(vii) Borrower shall not select an Interest Period of longer than one month prior to the end of the Initial Period;

(viii) there shall be no more than twenty (20) Interest Periods outstanding at any time; and

(ix) in the event Borrower fails to specify an Interest Period for any Eurodollar Rate Loan in the applicable Notice of Borrowing or Notice of Conversion/Continuation, Borrower shall be deemed to have selected an Interest Period of one month.

C. Interest Payments. Subject to the provisions of subsection 2.2E, interest on each Loan shall be payable in arrears on and to each Interest Payment Date applicable to that Loan, upon any prepayment of that Loan (to the extent accrued on the amount being prepaid) and at maturity (including final maturity); provided that in the event any Swing Line Loans or any Revolving Loans that are Base Rate Loans are prepaid pursuant to subsection 2.4B(i), interest accrued on such Swing Line Loans or Revolving Loans through the date of such prepayment shall be payable on the next succeeding Interest Payment Date applicable to Base Rate Loans (or, if earlier, at final maturity).

D. Conversion or Continuation. Subject to the provisions of subsection 2.6, Borrower shall have the option (i) to convert at any time all or any part of its outstanding Term Loans or Revolving Loans equal to \$500,000 and integral multiples of \$100,000 in excess of that amount from Loans bearing interest at a rate determined by reference to one basis to Loans bearing interest at a rate determined by reference to an alternative basis or (ii) upon the expiration of any Interest Period applicable to a Eurodollar Rate Loan, to continue all or any portion of such Loan equal to \$1,000,000 and integral multiples of \$100,000 in excess of that amount as a Eurodollar Rate Loan; provided, however, that a Eurodollar Rate Loan may only be converted into a Base Rate Loan on the expiration date of an Interest Period applicable thereto; and provided further, however, that Loans may not be continued as or converted to Eurodollar Rate Loans with an Interest Period longer than one month prior to the end of the Initial Period.

Borrower shall deliver a Notice of Conversion/Continuation at any time after the Restatement Effective Date to Administrative Agent no later than 12:00 Noon (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan) and at least three Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan). A Notice of Conversion/Continuation shall specify (i) the proposed conversion/continuation date (which shall be a Business Day), (ii) the amount and type of the Loan to be converted/continued, (iii) the nature of the proposed conversion/continuation, (iv) in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan, the requested Interest Period, and (v) unless the Requisite Lenders otherwise agree, in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan, that no Potential Event of Default or Event of Default has occurred and is continuing. In lieu of delivering the above-described Notice of Conversion/Continuation, Borrower may give Administrative Agent telephonic notice by the required time of any proposed conversion/continuation under this subsection 2.2D; provided that such notice shall be promptly confirmed in writing by delivery of a Notice of Conversion/Continuation to Administrative Agent on or before the proposed conversion/continuation date. Upon receipt of written or telephonic notice of any proposed conversion/continuation under this subsection 2.2D, Administrative Agent shall promptly transmit such notice by telefacsimile or telephone to each Lender.

Neither Administrative Agent nor any Lender shall incur any liability to Borrower in acting upon any telephonic notice referred to above that Administrative Agent believes in good faith to have been given by a duly authorized officer or other Person authorized to act on behalf of Borrower or for otherwise acting in good faith under this subsection 2.2D, and upon conversion or continuation of the applicable basis for determining the interest rate with respect to any Loans in accordance with this Agreement pursuant to any such telephonic notice Borrower shall have effected a conversion or continuation, as the case may be, hereunder.

Except as otherwise provided in subsections 2.6B, 2.6C and 2.6G, a Notice of Conversion/Continuation for conversion to, or continuation of, a Eurodollar Rate Loan (or telephonic notice in lieu thereof) shall be irrevocable on and after the related Interest Rate Determination Date, and Borrower shall be bound to effect a conversion or continuation in accordance therewith.

E. Post-Maturity Interest. Any principal payments on the Loans not paid when due and, to the extent permitted by applicable law, any interest payments on the Loans or any fees or other amounts owed hereunder not paid when due, in each case whether at stated maturity, by notice of prepayment, by acceleration or otherwise, shall, if Requisite Lenders so elect in writing, thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate which is 2% per annum in excess of the interest rate otherwise payable at maturity under this Agreement with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement for Base Rate Loans); provided that, in the case of Eurodollar Rate Loans, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective, such Eurodollar Rate Loans shall thereupon become Base Rate Loans and shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable

under this Agreement for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this subsection 2.2E is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent or any Lender.

F. Computation of Interest. Interest on the Loans shall be computed (i) in the case of Base Rate Loans where interest is calculated by reference to the rate of interest announced publicly by JPMorgan Chase Bank in New York, New York, from time to time, as JPMorgan Chase Bank's base rate, on the basis of a 365-day or 366-day year, as the case may be, and (ii) in the case of all other Loans, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted from a Eurodollar Rate Loan, the date of conversion of such Eurodollar Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a Eurodollar Rate Loan, the date of conversion of such Base Rate Loan to such Eurodollar Rate Loan, as the case may be, shall be excluded; provided that if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

2.3 Fees.

A. Commitment Fees. Borrower agrees to pay to Administrative Agent, for distribution to each Lender in proportion to that Lender's Pro Rata Share, commitment fees for the period from and including the Restatement Effective Date to and excluding the Revolving Loan Commitment Termination Date equal to the average of the daily excess of the Revolving Loan Commitments over the sum of (i) the aggregate principal amount of outstanding Revolving Loans (but not any outstanding Swing Line Loans) plus (ii) the Letter of Credit Usage multiplied by the Applicable Commitment Fee Percentage then in effect, such commitment fees to be calculated on the basis of a 360-day year and the actual number of days elapsed and to be payable quarterly in arrears on each Quarterly Payment Date, commencing on the first such date to occur after the Restatement Effective Date, and on the Revolving Loan Commitment Termination Date.

B. Other Fees. Borrower agrees to pay to JPMSI and Administrative Agent such fees in the amounts and at the times separately agreed upon between Holdings, Borrower, JPMSI and Administrative Agent.

2.4 Repayments, Prepayments and Reductions in Revolving Loan Commitments; General Provisions Regarding Payments; Application of Proceeds of Collateral and Payments Under Guaranties.

A. Scheduled Payments of Term Loans. Borrower shall make principal payments on the Term Loans in installments on the dates and in the amounts set forth below:

DATE	SCHEDULED REPAYMENT OF TERM LOANS
September 30, 2003	\$ 5,000,000
December 31, 2003	\$ 5,000,000
March 31, 2004	\$ 7,500,000
June 30, 2004	\$ 7,500,000
September 30, 2004	\$ 7,500,000
December 31, 2004	\$ 7,500,000
March 31, 2005	\$ 11,250,000
June 30, 2005	\$ 11,250,000
September 30, 2005	\$ 11,250,000
December 31, 2005	\$ 11,250,000
March 31, 2006	\$ 15,000,000
June 30, 2006	\$ 15,000,000
September 30, 2006	\$ 15,000,000
December 31, 2006	\$ 15,000,000
March 31, 2007	\$ 18,750,000
June 30, 2007	\$ 18,750,000
September 30, 2007	\$ 18,750,000
December 31, 2007	\$ 18,750,000
March 31, 2008	\$ 21,250,000
June 30, 2008	\$ 21,250,000
September 30, 2008	\$ 21,250,000
December 31, 2008	\$ 21,250,000
March 31, 2009	\$ 23,750,000
June 30, 2009	\$ 23,750,000
September 30, 2009	\$ 23,750,000
December 31, 2009	\$ 23,750,000
March 31, 2010	\$ 80,000,000
June 25, 2010	\$ 130,000,000

; provided that the scheduled installments of principal of the Term Loans set forth above shall be reduced in connection with any voluntary or mandatory prepayments of the Term Loans in accordance with subsection 2.4B(iv); and provided, further, that the Term Loans and all other amounts owed hereunder with respect to the Term Loans shall be paid in full no later than June 25, 2010 and the final installment payable by Borrower in respect of the Term Loans on such date shall be in an amount, if such amount is different from that specified above, sufficient to repay all amounts owing by Borrower under this Agreement with respect to the Term Loans.

B. Prepayments and Reductions in Revolving Loan Commitments.

(i) Voluntary Prepayments. Borrower may, upon written or telephonic notice to Administrative Agent on or prior to 12:00 Noon (New York City time) on the date of prepayment, which notice, if telephonic, shall be promptly confirmed in writing, at any time and from time to time prepay any Swing Line Loan on any Business Day in whole or in part in an aggregate minimum amount of \$100,000 and integral multiples of \$100,000 in excess of that amount. Borrower may, upon written or telephonic notice on the date of prepayment, in the case of Base Rate Loans, and three Business Days' prior written or telephonic notice, in the case of Eurodollar Rate Loans, in each case given to Administrative Agent by 12:00 Noon (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to Administrative Agent (which original written or telephonic notice to Administrative Agent will promptly transmit by telefacsimile or telephone to each Lender), at any time and from time to time prepay any Term Loans or Revolving Loans on any Business Day in whole or in part in an aggregate minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount. Notice of prepayment having been given as aforesaid, the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in subsection 2.4B(iv).

(ii) Voluntary Reductions of Revolving Loan Commitments. Borrower may, upon not less than three Business Days' prior written or telephonic notice confirmed in writing to Administrative Agent (which original written or telephonic notice Administrative Agent will promptly transmit by telefacsimile or telephone to each Lender), at any time and from time to time terminate in whole or permanently reduce in part, without premium or penalty, the Revolving Loan Commitments in an amount up to the amount by which the Revolving Loan Commitments exceed the Total Utilization of Revolving Loan Commitments at the time of such proposed termination or reduction; provided that any such partial reduction of the Revolving Loan Commitments shall be in an aggregate minimum amount of \$2,500,000 and integral multiples of \$1,000,000 in excess of that amount. Borrower's notice to Administrative Agent shall designate the date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the Revolving Loan Commitments shall be effective on the date specified in Borrower's notice and shall reduce the Revolving Loan Commitment of each Lender proportionately to its Pro Rata Share.

(iii) Mandatory Prepayments and Mandatory Reductions of Revolving Loan Commitments. The Loans shall be prepaid and/or the Revolving Loan Commitments shall be permanently reduced in the amounts and under the circumstances set forth below, all such prepayments and/or reductions to be applied as set forth below or as more specifically provided in subsection 2.4B(iv).

(a) Prepayments and Reductions From Net Asset Sale Proceeds. No later than the fifth Business Day following the date of receipt by Holdings or any of its Subsidiaries of any Net Asset Sale Proceeds in respect of any Asset Sale, Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to such Net Asset Sale Proceeds; provided, however, that upon receipt by Holdings or any of its Subsidiaries of any such Net Asset Sales Proceeds, so long as no Event of Default shall have occurred and be continuing, and to the extent that the aggregate amount of Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds from the Restatement Effective Date through the date of determination does not exceed \$75,000,000, Borrower may deliver to Administrative Agent an Officers' Certificate setting forth (1) that portion of such Net Asset Sale Proceeds (such portion being the "Proposed Asset Sale Reinvestment Proceeds") that Borrower or any of its Subsidiaries (x) intends to reinvest (or enter into a contract to reinvest) in equipment or other productive assets of the general type used in the business (including capital stock of a corporation engaged in such business) of Borrower and its Subsidiaries (such equipment and other assets being "Eligible Assets") within 360 days of such date of receipt or (y) in anticipation of such Asset Sale has already reinvested in Eligible Assets within the 90-day period prior to such date of receipt and (2) the proposed use or actual use of such Proposed Asset Sale Reinvestment Proceeds and such other information with respect to such reinvestment as Administrative Agent may reasonably request, and, unless already so applied, Borrower shall, or shall cause one or more of its Subsidiaries to, promptly apply such Proposed Asset Sale Reinvestment Proceeds to such reinvestment purposes; provided, however, that at Borrower's option and pending any such application, such Proposed Asset Sale Reinvestment Proceeds may be applied to prepay outstanding Revolving Loans (without a reduction in Revolving Loan Commitments) to the full extent thereof. In addition, Borrower shall, no later than 360 days after receipt of such Proposed Asset Sale Reinvestment Proceeds that have not theretofore been applied to the Obligations, make an additional prepayment of the Loans (and/or the Revolving Loan Commitments shall be reduced) in the full amount of all such Proposed Asset Sale Reinvestment Proceeds that have not theretofore been so reinvested in Eligible Assets. Notwithstanding the foregoing provisions of this subsection 2.4B(iii)(a), so long as no Event of Default shall have occurred and be continuing, no mandatory prepayment of Loans or mandatory reduction of Revolving Loan Commitments shall be required pursuant to this subsection 2.4B(iii)(a) until each date on which the sum of the Net Asset Sale Proceeds plus Net Insurance/Condemnation Proceeds received during the period commencing on the later of (x) the Restatement Effective Date and (y) the immediately preceding date on which a mandatory repayment or commitment reduction was made pursuant to this subsection 2.4B(iii)(a) or subsection 2.4B(iii)(b) as a result of the receipt of Net Asset Sale Proceeds and/or Net Insurance/Condemnation Proceeds not reinvested as provided above or pursuant to subsection 6.4C, as applicable, and ending on the date of determination (the "Net Asset Sale/Net Insurance Proceeds Payment Period"), equals or exceeds \$7,500,000 (on which date such sum, and not just the portion thereof in excess of \$7,500,000, shall be so applied as otherwise required above in the absence of this sentence). If Borrower is required to apply any portion of Net Asset Sale Proceeds to prepay Indebtedness evidenced by the New Senior Subordinated Notes (under the terms of the New Senior Subordinated Note Indenture) or Permitted Additional Subordinated Indebtedness (under the terms of the indenture governing the same), then notwithstanding anything contained in this Agreement to the contrary, Borrower shall apply such Net Asset Sale Proceeds to the prepayment of Term Loans, if any, then to the prepayment of Revolving Loans

and/or the reduction of Revolving Loan Commitments, in each case so as to eliminate or minimize any obligation to prepay any such Indebtedness evidenced by the New Senior Subordinated Notes and/or Permitted Additional Subordinated Indebtedness, as the case may be.

(b) Prepayments and Reductions from Net Insurance/Condemnation Proceeds. No later than the fifth Business Day following the date of receipt by Administrative Agent or by Holdings or any of its Subsidiaries of any Net Insurance/Condemnation Proceeds that are required to be applied to prepay the Loans and/or reduce the Revolving Loan Commitments pursuant to the provisions of subsection 6.4C, Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to the amount of such Net Insurance/Condemnation Proceeds minus (if (1) no Event of Default shall have occurred and be continuing and (2) Holdings shall have delivered to Administrative Agent, on or before such fifth Business Day, the Officers' Certificate described in subsection 6.4C(ii)), any Proposed Insurance Reinvestment Proceeds; provided, however, that at Borrower's option and pending such application, such Proposed Insurance Reinvestment Proceeds may be applied to prepay outstanding Revolving Loans (without a reduction in Revolving Loan Commitments) to the full extent thereof. In addition, no later than 360 days after receipt of any Proposed Insurance Reinvestment Proceeds, Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an amount equal to the amount of any such Proposed Insurance Reinvestment Proceeds that have not theretofore been applied to the costs of repairing, restoring or replacing the applicable assets of Holdings or its Subsidiaries or reinvested in Eligible Assets. Notwithstanding the foregoing provisions of this subsection 2.4B(iii)(b), so long as no Event of Default shall have occurred and be continuing, no mandatory prepayment of Loans or mandatory reduction of Revolving Loan Commitments shall be required pursuant to this subsection 2.4B(iii)(b) until each date on which the sum of the Net Asset Sale Proceeds plus Net Insurance/Condemnation Proceeds received during the Net Asset Sale/Net Insurance Proceeds Period not reinvested pursuant to subsection 2.4B(iii)(a) or 6.4C, as applicable, equals or exceeds \$7,500,000 (on which date such sum, and not just the portion thereof in excess of \$7,500,000, shall be so applied as otherwise required above in the absence of this sentence).

(c) Prepayments and Reductions Due to Issuance of Debt. On the date of receipt by Holdings or any of its Subsidiaries of the Cash proceeds of any Indebtedness, including debt Securities of Holdings or any of its Subsidiaries (other than the Loans and any other Indebtedness permitted under subsection 7.1) (such proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, being the "Net Indebtedness Proceeds"), Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to such Net Indebtedness Proceeds; provided, however, that payment or acceptance of the amounts provided for in this subsection 2.4B(iii)(c) shall not constitute a waiver of any Event of Default resulting from the incurrence of such Indebtedness or otherwise prejudice any rights or remedies of Agents or Lenders.

(d) Prepayments and Reductions from Adjusted Consolidated Excess Cash Flow. In the event that there shall be Adjusted Consolidated Excess Cash Flow for any Fiscal Year (commencing with Fiscal Year 2003), Borrower shall, no later than 90 days after the end of such Fiscal Year, prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to 75% (or, (x) if the Leverage Ratio is less than 3.50

to 1.0 but greater than or equal to 2.75 to 1.0 on the last day of any such Fiscal Year as set forth in the Compliance Certificate delivered pursuant to subsection 6.1(iii) in respect of such Fiscal Year, 50% and (y) if the Leverage Ratio is less than 2.75 to 1.0 on the last day of any such Fiscal Year as set forth in the Compliance Certificate delivered pursuant to subsection 6.1(iii) in respect of such Fiscal Year, 25%) of such Adjusted Consolidated Excess Cash Flow.

(e) Prepayments and Reductions Due to Issuance of Equity. (I) On the date of receipt by Holdings or any of its Subsidiaries of any proceeds constituting (x) Net Common Equity Proceeds, (y) Net Qualified Preferred Stock Proceeds or (z) Net Capital Contribution Proceeds to Holdings by any Person (other than any proceeds described in preceding clauses (x), (y) and (z) received from Subsidiaries of Holdings or employees, holders of equity interests (prior to the receipt of such proceeds) (and their affiliates), Franchisees and Franchisee Affiliates), Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an amount equal to 50% of the aggregate amount of such proceeds described in preceding clauses (x), (y) and (z); provided that any Net Common Equity Proceeds, Net Qualified Preferred Stock Proceeds and/or Net Capital Contribution Proceeds received from the issuance of common equity Securities of Holdings or Qualified Preferred Stock, or capital contributions to Holdings, as the case may be, the gross proceeds of which do not exceed \$50,000,000 in the aggregate after the Restatement Effective Date, shall be excluded from the Net Common Equity Proceeds, Net Qualified Preferred Stock Proceeds and/or Net Capital Contribution Proceeds for the purposes of preceding clauses (x), (y) and (z) respectively, so long as (A) such excluded Net Common Equity Proceeds, Net Qualified Preferred Stock Proceeds and/or Net Capital Contribution Proceeds are applied to fund a Permitted Acquisition and (B) the amount of consolidated EBITDA (calculated in a manner consistent with Consolidated Adjusted EBITDA and with pro forma adjustments determined in accordance with Article 11 of Rule S-X under the Securities Act) of the target of such Permitted Acquisition minus the consolidated capital expenditures (calculated in a manner consistent with Consolidated Capital Expenditures) for ongoing maintenance purposes of such target, in each case for the twelve months immediately preceding such Permitted Acquisition, is greater than zero.

(II) On the date of receipt by Holdings or any of its Subsidiaries of any proceeds constituting (x) Net Disqualified Preferred Stock Proceeds, (y) Net Subsidiary Equity Proceeds or (z) Net Capital Contribution Proceeds to any Subsidiary of Holdings by any Person (other than by Holdings or any Subsidiary of Holdings), Borrower shall prepay the Loans and/or the Revolving Loan Commitments shall be permanently reduced in an aggregate amount equal to such proceeds described in preceding clauses (x), (y) and (z).

(f) Calculations of Net Proceeds Amounts; Additional Prepayments and Reductions Based on Subsequent Calculations. Concurrently with any prepayment of the Loans and/or reduction of the Revolving Loan Commitments pursuant to subsections 2.4B(iii)(a)-(e), Borrower shall deliver to Administrative Agent an Officers' Certificate demonstrating the calculation of the amount (the "Net Proceeds Amount") of the applicable Net Asset Sale Proceeds, Net Insurance/Condemnation Proceeds, Net Indebtedness Proceeds, Adjusted Consolidated Excess Cash Flow, Net Common Equity Proceeds, Net Qualified Preferred Stock Proceeds, Net Capital Contribution Proceeds to Holdings or any of its Subsidiaries by any Person (and a reasonable description of such capital contribution), Net Disqualified Preferred Stock Proceeds or the applicable Net Subsidiary Equity Proceeds, as the case may be, that gave rise to such

prepayment and/or reduction; provided, further, that if the Borrower shall not apply any Net Common Equity Proceeds, Net Qualified Preferred Stock Proceeds and/or Net Capital Contributions Proceeds received from the issuance of common equity Securities of Holdings or Qualified Preferred Stock or such capital contributions in reliance on the proviso in Section 2.4B(e)(I), the aforementioned Officers' Certificate shall demonstrate the calculation of the consolidated EBITDA (calculated in a manner consistent with Consolidated Adjusted EBITDA and with pro forma adjustments determined in accordance with Article 11 of Rule S-X under the Securities Act) of the target of the applicable Permitted Acquisition minus the consolidated capital expenditures (calculated in a manner consistent with Consolidated Capital Expenditures) for ongoing maintenance purposes of such target, in each case for the twelve months immediately preceding such Permitted Acquisition. In the event that Borrower shall subsequently determine that the actual Net Proceeds Amount was greater than the amount set forth in such Officers' Certificate, Borrower shall promptly make an additional prepayment of the Loans (and/or, if applicable, the Revolving Loan Commitments shall be permanently reduced) in an amount equal to the amount of such excess, and Borrower shall concurrently therewith deliver to Administrative Agent an Officers' Certificate demonstrating the derivation of the additional Net Proceeds Amount resulting in such excess.

(g) Prepayments Due to Reductions or Restrictions of Revolving Loan Commitments. Borrower shall from time to time prepay, first, the Swing Line Loans and, second, the Revolving Loans to the extent necessary so that the Total Utilization of Revolving Loan Commitments shall not at any time exceed the Revolving Loan Commitments then in effect.

(h) Prepayments Due to Change in Control. Notwithstanding anything to the contrary contained elsewhere in this Agreement, unless the Requisite Lenders shall otherwise consent, upon the occurrence of an Event of Default under Section 8.11 (x) the Revolving Loan Commitments shall terminate in their entirety, (y) the Swing Line Commitment shall terminate in its entirety and (z) all outstanding Loans shall be prepaid in full.

(iv) Application of Prepayments.

(a) Application of Voluntary Prepayments by Type of Loans and Order of Maturity. Any voluntary prepayments pursuant to subsection 2.4B(i) shall be applied as specified by Borrower in the applicable notice of prepayment; provided that in the event Borrower fails to specify the Loans to which any such prepayment shall be applied, such prepayment shall be applied first to repay outstanding Swing Line Loans to the full extent thereof, second to repay outstanding Revolving Loans to the full extent thereof, and third to repay outstanding Term Loans to the full extent thereof. Any voluntary prepayments of the Term Loans pursuant to subsection 2.4B(i) shall be applied to reduce the scheduled installments of principal of such Term Loans set forth in subsection 2.4A on a pro rata basis, provided that, such prepayments shall be applied (x) first, in direct order of maturity to scheduled amortization payments of the Term Loans which will be due and payable during the 12 months immediately succeeding the date of the respective prepayment and (y) second, to the extent in excess of the scheduled amortization payments due and payable during such period, as otherwise provided above without regard to this proviso.

(b) Application of Mandatory Prepayments by Type of Loans. Any amount (the "Applied Amount") required to be applied as a mandatory prepayment of the Loans and/or a reduction of the Revolving Loan Commitments pursuant to subsections 2.4B(iii)(a)-(e) shall be applied first, to prepay the Term Loans to the full extent thereof, second, to the extent of any remaining portion of the Applied Amount, to prepay the Swing Line Loans to the full extent thereof and to permanently reduce the Revolving Loan Commitments by the amount of such prepayment, third, to the extent of any remaining portion of the Applied Amount, to prepay the Revolving Loans to the full extent thereof and to further permanently reduce the Revolving Loan Commitments by the amount of such prepayment, and fourth, to the extent of any remaining portion of the Applied Amount, to further permanently reduce the Revolving Loan Commitments to the full extent thereof. Any mandatory prepayments of the Term Loans pursuant to subsection 2.4B(iii) shall be applied on a pro rata basis to each scheduled installment of principal of the Term Loans as set forth in subsection 2.4A that is unpaid at the time of such prepayment; provided that, in respect of subsections 2.4B(iii)(d) and 2.4(B)(iii)(e)(I) such prepayments shall be applied (x) first, in direct order of maturity to scheduled amortization payments of the Term Loans which will be due and payable during the 12 months immediately succeeding the date of the respective prepayment and (y) second, to the extent in excess of the scheduled amortization payments due and payable during such period, as otherwise provided above without regard to this proviso.

(c) Application of Prepayments to Base Rate Loans and Eurodollar Rate Loans. Considering Term Loans and Revolving Loans being prepaid separately, any prepayment thereof shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner which minimizes the amount of any payments required to be made by Borrower pursuant to subsection 2.6D.

C. General Provisions Regarding Payments.

(i) Manner and Time of Payment. All payments by Borrower of principal, interest, fees and other Obligations hereunder and under the Notes shall be made in Dollars in same day funds, without defense, setoff or counterclaim, free of any restriction or condition, and delivered to Administrative Agent not later than 1:00 P.M. (New York City time) on the date due at the Funding and Payment Office for the account of Lenders; funds received by Administrative Agent after that time on such due date shall be deemed to have been paid by the applicable Borrower on the next succeeding Business Day. Borrower hereby authorizes Administrative Agent to charge its account with Administrative Agent in order to cause timely payment to be made to Administrative Agent of all principal, interest, fees and expenses due hereunder (subject to sufficient funds being available in its accounts for that purpose).

(ii) Application of Payments to Principal and Interest. Except as provided in subsection 2.2C, all payments in respect of the principal amount of any Loan shall include payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Loan on a date when interest is due and payable with respect to such Loan) shall be applied to the payment of interest before application to principal.

(iii) Apportionment of Payments. Aggregate principal and interest payments in respect of Term Loans and Revolving Loans shall be apportioned among all outstanding Loans to which such payments relate, in each case proportionately to Lenders' respective Pro Rata Shares. Administrative Agent shall promptly distribute to each Lender, at its primary address set forth below its name on the appropriate signature page hereof or at such other address as such Lender may request, its Pro Rata Share of all such payments received by Administrative Agent and the commitment fees of such Lender when received by Administrative Agent pursuant to subsection 2.3. Notwithstanding the foregoing provisions of this subsection 2.4C(iii), if, pursuant to the provisions of subsection 2.6C, any Notice of Conversion/Continuation is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its Pro Rata Share of any Eurodollar Rate Loans, Administrative Agent shall give effect thereto in apportioning payments received thereafter.

(iv) Payments on Business Days. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder or of the commitment fees hereunder, as the case may be.

(v) Notation of Payment. Each Lender agrees that before disposing of any Note held by it, or any part thereof (other than by granting participations therein), that Lender will make a notation thereon of all Loans evidenced by that Note and all principal payments previously made thereon and of the date to which interest thereon has been paid; provided that the failure to make (or any error in the making of) a notation of any Loan made under such Note shall not limit or otherwise affect the obligations of Borrower hereunder or under such Note with respect to any Loan or any payments of principal or interest on such Note.

D. Application of Proceeds of Collateral and Payments Under Guaranties.

(i) Application of Proceeds of Collateral. Except as provided in subsections 2.4B(iii)(a) and 2.4B(iii)(b) with respect to prepayments from Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds, all proceeds received by Administrative Agent or Collateral Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral under any Collateral Document may, in the discretion of Administrative Agent or Collateral Agent, as the case may be, be held by Administrative Agent or Collateral Agent, as the case may be, as Collateral for, and/or (then or at any time thereafter) applied in full or in part by Administrative Agent or Collateral Agent, as the case may be, against, the applicable Obligations (as defined in such Collateral Document) as provided in the respective Collateral Documents.

(ii) Application of Payments Under Guaranties. All payments received by Administrative Agent under either Guaranty shall be applied promptly from time to time by Administrative Agent in the following order of priority:

(a) To the payment of the costs and expenses of any collection or other realization under such Guaranty, including all expenses, liabilities and advances made or incurred by Administrative Agent and its agents and counsel in connection therewith, all in accordance with the terms of this Agreement and such Guaranty;

(b) thereafter, to the extent of any excess such payments, to the payment of all other Guaranteed Obligations (as defined in such Guaranty) for the ratable benefit of the holders thereof; and

(c) thereafter, to the extent of any excess such payments, to the payment to Holdings or the applicable Subsidiary Guarantor or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

2.5 Use of Proceeds.

A. Term Loans. The Term Loans incurred on the Restatement Effective Date shall be applied by Holdings and its Subsidiaries, as applicable, to fund the Transaction and to pay fees and expenses incurred in connection therewith.

B. Revolving Loans. Revolving Loans may be incurred on and after the Restatement Effective Date (and continued on the Restatement Effective Date) and shall be used by Borrower for working capital and general corporate purposes of Borrower and its Subsidiaries; provided that Revolving Loans in an aggregate principal amount not exceeding \$10,000,000 may be applied by Holdings and its Subsidiaries, as applicable, to fund the Transaction and to pay fees and expenses incurred in connection therewith.

C. Swing Line Loans. Swing Line Loans may be incurred on and after the Restatement Effective Date and shall be used by Borrower for working capital and general corporate purposes of Borrower and its Subsidiaries.

D. Margin Regulations. No portion of the proceeds of any borrowing under this Agreement shall be used by Holdings or any of its Subsidiaries in any manner that might cause the borrowing or the application of such proceeds to violate Regulation U, Regulation T or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of such Board or to violate the Exchange Act, in each case as in effect on the date or dates of such borrowing and such use of proceeds.

2.6 Special Provisions Governing Eurodollar Rate Loans.

Notwithstanding any other provision of this Agreement to the contrary, the following provisions shall govern with respect to Eurodollar Rate Loans as to the matters covered:

A. Determination of Applicable Interest Rate. As soon as practicable after 10:00 A.M. (New York City time) on each Interest Rate Determination Date, Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Rate Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower and each Lender.

B. Inability to Determine Applicable Interest Rate. In the event that Administrative Agent shall have determined (which determination shall be final and

conclusive and binding upon all parties hereto), on any Interest Rate Determination Date with respect to any Eurodollar Rate Loans, that by reason of circumstances affecting the interbank Eurodollar market adequate and fair means do not exist for ascertaining the interest rate applicable to such Loans on the basis provided for in the definition of Adjusted Eurodollar Rate, Administrative Agent shall on such date give notice (by telefacsimile or by telephone confirmed in writing) to Borrower and each Lender of such determination, whereupon (i) no Loans may be made as, or converted to, Eurodollar Rate Loans until such time as Administrative Agent notifies Borrower and Lenders that the circumstances giving rise to such notice no longer exist and (ii) any Notice of Borrowing or Notice of Conversion/Continuation given by Borrower with respect to the Loans in respect of which such determination was made shall be deemed to be rescinded by Borrower.

C. Illegality or Impracticability of Eurodollar Rate Loans. In the event that on any date any Lender shall have determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with Borrower and Administrative Agent) that the making, maintaining or continuation of its Eurodollar Rate Loans (i) has become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause such Lender material hardship, as a result of contingencies occurring after the date of this Agreement which materially and adversely affect the interbank Eurodollar market or the position of such Lender in that market, then, and in any such event, such Lender shall be an "Affected Lender" and it shall on that day give notice (by telefacsimile or by telephone confirmed in writing) to Borrower and Administrative Agent of such determination (which notice Administrative Agent shall promptly transmit to each other Lender). Thereafter (a) the obligation of the Affected Lender to make Loans as, or to convert Loans to, Eurodollar Rate Loans shall be suspended until such notice shall be withdrawn by the Affected Lender, (b) to the extent such determination by the Affected Lender relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Notice of Borrowing or a Notice of Conversion/Continuation, the Affected Lender shall make such Loan as (or convert such Loan to, as the case may be) a Base Rate Loan, (c) the Affected Lender's obligation to maintain its outstanding Eurodollar Rate Loans (the "Affected Loans") shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law, and (d) the Affected Loans shall automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Notice of Borrowing or a Notice of Conversion/Continuation, Borrower shall have the option, subject to the provisions of subsection 2.6D, to rescind such Notice of Borrowing or Notice of Conversion/Continuation as to all Lenders by giving notice (by telefacsimile or by telephone confirmed in writing) to Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above (which notice of rescission Administrative Agent shall promptly transmit to each other Lender). Except as provided in the immediately preced-

ing sentence, nothing in this subsection 2.6C shall affect the obligation of any Lender other than an Affected Lender to make or maintain Loans as, or to convert Loans to, Eurodollar Rate Loans in accordance with the terms of this Agreement.

D. Compensation For Breakage or Non-Commencement of Interest Periods. Borrower agrees to compensate each Lender, promptly upon written request by that Lender (which request shall set forth the basis for requesting such amounts), for all reasonable losses, expenses and liabilities (including any interest paid by that Lender to lenders of funds borrowed by it to make or carry its Eurodollar Rate Loans and any loss, expense or liability sustained by that Lender in connection with the liquidation or re-employment of such funds but excluding loss of anticipated profits with respect to any Loans) which that Lender may sustain: (i) if for any reason (other than a default by that Lender) a borrowing of any Eurodollar Rate Loan does not occur on a date specified therefor in a Notice of Borrowing or a telephonic request for borrowing, or a conversion to or continuation of any Eurodollar Rate Loan does not occur on a date specified therefor in a Notice of Conversion/Continuation or a telephonic request for conversion or continuation, (ii) if any prepayment (including any prepayment pursuant to subsection 2.4B(i)) or other principal payment or any conversion of any of its Eurodollar Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Loan or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by Borrower.

E. Booking of Eurodollar Rate Loans. Subject to its obligations under subsection 2.8, any Lender may make, carry or transfer Eurodollar Rate Loans at, to, or for the account of any of its branch offices or the office of an Affiliate of that Lender.

F. Assumptions Concerning Funding of Eurodollar Rate Loans. Calculation of all amounts payable to a Lender under this subsection 2.6 and under subsection 2.7A shall be made as though that Lender had actually funded each of its relevant Eurodollar Rate Loans through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to clause (i) of the definition of Adjusted Eurodollar Rate in an amount equal to the amount of such Eurodollar Rate Loan and having a maturity comparable to the relevant Interest Period and through the transfer of such Eurodollar deposit from an offshore office of that Lender to a domestic office of that Lender in the United States of America; provided, however, that each Lender may fund each of its Eurodollar Rate Loans in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this subsection 2.6 and under subsection 2.7A.

G. Eurodollar Rate Loans After Default. After the occurrence of and during the continuation of an Event of Default, unless the Requisite Lenders otherwise consent, (i) Borrower may not elect to have a Loan be made or maintained as, or converted to, a Eurodollar Rate Loan after the expiration of any Interest Period then in effect for that Loan and (ii) subject to the provisions of subsection 2.6D, any Notice of Borrowing or Notice of Conversion/Continuation given by Borrower with respect to a requested borrowing or continuation of, or a conversion into, a Eurodollar Rate Loan that has not yet occurred shall be deemed to be rescinded by Borrower.

2.7 Increased Costs; Taxes; Capital Adequacy.

A. Compensation for Increased Costs and Taxes. Subject to the provisions of subsection 2.7B (which shall be controlling with respect to the matters covered thereby), in the event that any Lender shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or governmental authority, in each case that becomes effective after the date hereof, or compliance by such Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law):

(i) subjects such Lender (or its applicable lending office) to any additional Tax (other than any Tax on the overall net income of such Lender) with respect to this Agreement or any of its obligations hereunder or any payments to such Lender (or its applicable lending office) of principal, interest, fees or any other amount payable hereunder;

(ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurodollar Rate Loans that are reflected in the definition of Adjusted Eurodollar Rate); or

(iii) imposes any other condition (other than with respect to a Tax matter) on or affecting such Lender (or its applicable lending office) or its obligations hereunder or the interbank Eurodollar market;

and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or to reduce any amount received or receivable by such Lender (or its applicable lending office) with respect thereto; then, in any such case, Borrower agrees to pay promptly to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder; provided that notwithstanding anything to the contrary contained in this subsection 2.7A, unless a Lender gives notice to Borrower that is obligated to pay an amount under this subsection within six months after the later of (x) the date such Lender incurs such increased cost or suffers such reduction in amounts received or receivable or (y) the date such Lender has actual knowledge of the respective increased cost or reduction in amounts received or receivable, then such Lender shall only be entitled to be compensated for such amount by Borrower pursuant to this subsection 2.7A to the extent of the increased cost or reduction in amounts received or receivable that is incurred or suffered, as the case may be, on or after the date which occurs six months prior to such Lender giving notice to

Borrower that is obligated to pay the respective amounts pursuant to this subsection 2.7A. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this subsection 2.7A, which statement shall be conclusive and binding upon all parties hereto absent manifest error.

B. Withholding of Taxes.

(i) Payments to Be Free and Clear. All sums payable by Borrower under this Agreement and the other Loan Documents shall (except to the extent required by law) be paid free and clear of, and without any deduction or withholding on account of, any Tax (other than a Tax on the overall net income of any Lender) imposed, levied, collected, withheld or assessed by or within the United States of America or any political subdivision in or of the United States of America or any other jurisdiction from or to which a payment is made by or on behalf of Borrower or by any federation or organization of which the United States of America or any such jurisdiction is a member at the time of payment.

(ii) Grossing-up of Payments. If Borrower or any other Person is required by law to make any deduction or withholding on account of any such Tax from any sum paid or payable by Borrower to Administrative Agent or any Lender under any of the Loan Documents:

(a) Borrower shall notify Administrative Agent of any such requirement or any change in any such requirement as soon as Borrower becomes aware of it;

(b) Borrower shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on Borrower) for its own account or (if that liability is imposed on Administrative Agent or such Lender, as the case may be) on behalf of and in the name of Administrative Agent or such Lender;

(c) the sum payable by Borrower in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, Administrative Agent or such Lender, as the case may be, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment been required or made; and

(d) within 30 days after paying any sum from which it is required by law to make any deduction or withholding, and within 30 days after the due date of payment of any Tax which it is required by clause (b) above to pay, Borrower shall deliver to Administrative Agent evidence satisfactory to the other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority;

provided that no such additional amount shall be required to be paid to any Lender under clause (c) above to the extent that such deduction, withholding or payment as is mentioned therein shall result in an increase in the rate of such deduction, withholding or payment from that in effect at the date of this Agreement or at the date of such Assignment Agreement, as the case may be, in respect of payments to such Lender of any

Tax which would not have been imposed but for such Lender's failure to provide a form or certificate required to be provided by subsection 2.7B(iii). Borrower agrees to indemnify and hold harmless each Lender, and reimburse such Lender upon its written request, for the amount of any Taxes so levied or imposed and paid by such Lender.

(iii) Evidence of Exemption from U.S. Withholding Tax.

(a) Each Lender that is organized under the laws of any jurisdiction other than the United States or any state or other political subdivision thereof (for purposes of this subsection 2.7B(iii), a "Non-US Lender") or that is otherwise a non-U.S. Person as defined in Section 7701(a)(30) of the Internal Revenue Code shall deliver to Administrative Agent for transmission to Borrower, on or prior to the Closing Date (or the Restatement Effective Date in the case of any Lender that first becomes a party hereto on the Restatement Effective Date) (in the case of each Lender listed on the signature pages hereof) or on or prior to the date of the Assignment Agreement pursuant to which it becomes a Lender (in the case of each other Lender), and at such other times as may be necessary in the determination of Borrower or Administrative Agent (each in the reasonable exercise of its discretion), (1) two original copies of Internal Revenue Service Form W-8ECI or W-8BEN (with respect to a complete exemption under an income Tax treaty) (or any successor forms), properly completed and duly executed by such Lender, together with any other certificate or statement of exemption required under the Internal Revenue Code or the regulations issued thereunder to establish that such Lender is not subject to deduction or withholding of United States federal income Tax with respect to any payments to such Lender of principal, interest, fees or other amounts payable under any of the Loan Documents or (2) if such Lender is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code and cannot deliver either Internal Revenue Service Form W-8ECI or W-8BEN (with respect to a complete exemption under an income Tax treaty) (or, in the case of any delivery prior to the Restatement Effective Date, predecessor form) pursuant to clause (1) above, a Certificate re Non-Bank Status together with two original copies of Internal Revenue Service Form W-8 BEN (with respect to the portfolio interest exception) (or any successor form or, in the case of any delivery prior to the Restatement Effective Date, predecessor form), properly completed and duly executed by such Lender, together with any other certificate or statement of exemption required under the Internal Revenue Code or the regulations issued thereunder to establish certifying that such Lender is not subject to deduction or withholding of United States federal income Tax with respect to any payments to such Lender of interest payable under any of the Loan Documents.

(b) Each Lender required to deliver any forms, certificates or other evidence with respect to United States federal income Tax withholding matters pursuant to subsection 2.7B(iii)(a) hereby agrees, from time to time after the initial delivery by such Lender of such forms, certificates or other evidence, whenever a lapse in time or change in circumstances or change in law renders such forms, certificates or other evidence obsolete or inaccurate in any material respect, that such Lender shall promptly (1) deliver to Administrative Agent for transmission to Borrower two new original copies of Internal Revenue Service Form W-8ECI or W-8BEN (with respect to a complete exemption under an income Tax treaty) (or any successor forms), or a Certificate re Non-Bank Status and

two original copies of Internal Revenue Service Form W-8 BEN (with respect to the portfolio interest exception (or any such successor form), as the case may be, properly completed and duly executed by such Lender, in order to confirm or establish the entitlement of such Lender to a continued exemption from or reduction in United States federal income Tax with respect to payments to such Lender under the Loan Documents or (2) notify Administrative Agent and Borrower of its inability to deliver any such forms or certificates in which case such Lender shall not be required to deliver any such form or Certificate re Non-Bank Status pursuant to this section 2.7B.

(c) Borrower shall not be required to pay any additional amount to any Non-US Lender under clause (c) of subsection 2.7B(ii) with respect to a payment required to be made pursuant to the Loan Documents if such Lender shall have failed to satisfy the requirements of clause (a) or (b) of this subsection 2.7B(iii) with respect to such payment; provided that if such Lender shall have satisfied the requirements of subsection 2.7B(iii)(a) on the Restatement Effective Date (in the case of each Lender listed on the signature pages hereof) or on the date of the Assignment Agreement pursuant to which it became a Lender (in the case of each other Lender), nothing in this subsection 2.7B(iii)(c) shall relieve Borrower of its obligations to pay any additional amounts pursuant to clause (c) of subsection 2.7B(ii) in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender is not subject to withholding as described in subsection 2.7B(iii)(a).

(d) If Borrower pays any additional amount under clause (c) of subsection 2.7B(ii) to a Lender and such Lender determines in its sole discretion that it has actually received or realized in connection therewith any refund or any reduction of, or credit against, its Taxes in or with respect to the taxable year in which the additional amount is paid, such Lender shall pay to Borrower an amount that such Lender shall, in its sole discretion, determine is equal to the net benefit, after Tax, which was obtained by such Lender in such year as a consequence of such refund, reduction or credit.

C. Capital Adequacy Adjustment. If any Lender shall have determined that the adoption, effectiveness, phase-in or applicability after the date hereof of any law, rule or regulation (or any provision thereof) regarding capital adequacy, or any change therein or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its applicable lending office) with any guideline, request or directive regarding capital adequacy (whether or not having the force of law) of any such governmental authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or Commitments or Letters of Credit or participations therein or other obligations hereunder with respect to the Loans or the Letters of Credit to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase-in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then

from time to time, within five Business Days after receipt by Borrower from such Lender of the statement referred to in the next sentence, Borrower agrees to pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling corporation on an after-Tax basis for such reduction; provided that notwithstanding anything to the contrary contained above in this subsection 2.7C, unless a Lender gives notice to Borrower that it is obligated to pay an amount under this subsection within six months after the later of (x) the date such Lender suffers the respective reduction in return on capital or (y) the date such Lender has actual knowledge of the respective reduction in return on capital, then such Lender shall only be entitled to be compensated for such amount by Borrower pursuant to this subsection 2.7C to the extent of the reduction in return on capital that is suffered on or after the date which occurs six months prior to such Lender giving notice to Borrower that it is obligated to pay the respective amounts pursuant to this subsection 2.7C. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis of the calculation of such additional amounts, which statement shall be conclusive and binding upon all parties hereto absent manifest error.

2.8 Obligation of Lenders and Issuing Lenders to Mitigate.

Each Lender and Issuing Lender agrees that, as promptly as practicable after the officer of such Lender or Issuing Lender responsible for administering the Loans or Letters of Credit of such Lender or Issuing Lender, as the case may be, becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender or Issuing Lender to receive payments under subsection 2.7 or subsection 3.6, it will, to the extent not inconsistent with the internal policies of such Lender or Issuing Lender and any applicable legal or regulatory restrictions, use reasonable efforts (i) to make, issue, fund or maintain the Commitments of such Lender or the affected Loans or Letters of Credit of such Lender or Issuing Lender through another lending or letter of credit office of such Lender or Issuing Lender, or (ii) take such other measures as such Lender or Issuing Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender or Issuing Lender pursuant to subsection 2.7 or subsection 3.6 would be materially reduced and if, as determined by such Lender or Issuing Lender in its sole discretion, the making, issuing, funding or maintaining of such Commitments or Loans or Letters of Credit through such other lending or letter of credit office or in accordance with such other measures, as the case may be, would not otherwise materially adversely affect such Commitments or Loans or Letters of Credit or the interests of such Lender or Issuing Lender; provided that such Lender or Issuing Lender will not be obligated to utilize such other lending or letter of credit office pursuant to this subsection 2.8 unless Borrower agrees to pay all incremental expenses incurred by such Lender or Issuing Lender as a result of utilizing such other lending or letter of credit office as described in clause (i) above. A certificate as to the amount of any such expenses payable by Borrower pursuant to this subsection 2.8 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender or Issuing Lender to Borrower (with a copy to Administrative Agent) shall be conclusive absent manifest error.

2.9 Defaulting Lenders.

Anything contained herein to the contrary notwithstanding, in the event that any Lender (a "Defaulting Lender") defaults (a "Funding Default") in its obligation to fund any Revolving Loan (a "Defaulted Revolving Loan") in accordance with subsection 2.1, then (i) during any Default Period (as defined below) with respect to such Defaulting Lender, such Defaulting Lender shall be deemed not to be a "Lender" for purposes of voting on any matters (including the granting of any consents or waivers) with respect to any of the Loan Documents (except such matters as require the written consent of each Lender pursuant to subsection 10.6), (ii) to the extent permitted by applicable law, until such time as the Default Excess (as defined below) with respect to such Defaulting Lender shall have been reduced to zero, (a) any voluntary prepayment of the Revolving Loans pursuant to subsection 2.4B(i) shall, if Borrower so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no Revolving Loans outstanding and the Revolving Loan Exposure of such Defaulting Lender were zero, and (b) any mandatory prepayment of the Revolving Loans pursuant to subsection 2.4B(iii) shall, if Borrower so directs at the time of making such mandatory prepayment, be applied to the Revolving Loans of other Lenders (but not to the Revolving Loans of such Defaulting Lender) as if such Defaulting Lender had funded all Defaulted Revolving Loans of such Defaulting Lender, it being understood and agreed that Borrower shall be entitled to retain any portion of any mandatory prepayment of the Revolving Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this clause (b), (iii) such Defaulting Lender's Revolving Loan Commitment and outstanding Revolving Loans and such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage shall be excluded for purposes of calculating the commitment fee payable to Lenders pursuant to subsection 2.3A in respect of any day during any Default Period with respect to such Defaulting Lender, and such Defaulting Lender shall not be entitled to receive any commitment fee pursuant to subsection 2.3A with respect to such Defaulting Lender's Revolving Loan Commitment in respect of any Default Period with respect to such Defaulting Lender, and (iv) the Total Utilization of Revolving Loan Commitments as at any date of determination shall be calculated as if such Defaulting Lender had funded all Defaulted Revolving Loans of such Defaulting Lender.

For purposes of this Agreement, (I) "Default Period" means, with respect to any Defaulting Lender, the period commencing on the date of the applicable Funding Default and ending on the earliest of the following dates: (A) the date on which all Revolving Loan Commitments are canceled or terminated and/or the Obligations are declared or become immediately due and payable, (B) the date on which (1) the Default Excess with respect to such Defaulting Lender shall have been reduced to zero (whether by the funding by such Defaulting Lender of any Defaulted Revolving Loans of such Defaulting Lender or by the non-pro rata application of any voluntary or mandatory prepayments of the Revolving Loans in accordance with the terms of this subsection 2.9 or by a combination thereof) and (2) such Defaulting Lender shall have delivered to Borrower and Administrative Agent a written reaffirmation of its intention to honor its obligations under this Agreement with respect to its Revolving Loan Commitment, and (C) the date on which Borrower, Administrative Agent and Requisite Lenders waive all Funding Defaults of such Defaulting Lender in writing, and (II) "Default Excess" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Pro Rata Share of the aggregate outstanding principal amount of Revolving Loans of all Lenders

(calculated as if all Defaulting Lenders (other than such Defaulting Lender) had funded all of their respective Defaulted Revolving Loans) over the aggregate outstanding principal amount of Revolving Loans of such Defaulting Lender.

No Commitment of any Lender shall be increased or otherwise affected, and, except as otherwise expressly provided in this subsection 2.9, performance by Borrower of their respective obligations under this Agreement and the other Loan Documents shall not be excused or otherwise modified, as a result of any Funding Default or the operation of this subsection 2.9. The rights and remedies against a Defaulting Lender under this subsection 2.9 are in addition to other rights and remedies which Borrower may have against such Defaulting Lender with respect to any Funding Default and which Administrative Agent or any Lender may have against such Defaulting Lender with respect to any Funding Default.

2.10 Removal or Replacement of a Lender.

A. Anything contained in this Agreement to the contrary notwithstanding, in the event that:

(i) any Lender (each, an "Increased-Cost Lender") shall give notice to Borrower that such Lender is an Affected Lender or that such Lender is entitled to receive payments under subsection 2.7 or subsection 3.6, (b) the circumstances which have caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (c) such Lender shall fail to withdraw such notice within five Business Days after Borrower's request for such withdrawal; or

(ii) any Lender shall become a Defaulting Lender, (b) the Default Period for such Defaulting Lender shall remain in effect, and (c) such Defaulting Lender shall fail to cure the default as a result of which it has become a Defaulting Lender within five Business Days after Borrower's request that it cure such default; or

(iii) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions of this Agreement as contemplated by clauses (i) through (v) of the first proviso to subsection 10.6B, the consent of Requisite Lenders shall have been obtained but the consent of one or more of such other Lenders (each, a "Non-Consenting Lender") whose consent is required shall not have been obtained, and (b) the failure to obtain Non-Consenting Lenders' consents does not result solely from the exercise of Non-Consenting Lenders' rights (and the withholding of any required consents by Non-Consenting Lenders) pursuant to the second proviso to subsection 10.6B;

then, and in each such case, Borrower shall have the right, at its option, to remove or replace the applicable Increased-Cost Lender, Defaulting Lender or Non-Consenting Lender (the "Terminated Lender") to the extent permitted by subsection 2.10B.

B. Borrower may, by giving written notice to Administrative Agent and any Terminated Lender of its election to do so:

(i) elect to (a) terminate the Revolving Loan Commitment, if any, of such Terminated Lender upon receipt by such Terminated Lender of such notice and (b) prepay on the date of such termination any outstanding Loans made by such Terminated Lender, together with accrued and unpaid interest thereon and any other amounts payable to such Terminated Lender hereunder pursuant to subsection 2.3, subsection 2.6, subsection 2.7 or subsection 3.6 or otherwise; provided that, in the event such Terminated Lender has any Loans outstanding at the time of such termination, the written consent of Administrative Agent and Requisite Lenders (which consent shall not be unreasonably withheld or delayed) shall be required in order for Borrower to make the election set forth in this clause (i); or

(ii) elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans and its Revolving Loan Commitment, if any, in full to one or more Eligible Assignees (each, a "Replacement Lender") in accordance with the provisions of subsection 10.1B; provided that (a) on the date of such assignment, Borrower shall pay any amounts payable to such Terminated Lender pursuant to subsection 2.3, subsection 2.6, subsection 2.7 or subsection 3.6 or otherwise as if it were a prepayment and (b) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender;

provided that (X) Borrower may not make either of the elections set forth in clauses (i) or (ii) above with respect to any Non-Consenting Lender unless Borrower also makes one of such elections with respect to each other Terminated Lender which is a Non-Consenting Lender and (Y) Borrower may not make either of such elections with respect to any Terminated Lender that is an Issuing Lender unless, prior to the effectiveness of such election, Borrower shall have caused each outstanding Letter of Credit issued by such Issuing Lender to be canceled.

C. Upon the prepayment of all amounts owing to any Terminated Lender and the termination of such Terminated Lender's Revolving Loan Commitment, if any, pursuant to clause (i) of subsection 2.10B, (i) Schedule 2.1 shall be deemed modified to reflect any corresponding changes in the Revolving Loan Commitments and (ii) such Terminated Lender shall no longer constitute a "Lender" for purposes of this Agreement; provided that any rights of such Terminated Lender to indemnification under this Agreement (including under subsections 2.6D, 2.7, 3.6, 10.2 and 10.3) shall survive as to such Terminated Lender.

SECTION 3. LETTERS OF CREDIT

3.1 Issuance of Letters of Credit and Lenders' Purchase of Participations Therein.

A. Letters of Credit. In addition to Borrower requesting that Lenders make Revolving Loans pursuant to subsection 2.1A(ii) and that Swing Line Lender make Swing Line Loans pursuant to subsection 2.1A(iii), Borrower may request, in accordance with the provisions of this subsection 3.1, from time to time during the period from the Restatement Effective Date

to but excluding the Revolving Loan Commitment Termination Date, that one or more Lenders issue Letters of Credit for the account of Borrower for the purposes specified in the definitions of Commercial Letters of Credit and Standby Letters of Credit; provided that all such Commercial Letters of Credit shall provide for sight drawings. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Borrower herein set forth, any one or more Lenders may, but (except as provided in subsection 3.1B(ii)) shall not be obligated to, issue such Letters of Credit in accordance with the provisions of this subsection 3.1; provided that Borrower shall not request that any Lender issue (and no Lender shall issue):

(i) any Letter of Credit if, after giving effect to such issuance, the Total Utilization of Revolving Loan Commitments would exceed the Revolving Loan Commitments then in effect;

(ii) any Letter of Credit if, after giving effect to such issuance, the Letter of Credit Usage would exceed \$60,000,000;

(iii) any Standby Letter of Credit having an expiration date later than the earlier of (a) five Business Days prior to the Revolving Loan Commitment Termination Date and (b) the date which is one year from the date of issuance of such Standby Letter of Credit; provided that the immediately preceding clause (b) shall not prevent any Issuing Lender from agreeing that a Standby Letter of Credit will automatically be extended for one or more successive periods not to exceed one year each unless such Issuing Lender elects not to extend for any such additional period; and provided, further that such Issuing Lender shall elect not to extend such Standby Letter of Credit if it has knowledge that an Event of Default has occurred and is continuing (and has not been waived in accordance with subsection 10.6) at the time such Issuing Lender must elect whether or not to allow such extension; provided, however, that notwithstanding clause (a) but subject to the other restrictions of this subsection, Borrower may request the issuance (on a date prior to five Business Days prior to the Revolving Loan Commitment Termination Date) of a Standby Letter of Credit having an expiration date later than five Business Days prior to the Revolving Loan Commitment Termination Date if Borrower, at the time of such request, makes arrangements in form and substance satisfactory to Issuing Lender thereof to cash collateralize such Letter of Credit, provided that Issuing Lender shall be under no obligation to issue such a Letter of Credit if it shall reasonably determine that such cash collateralization arrangements could reasonably be expected to be less favorable to Issuing Lender than the reimbursement arrangements hereunder with respect to other Letters of Credit; or

(iv) any Commercial Letter of Credit having an expiration date (a) later than the earlier of (X) the date which is 30 days prior to the Revolving Loan Commitment Termination Date and (Y) the date which is 180 days from the date of issuance (on a date prior to 30 days prior to the Revolving Loan Commitment Termination Date) of such Commercial Letter of Credit or (b) that is otherwise unacceptable to the applicable Issuing Lender in its reasonable discretion; provided, however, that notwithstanding clause (X) but subject to the other restrictions of this subsection, Borrower may request the issuance (on a date prior to 30 days prior to the Revolving Loan Commitment Termination Date) of a Commercial Letter of Credit having an expiration date later than

the time set forth in clause (X) if Borrower, at the time of such request, makes arrangements in form and substance satisfactory to Issuing Lender thereof to cash collateralize such Letter of Credit, provided that Issuing Lender shall be under no obligation to issue such a Letter of Credit if it shall reasonably determine that such cash collateralization arrangements could reasonably be expected to be less favorable to Issuing Lender than the reimbursement arrangements hereunder with respect to other Letters of Credit.

B. Mechanics of Issuance.

(i) Notice of Issuance. Whenever Borrower desires the issuance of a Letter of Credit, it shall deliver to Administrative Agent and the respective Issuing Lender a Notice of Issuance of Letter of Credit substantially in the form of Exhibit VI annexed hereto no later than 11:00 A.M. (New York City time) at least three Business Days (in the case of Standby Letters of Credit) or five Business Days (in the case of Commercial Letters of Credit), or in each case such shorter period as may be agreed to by the applicable Issuing Lender in any particular instance, in advance of the proposed date of issuance. The Notice of Issuance of Letter of Credit shall specify (a) the proposed date of issuance (which shall be a Business Day), (b) whether the Letter of Credit is to be a Standby Letter of Credit or a Commercial Letter of Credit, (c) the face amount of the Letter of Credit, (d) the expiration date of the Letter of Credit, (e) the name and address of the beneficiary, and (f) either the verbatim text of the proposed Letter of Credit or the proposed terms and conditions thereof, including a precise description of any documents to be presented by the beneficiary which, if presented by the beneficiary prior to the expiration date of the Letter of Credit, would require Issuing Lender to make payment under the Letter of Credit; provided that the applicable Issuing Lender, in its reasonable discretion, may require changes in the text of the proposed Letter of Credit or any such documents; and provided, further, that no Letter of Credit shall require payment against a conforming draft to be made thereunder on the same business day (under the laws of the jurisdiction in which the office of Issuing Lender to which such draft is required to be presented is located) that such draft is presented if such presentation is made after 10:00 A.M. (in the time zone of such office of Issuing Lender) on such business day.

Borrower shall notify the applicable Issuing Lender (and Administrative Agent, if Administrative Agent is not such Issuing Lender) prior to the issuance of any Letter of Credit in the event that any of the matters to which Borrower is required to certify in the applicable Notice of Issuance of Letter of Credit is no longer true and correct as of the proposed date of issuance of such Letter of Credit, and upon the issuance of any Letter of Credit, Borrower shall be deemed to have re-certified, as of the date of such issuance, as to the matters to which Borrower is required to certify in the applicable Notice of Issuance of Letter of Credit.

(ii) Determination of Issuing Lender. Borrower may request any Lender to issue a Letter of Credit hereunder by delivering to such Lender a copy of the applicable Notice of Issuance of Letter of Credit. Any Lender so requested to issue such Letter of Credit shall promptly notify Borrower and Administrative Agent whether or not, in its sole discretion, it has elected to issue such Letter of Credit, and any such Lender which so elects to issue such Letter of Credit shall be Issuing Lender with respect thereto. In the

event that all other Lenders shall have declined to issue such Letter of Credit, notwithstanding the prior election of Administrative Agent not to issue such Letter of Credit, Administrative Agent shall be obligated to issue such Letter of Credit and shall be Issuing Lender with respect thereto, notwithstanding the fact that the Letter of Credit Usage with respect to such Letter of Credit and with respect to all other Letters of Credit issued by Administrative Agent, when aggregated with Administrative Agent's outstanding Revolving Loans and Swing Line Loans, may exceed Administrative Agent's Revolving Loan Commitment then in effect.

(iii) Issuance of Letter of Credit. Upon satisfaction or waiver (in accordance with subsection 10.6) of the conditions set forth in subsection 4.3, the applicable Issuing Lender shall issue the requested Letter of Credit in accordance with such Issuing Lender's standard operating procedures.

(iv) Notification to Lenders. Upon the issuance of any Letter of Credit the applicable Issuing Lender shall promptly notify Administrative Agent and each other Lender with a Revolving Loan Commitment of such issuance, which notice shall be accompanied by a copy of such Letter of Credit. Promptly after receipt of such notice (or, if Administrative Agent is Issuing Lender, together with such notice), Administrative Agent shall notify each Lender of the amount of such Lender's respective participation in such Letter of Credit, determined in accordance with subsection 3.1C.

(v) Reports to Lenders. Within 15 days after the end of each calendar quarter ending after the Restatement Effective Date, so long as any Letter of Credit shall have been outstanding during such calendar quarter, each Issuing Lender shall deliver to each other Lender a report setting forth for such calendar quarter the daily aggregate amount available to be drawn under the Letters of Credit issued by such Issuing Lender that were outstanding during such calendar quarter.

C. Lenders' Purchase of Participations in Letters of Credit.

Immediately upon the issuance of each Letter of Credit, each Lender having a Revolving Loan Commitment shall be deemed to, and hereby agrees to, have irrevocably purchased from the respective Issuing Lender a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the Revolving Loan Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. On the Revolving Loan Commitment Termination Date, each Issuing Lender shall be deemed to, and hereby agrees to, irrevocably repurchase from each Lender with a Revolving Loan Commitment such Lender's participation in the Letters of Credit issued by such Issuing Lender pursuant to the last proviso to subsection 3.1A(iii) or the last proviso to subsection 3.1A(iv) to the extent any such Letter of Credit remains outstanding and any amounts remain undrawn thereunder.

D. Existing Letters of Credit. Schedule 3.1D hereto contains a description of all letters of credit issued pursuant to the Original Credit Agreement and outstanding on the Restatement Effective Date. Each such letter of credit, including any extension or renewal thereof (each, as amended from time to time in accordance with the terms hereof and thereof, an "Existing Letter of Credit") shall constitute a "Letter of Credit" for all purposes of this

Agreement, issued, for purposes of subsection 3.1, on the Restatement Effective Date. In addition, each letter of credit designated as a "Standby Letter of Credit" or "Commercial Letter of Credit" on Schedule 3.1D shall constitute a "Standby Letter of Credit" or "Commercial Letter of Credit", as the case may be, for all purposes of this Agreement. Notwithstanding anything to the contrary contained above in this subsection 3.1, any Lender hereunder to the extent it has issued an Existing Letter of Credit shall constitute the "Issuing Lender" with respect to such Letter of Credit for all purposes of this Agreement.

3.2 Letter of Credit Fees.

Borrower agrees to pay the following amounts with respect to Letters of Credit issued hereunder:

(i) with respect to each Standby Letter of Credit, (a) a fronting fee, payable directly to the applicable Issuing Lender for its own account, equal to 1/8 of 1% per annum of the daily amount available to be drawn under such Standby Letter of Credit and (b) a letter of credit fee, payable to Administrative Agent for the account of Lenders having Revolving Loan Exposure, equal to the product of (x) the Applicable Eurodollar Rate Margin for Revolving Loans then in effect and (y) the daily amount available to be drawn under such Standby Letter of Credit, each such fronting fee or letter of credit fee to be payable quarterly in arrears on each Quarterly Payment Date and upon the first day on or after the Revolving Loan Commitment Termination Date upon which no Letters of Credit remain outstanding and be computed on the basis of a 360-day year for the actual number of days elapsed;

(ii) with respect to each Commercial Letter of Credit, (a) a fronting fee, payable directly to the applicable Issuing Lender for its own account, equal to 1/8 of 1 % per annum of the daily amount available to be drawn under such Commercial Letter of Credit and (b) a letter of credit fee, payable to Administrative Agent for the account of Lenders having Revolving Loan Exposure, equal to the product of (x) the Applicable Eurodollar Rate Margin for Revolving Loans then in effect and (y) the daily amount available to be drawn under such Commercial Letter of Credit, each such fronting fee or letter of credit fee to be payable quarterly in arrears on each Quarterly Payment Date and upon the first day on or after the Revolving Loan Commitment Termination Date upon which no Letters of Credit remain outstanding and be computed on the basis of a 360-day year for the actual number of days elapsed; and

(iii) with respect to the issuance, amendment or transfer of each Letter of Credit and each payment of a drawing made thereunder (without duplication of the fees payable under clauses (i) and (ii) above), documentary and processing charges payable directly to the applicable Issuing Lender for its own account in accordance with such Issuing Lender's standard schedule for such charges in effect at the time of such issuance, amendment, transfer or payment, as the case may be.

For purposes of calculating any fees payable under clauses (i) and (ii) of this subsection 3.2, the daily amount available to be drawn under any Letter of Credit shall be determined as of the close of business on any date of determination. Promptly upon receipt by

Administrative Agent of any amount described in clause (i)(b) or (ii)(b) of this subsection 3.2, Administrative Agent shall distribute to each Lender its Pro Rata Share (with respect to its Revolving Loan Commitment) of such amount.

3.3 Drawings and Reimbursement of Amounts Paid Under Letters of Credit.

A. Responsibility of Issuing Lender With Respect to Drawings. In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, Issuing Lender issuing such Letter of Credit shall be responsible only to examine the documents delivered under such Letter of Credit with reasonable care so as to ascertain whether they appear on their face to be in accordance with the terms and conditions of such Letter of Credit.

B. Reimbursement by Borrower of Amounts Paid Under Letters of Credit. In the event an Issuing Lender has determined to honor a drawing under a Letter of Credit issued by it, such Issuing Lender shall immediately notify Borrower and Administrative Agent, and Borrower shall reimburse such Issuing Lender on or before the Business Day immediately following the date on which such drawing is honored (the "Reimbursement Date") in an amount in Dollars and in same day funds equal to the amount of such honored drawing; provided that, anything contained in this Agreement to the contrary notwithstanding, (i) unless Borrower shall have notified Administrative Agent and such Issuing Lender prior to 11:00 A.M. (New York City time) on the date such drawing is honored that Borrower intend to reimburse such Issuing Lender for the amount of such honored drawing with funds other than the proceeds of Revolving Loans, Borrower shall be deemed to have given a timely Notice of Borrowing to Administrative Agent requesting Lenders to make Revolving Loans that are Base Rate Loans on the Reimbursement Date in an amount in Dollars equal to the amount of such honored drawing and (ii) subject to satisfaction or waiver of the conditions specified in subsection 4.2B, Lenders shall, on the Reimbursement Date, make Revolving Loans that are Base Rate Loans in the amount of such honored drawing, the proceeds of which shall be applied directly by Administrative Agent to reimburse such Issuing Lender for the amount of such honored drawing; and provided, further that if for any reason proceeds of Revolving Loans are not received by such Issuing Lender on the Reimbursement Date in an amount equal to the amount of such honored drawing, Borrower shall reimburse such Issuing Lender, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of proceeds of such Revolving Loans, if any, which are so received. Nothing in this subsection 3.3B shall be deemed to relieve any Lender from its obligation to make Revolving Loans on the terms and conditions set forth in this Agreement, and Borrower shall retain any and all rights they may have against any Lender resulting from the failure of such Lender to make such Revolving Loans under this subsection 3.3B.

C. Payment by Lenders of Unreimbursed Amounts Paid Under Letters of Credit.

(i) Payment by Lenders. In the event that Borrower shall fail for any reason to reimburse any Issuing Lender as provided in subsection 3.3B in an amount equal to the amount of any drawing honored by such Issuing Lender under a Letter of Credit issued by it, such Issuing Lender shall promptly notify each other Lender of the unreimbursed amount of such honored drawing and of such other Lender's respective participation therein based on such Lender's Pro Rata Share of the Revolving Loan Commitments.

Each Lender shall make available to such Issuing Lender an amount equal to its respective participation, in Dollars and in same day funds, at the office of such Issuing Lender specified in such notice, not later than 12:00 Noon (New York City time) on the first business day (under the laws of the jurisdiction in which such office of such Issuing Lender is located) after the date notified by such Issuing Lender. In the event that any Lender fails to make available to such Issuing Lender on such business day the amount of such Lender's participation in such Letter of Credit as provided in this subsection 3.3C, such Issuing Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon at the rate customarily used by such Issuing Lender for the correction of errors among banks for three Business Days and thereafter at the Base Rate. Nothing in this subsection 3.3 shall be deemed to prejudice the right of any Lender to recover from any Issuing Lender any amounts made available by such Lender to such Issuing Lender pursuant to this subsection 3.3 in the event that it is determined by the final judgment of a court of competent jurisdiction that the payment with respect to a Letter of Credit by such Issuing Lender in respect of which payment was made by such Lender constituted gross negligence or willful misconduct on the part of such Issuing Lender.

(ii) Distribution to Lenders of Reimbursements Received From Borrower. In the event any Issuing Lender shall have been reimbursed by other Lenders pursuant to subsection 3.3C(i) for all or any portion of any drawing honored by such Issuing Lender under a Letter of Credit issued by it, such Issuing Lender shall distribute to each other Lender which has paid all amounts payable by it under subsection 3.3C(i) with respect to such honored drawing such other Lender's Pro Rata Share of all payments subsequently received by such Issuing Lender from Borrower in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on the appropriate signature page hereof or at such other address as such Lender may request.

D. Interest on Amounts Paid Under Letters of Credit.

(i) Payment of Interest by Borrower. Borrower agrees to pay to each Issuing Lender, with respect to drawings honored under any Letters of Credit issued by it, interest on the amount paid by such Issuing Lender in respect of each such honored drawing from the date such drawing is honored to but excluding the date such amount is reimbursed by Borrower (including any such reimbursement out of the proceeds of Revolving Loans pursuant to subsection 3.3B) at a rate equal to (a) for the period from the date such drawing is honored to but excluding the Reimbursement Date, the Base Rate plus the Applicable Base Rate Margin for Revolving Loans then in effect and (b) thereafter, a rate which is 2% per annum in excess of the rate of interest otherwise payable under this Agreement with respect to Revolving Loans that are Base Rate Loans. Interest payable pursuant to this subsection 3.3D(i) shall be computed on the basis of a 365-day or 366 day year, as the case may be, for the actual number of days elapsed in the period during which it accrues and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full.

(ii) Distribution of Interest Payments by Issuing Lender. Promptly upon receipt by any Issuing Lender of any payment of interest pursuant to subsection 3.3D(i) with respect to a drawing honored under a Letter of Credit issued by it, (a) such Issuing Lender shall distribute to each other Lender, out of the interest received by such Issuing Lender in respect of the period from the date such drawing is honored to but excluding the date on which such Issuing Lender is reimbursed for the amount of such drawing (including any such reimbursement out of the proceeds of Revolving Loans pursuant to subsection 3.3B), the amount that such other Lender would have been entitled to receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period pursuant to subsection 3.2 if no drawing had been honored under such Letter of Credit, and (b) in the event such Issuing Lender shall have been reimbursed by other Lenders pursuant to subsection 3.3C(i) for all or any portion of such honored drawing, such Issuing Lender shall distribute to each other Lender which has paid all amounts payable by it under subsection 3.3C(i) with respect to such honored drawing such other Lender's Pro Rata Share of any interest received by such Issuing Lender in respect of that portion of such honored drawing so reimbursed by other Lenders for the period from the date on which such Issuing Lender was so reimbursed by other Lenders to but excluding the date on which such portion of such honored drawing is reimbursed by Borrower. Any such distribution shall be made to a Lender at its primary address set forth below its name on the appropriate signature page hereof or at such other address as such Lender may request.

3.4 Obligations Absolute.

The obligation of Borrower to reimburse each Issuing Lender for drawings honored under the Letters of Credit issued by it and to repay any Revolving Loans made by Lenders pursuant to subsection 3.3B and the obligations of Lenders under subsection 3.3C(i) shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances including any of the following circumstances:

(i) any lack of validity or enforceability of any Letter of Credit;

(ii) the existence of any claim, set-off, defense or other right which Borrower or any Lender may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), any Issuing Lender or other Lender or any other Person or, in the case of a Lender, against Borrower, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between Holdings or one of its Subsidiaries and the beneficiary for which any Letter of Credit was procured);

(iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of Holdings or any of its Subsidiaries;

(v) any breach of this Agreement or any other Loan Document by any party thereto;

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; or

(vii) the fact that an Event of Default or a Potential Event of Default shall have occurred and be continuing;

provided, in each case, that payment by the applicable Issuing Lender under the applicable Letter of Credit shall not have constituted bad faith, gross negligence or willful misconduct of such Issuing Lender under the circumstances in question.

3.5 Indemnification; Nature of Issuing Lenders' Duties.

A. Indemnification. In addition to amounts payable as provided in subsection 3.6, Borrower hereby agrees to protect, indemnify, pay and save harmless each Issuing Lender from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which such Issuing Lender may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit by such Issuing Lender, other than as a result of (a) the bad faith, gross negligence or willful misconduct of such Issuing Lender or (b) subject to the following clause (ii), the wrongful dishonor by such Issuing Lender of a proper demand for payment made under any Letter of Credit issued by it or (ii) the failure of such Issuing Lender to honor a drawing under any such Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or governmental authority (all such acts or omissions herein called "Governmental Acts").

B. Nature of Issuing Lenders' Duties. As between Borrower and any Issuing Lender, Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by such Issuing Lender by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, such Issuing Lender shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) so long as such Issuing Lender complies with its responsibilities under subsection 3.3A, failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of such Issuing Lender,

including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of such Issuing Lender's rights or powers hereunder.

In furtherance and extension and not in limitation of the specific provisions set forth in the first paragraph of this subsection 3.5B, any action taken or omitted by any Issuing Lender under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not put such Issuing Lender under any resulting liability to Borrower.

Notwithstanding anything to the contrary contained in this subsection 3.5, Borrower shall retain any and all rights it may have against any Issuing Lender for any liability arising out of the bad faith, gross negligence or willful misconduct of such Issuing Lender.

3.6 Increased Costs and Taxes Relating to Letters of Credit.

Subject to the provisions of subsection 2.7B (which shall be controlling with respect to the matters covered thereby), in the event that any Issuing Lender or Lender shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or governmental authority, in each case that becomes effective after the date hereof, or compliance by any Issuing Lender or Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law):

(i) subjects such Issuing Lender or Lender (or its applicable lending or letter of credit office) to any additional Tax (other than any Tax on the overall net income of such Issuing Lender or Lender) with respect to the issuing or maintaining of any Letters of Credit or the purchasing or maintaining of any participations therein or any other obligations under this Section 3, whether directly or by such being imposed on or suffered by any particular Issuing Lender;

(ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC insurance or similar requirement in respect of any Letters of Credit issued by any Issuing Lender or participations therein purchased by any Lender; or

(iii) imposes any other condition (other than with respect to a Tax matter) on or affecting such Issuing Lender or Lender (or its applicable lending or letter of credit office) regarding this Section 3 or any Letter of Credit or any participation therein;

and the result of any of the foregoing is to increase the cost to such Issuing Lender or Lender of agreeing to issue, issuing or maintaining any Letter of Credit or agreeing to purchase, purchasing or maintaining any participation therein or to reduce any amount received or receivable by such Issuing Lender or Lender (or its applicable lending or letter of credit office) with respect thereto; then, in any case, Borrower agrees to pay promptly to such Issuing Lender or Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts as

may be necessary to compensate such Issuing Lender or Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Issuing Lender or Lender shall deliver to Borrower a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Issuing Lender or Lender under this subsection 3.6, which statement shall be conclusive and binding upon all parties hereto absent manifest error.

SECTION 4.
CONDITIONS TO LOANS AND LETTERS OF CREDIT

The obligations of Lenders to make, continue or convert Loans and the issuance of Letters of Credit hereunder are subject to the satisfaction of the following conditions.

4.1 Conditions To Term Loans and Revolving Loans on the Restatement Effective Date.

The obligations of Lenders to make or continue the Term Loans and any Revolving Loans to be made or continued on the Restatement Effective Date are, in addition to the conditions precedent specified in subsection 4.2, subject to prior or concurrent satisfaction of the following conditions:

A. Loan Party Documents. On or before the Restatement Effective Date, Holdings shall, and shall cause each other Loan Party to, deliver to Lenders (or to Administrative Agent for Lenders with sufficient originally executed copies, where appropriate, for each Lender and its counsel) the following with respect to Holdings or such Loan Party, as the case may be, each, unless otherwise noted, dated the Restatement Effective Date:

(i) Certified copies of the Certificate or Articles of Incorporation (or equivalent organizational document) of such Person, together with (if relevant for the jurisdiction in which such Loan Party is organized) a good standing certificate from the Secretary of State of its jurisdiction of incorporation and each other state in which such Person is qualified as a foreign corporation to do business (except any such other state or states in which the failure to be qualified could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect (provided that no such state shall be a state in which Closing Date Mortgaged Property of the applicable Loan Party is located)) and, to the extent generally available, a certificate or other evidence of good standing as to payment of any applicable franchise or similar taxes from the appropriate taxing authority of each of such jurisdictions, each dated a recent date prior to the Restatement Effective Date;

(ii) Copies of the Bylaws (or equivalent organizational document) of such Person, certified as of the Restatement Effective Date by such Person's corporate secretary or an assistant secretary;

(iii) Resolutions of the Board of Directors of such Person approving and authorizing the execution, delivery and performance of the Loan Documents and Related Agreements to which it is a party, certified as of the Restatement Effective Date by the corporate secretary or an assistant secretary of such Person as being in full force and effect without modification or amendment;

(iv) Signature and incumbency certificates of the officers of such Person executing the Loan Documents to which it is a party;

(v) Executed originals of the Loan Documents to which such Person is a party; and

(vi) Such other documents as JPMSI or Administrative Agent may reasonably request.

B. No Material Adverse Effect. Since December 29, 2002, nothing shall have occurred (and neither Agents nor Lenders shall have become aware of any facts or conditions not previously known, whether as a result of their due diligence investigations or otherwise) which Agents or Requisite Lenders shall determine (i) has had, or would reasonably be expected to have a material adverse effect on the rights or remedies of Lenders or Agents, or on the legal ability of any Loan Party to perform its obligations to them hereunder or under any other Loan Document or (ii) has had, or would reasonably be expected to have, a Material Adverse Effect.

C. Corporate, Capital Structure and Ownership. The corporate organizational structure of Holdings and its Subsidiaries shall be as set forth on Schedule 4.1C annexed hereto.

D. Proceeds of Debt. Holdings shall have provided evidence reasonably satisfactory to JPMSI and Administrative Agent that the proceeds of the Loans incurred or continued on the Restatement Effective Date shall have been used to (i) repay in full all outstanding Indebtedness under the Original Credit Agreement not continued pursuant to subsections 2.1A(i) and (ii) hereof, (ii) finance the Transaction and (iii) pay related transaction fees and expenses incurred by Holdings and its Subsidiaries in connection with this Credit Agreement and the Transaction.

E. Completion of Proceedings. All corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Administrative Agent, acting on behalf of Lenders, or JPMSI and its counsel shall be reasonably satisfactory in form and substance to Administrative Agent and JPMSI and such counsel, and Administrative Agent, JPMSI and such counsel shall have received all such counterpart originals or certified copies of such documents as Administrative Agent or JPMSI may reasonably request.

F. Original Credit Agreement; Existing Indebtedness of Holdings and its Subsidiaries, etc. On the Restatement Effective Date, (i) all Tranche B Term Loans being continued as described in subsection 2.1A(i) which were outstanding as Eurodollar Loans shall be converted into Base Rate Loans or Eurodollar Loans in accordance with the requirements of subsection 2.2B, it being understood and agreed that Borrower shall (x) take all such actions as may be necessary to ensure that the Lenders participate in each borrowing of outstanding Term Loans pro rata on the basis of their respective Term Loan Commitments and (y) pay breakage or similar costs in accordance with the provisions of subsection 2.6D of the Original Credit Agreement in connection therewith, (ii) all outstanding Swing Line Loans shall be repaid in full on the Restatement Effective Date, (iii) JPMorgan Chase Bank shall have received payment in full of all amounts (including any accrued and unpaid interest and fees) then due and owing to it under the Original Credit Agreement in respect of the Swing Line Loans being repaid, (iv) all

accrued interest on all outstanding extensions of credit pursuant to the Original Credit Agreement, and all regularly accruing fees pursuant to the Original Credit Agreement, shall be repaid in full on, and through, the Restatement Effective Date (whether or not same would otherwise be then due and payable pursuant to the Original Credit Agreement) and (v) Administrative Agent shall have received evidence in form, scope and substance satisfactory to it that the matters set forth in this subsection 4.1F have been satisfied on such date.

G. Necessary Governmental Authorizations and Consents; Expiration of Waiting Periods, Etc. Holdings and its Subsidiaries shall have obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary in connection with the Transaction and the other transactions contemplated by the Loan Documents and the Related Agreements, and the continued operation of the business conducted by Holdings and its Subsidiaries in substantially the same manner as conducted prior to the consummation of the Refinancing, and each of the foregoing shall be in full force and effect, in each case other than those the failure to obtain or maintain which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. All applicable waiting periods shall have expired without any action being taken or threatened by any competent authority which would restrain, prevent or otherwise impose adverse conditions on the Transaction. No action, request for stay, petition for review or rehearing, reconsideration, or appeal with respect to any of the foregoing shall be pending, and the time for any applicable agency to take action to set aside its consent on its own motion shall have expired.

H. Consummation of Transaction.

(i) All conditions to the Transaction shall have been satisfied pursuant to documentation reasonably satisfactory to JPMSI and Administrative Agent or the fulfillment of such conditions shall have been waived with the consent of JPMSI and Administrative Agent (such consent not to be unreasonably withheld);

(ii) On or before the Restatement Effective Date, Borrower shall have issued and sold for Cash not less than \$403,000,000 in aggregate principal amount of New Senior Subordinated Notes providing net Cash proceeds to Borrower of not less than \$300,000,000 (the "New Senior Subordinated Notes Issuance"), and Holdings shall have provided evidence reasonably satisfactory to JPMSI and Administrative Agent that the proceeds from the issuance of the New Senior Subordinated Notes shall have been irrevocably committed, prior to the application of the proceeds of the Term Loans and the Revolving Loans, to the payment of a portion of the aggregate of all amounts necessary to finance the Transaction;

(iii) On or prior to the Restatement Effective Date, Borrower shall have commenced a tender offer/consent solicitation with respect to the outstanding Existing Senior Subordinated Notes (the "Existing Senior Subordinated Notes Tender Offer/Consent Solicitation"), pursuant to which (i) Borrower shall offer, subject to the terms and conditions contained in the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation, to purchase all of the outstanding Existing Senior Subordinated Notes plus accrued and unpaid interest thereon and (ii) consents shall be solicited to a proposed amendment (the "Existing Senior Subordinated Note Indenture

Amendment") to the Existing Senior Subordinated Note Indenture, on terms and conditions satisfactory to Administrative Agent, which amendment shall provide for the substantial elimination of the covenants contained in the Existing Senior Subordinated Note Indenture (including, without limitation, limitations on restricted payments, dividends, transactions with affiliates, indebtedness and guarantees by subsidiaries). All terms and conditions of the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation shall be reasonably satisfactory to Administrative Agent (it being understood and agreed that the "Offer to Purchase and Consent Solicitation Statement", dated May 28, 2003, distributed to the holders of the Existing Senior Subordinated Notes and the Administrative Agent prior to the Restatement Effective Date is satisfactory to Administrative Agent), and the period for tendering Existing Senior Subordinated Notes pursuant thereto shall terminate on or prior to the Restatement Effective Date. On or prior to the Restatement Effective Date, (x) holders (the "Existing Senior Subordinated Noteholders") of a majority of the outstanding Existing Senior Subordinated Notes shall have provided their "Consent" pursuant to, and in accordance with the requirements of, the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation, (y) Borrower and the trustee under the Existing Senior Subordinated Note Indenture shall have duly executed and delivered the Existing Senior Subordinated Note Indenture Amendment and same shall have become effective in accordance with its terms and the terms of the Existing Senior Subordinated Note Indenture and (z) Borrower shall have purchased the Existing Senior Subordinated Notes validly tendered, and not theretofore withdrawn, pursuant to the Existing Senior Subordinated Notes Tender Offer/Consent Solicitation (with the taking of the actions specified in preceding clauses (y) and (z) on or prior to the Restatement Effective Date being herein called the "Existing Senior Subordinated Notes Tender Offer/Consent Solicitation Consummation");

(iv) On the Restatement Effective Date, the Preferred Stock Redemption shall be consummated on terms satisfactory to the Agents and the aggregate Cash consideration paid to the holders of Holdings Preferred Stock pursuant to the Preferred Stock Redemption shall not exceed approximately \$200,600,000;

(v) On the Restatement Effective Date, the Common Stock Dividend shall be consummated on terms satisfactory to the Agent and the aggregate Cash consideration paid pursuant thereto shall not exceed approximately \$200,500,000; and

(vi) JPMSI and Administrative Agent shall have received an Officers' Certificate of Holdings to the effect set forth in clause (i) through and including clause (v) above and further stating that Holdings and Borrower will proceed to consummate the Refinancing, Common Stock Dividend and Preferred Stock Redemption immediately upon the making of the initial Term Loans and Revolving Loans and that, after giving effect to the Transaction, Holdings and its Subsidiaries shall have no Indebtedness outstanding to any Persons other than (w) Indebtedness under the Loan Documents, (x) the Senior Subordinated Notes, (y) Indebtedness among the U.S. Loan Parties and (z) Indebtedness set forth on Schedule 7.1(vii) annexed hereto.

I. Mortgage Amendments; Etc. Agents shall have received from Holdings, Borrower and each U.S. Subsidiary Guarantor, as applicable:

(i) Fully executed counterparts of amendments (the "Mortgage Amendments"), in form and substance reasonably satisfactory to JPMSI and Administrative Agent, to each of the Closing Date Mortgages and Original Additional Mortgages, together with evidence that a counterpart of such Mortgage Amendments have been delivered to the Title Company insuring the Lien on such Closing Date Mortgages and Original Additional Mortgages for recording in all places to the extent necessary or desirable, in the judgment of JPMSI and Administrative Agent, effectively to maintain a valid and enforceable first priority mortgage lien such Closing Date Mortgaged Property or Original Additional Mortgaged Property, as the case may be, in favor of the Collateral Agent for the benefit of the Secured Creditors; and

(ii) Endorsements of the authorized issuing agent for title insurers reasonably satisfactory to JPMSI and Administrative Agent to each Closing Date Mortgage Policy and Original Additional Mortgage Policy assuring Agents that each Closing Date Mortgage or Original Additional Mortgage, as the case may be, is a valid and enforceable first priority mortgage lien on the respective Closing Date Mortgage Property or Original Additional Mortgaged Property, as the case may be, free and clear of all defects and encumbrances except Permitted Encumbrances.

J. Security Interests in Personal and Mixed Property. To the extent not otherwise satisfied pursuant to subsection 4.1I, each of JPMSI and Administrative Agent shall have received evidence satisfactory to it that Holdings, Borrower and the Guarantors shall have taken or caused to be taken all such actions, executed and delivered or caused to be executed and delivered all such agreements, documents and instruments, and made or caused to be made all such filings and recordings (other than the filing or recording of items described in clauses (iii), (iv) and (v) below) that may be necessary or, in the reasonable opinion of JPMSI and Administrative Agent, desirable in order to create in favor of Collateral Agent, for the benefit of Secured Creditors, a valid and (upon such filing and recording) perfected First Priority security interest in the entire personal and mixed property Collateral. Such actions shall include the following:

(i) Schedules to Collateral Documents. Delivery to Administrative Agent of accurate and complete schedules to all of the applicable Collateral Documents.

(ii) Stock Certificates and Instruments. Delivery to Administrative Agent of (a) certificates (to the extent not delivered prior to the Restatement Effective Date) (which certificates shall be accompanied by irrevocable undated stock or other transfer powers, duly endorsed in blank and otherwise satisfactory in form and substance to Administrative Agent) representing all capital stock pledged pursuant to the Pledge Agreement and (b) all promissory notes or other instruments (to the extent not delivered prior to the Restatement Effective Date) (duly endorsed, where appropriate, in a manner satisfactory to Administrative Agent) evidencing any Pledge Agreement Collateral;

(iii) Lien Searches and UCC Termination Statements. Delivery to JPMSI and Administrative Agent of (a) the results of a recent search, by a Person reasonably satisfactory to JPMSI and Administrative Agent, of all effective UCC financing statements and fixture filings and all judgment and Tax lien filings which may have been made with

respect to any personal or mixed property of any U.S. Loan Party, together with copies of all such filings disclosed by such search, and (b) UCC termination statements duly executed by all applicable Persons for filing in all applicable jurisdictions as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such search (other than any such financing statements or fixture filings in respect of Liens permitted to remain outstanding pursuant to the terms of this Agreement).

(iv) UCC Financing Statements and Fixture Filings. Delivery to Administrative Agent of UCC financing statements and, where appropriate, fixture filings, duly executed by each applicable U.S. Loan Party with respect to all personal and mixed property Collateral of such U.S. Loan Party, for filing in all jurisdictions as may be necessary or, in the opinion of JPMSI and Administrative Agent, desirable to perfect and/or continue the security interests created in such Collateral pursuant to the Collateral Documents; and

(v) PTO Cover Sheets, Etc. Delivery to Administrative Agent of all cover sheets or other documents or instruments required to be recorded with the PTO in order to create, perfect or continue Liens in respect of any U.S. patents, federally registered trademarks or copyrights, or applications for any of the foregoing, included among the IP Collateral.

K. Financial Statements; Pro Forma Balance Sheet. On or prior to the Restatement Effective Date, Administrative Agent, JPMSI and the Lenders, shall have received from Holdings or the Borrower (i) audited consolidated balance sheets of Holdings and its Subsidiaries for Fiscal Year 2002 and the related audited consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such foregoing Fiscal Year, (ii) unaudited consolidated financial statements of Borrower and its Subsidiaries for the most recent Accounting Period ended at least 30 days prior to the Restatement Effective Date, consisting of a consolidated balance sheet and the related consolidated statement of income, stockholders' equity and cash flows for such period, all in reasonable detail and certified by the principal financial officer or principal accounting officer of Borrower that they fairly present, in all material respects, the financial condition of Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments and the absence of footnotes, and (iii) an unaudited pro forma (calculated as if the Transaction had occurred on such date) consolidated balance sheet of Borrower and its Subsidiaries as of March 23, 2003 and the related pro forma (calculated as if the Transaction had occurred on the first day of the period covered thereby) statement of income for the twelve-month period ended as of such date, after giving effect to the Transaction and the incurrence of all Indebtedness (including the Loans and the New Senior Subordinated Notes) contemplated herein and prepared in accordance with Article 11 of Rule S-X under the Securities Act (the "Pro Forma Financial Statements"), together with a related funds flow statement, which Pro Forma Financial Statements and funds flow statement shall be reasonably satisfactory to the Agents and the Requisite Lenders and which shall demonstrate, to each of their respective reasonable satisfaction, that: (i) Consolidated Adjusted EBITDA of Holdings for the twelve-month period ended March 23, 2003 is in the aggregate not less than \$189,000,000, (ii) the Borrower shall have demonstrated compliance with a Senior Leverage Ratio of 3.25:1.0 or less determined on a pro forma basis as of the Restatement Effective Date (after giving effect to the Transaction), (iii) the Borrower shall have demonstrated

compliance with a Leverage Ratio of 5.40:1.0 or less determined on a pro forma basis as of the Restatement Effective Date (after giving effect to the Transaction) and (iv) the Borrower shall be in compliance with each of the financial covenants in Sections 7.6 calculated as of the Restatement Effective Date.

L. Financial Projections. On or prior to the Restatement Effective Date, Administrative Agent, JPMSI and the Lenders shall have received from Borrower detailed projected consolidated financial statements of Borrower and its Subsidiaries certified by the chief financial officer of Borrower for the seven Fiscal Years ended after the Restatement Effective Date (including, with respect to the Fiscal Year of Holdings ended nearest December 31, 2003, for each Fiscal Quarter comprising such Fiscal Year) (the "Projections"), which Projections (x) shall reflect the forecasted consolidated financial conditions and income and expenses of Borrower and its Subsidiaries after giving effect to the Transaction and the related financing thereof and the other transactions contemplated hereby and (y) shall be reasonably satisfactory in form and substance to JPMSI and Administrative Agent.

M. Solvency Certificate. On the Restatement Effective Date, JPMSI, Administrative Agent and Lenders shall have received a Financial Condition Certificate dated the Restatement Effective Date, substantially in the form of Exhibit XIV annexed hereto (with such changes thereto as shall be approved by Administrative Agent and JPMSI in the exercise of their reasonable discretion) and with appropriate attachments, in each case demonstrating that, after giving effect to the consummation of the Transaction and the other transactions contemplated by the Loan Documents, Holdings and its Subsidiaries will be Solvent.

N. Evidence of Insurance. JPMSI and Administrative Agent shall have received a certificate from Holdings' insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to subsection 6.4 is in full force and effect and that Administrative Agent on behalf of Lenders has been named as additional insured and/or loss payee thereunder to the extent required under subsection 6.4.

O. Opinions of Counsel to Loan Parties. Lenders and their respective counsel shall have received (i) originally executed copies of one or more favorable written opinions of Ropes & Gray LLP, counsel for Loan Parties, and of Miller, Canfield, Paddock & Stone, P.L.C., special Michigan counsel for Loan Parties, in form and substance reasonably satisfactory to Administrative Agent and JPMSI and its counsel, dated as of the Restatement Effective Date and setting forth substantially the matters in the opinions designated in Exhibit XV and Exhibit XVI annexed hereto, respectively, and as to such other matters as Administrative Agent or JPMSI and acting on behalf of Lenders may reasonably request and (ii) evidence satisfactory to Administrative Agent and JPMSI that Holdings has requested such counsel to deliver such opinions to Lenders.

P. Fees and Expenses. Borrower shall have paid to JPMSI and Administrative Agent, for distribution (as appropriate) to JPMSI, Administrative Agent and Lenders, the fees payable on the Restatement Effective Date referred to in subsection 2.3 and all reasonable expenses for which invoices have been presented on or before the Restatement Effective Date.

Q. Representations and Warranties; Performance of Agreements. Each Credit Agreement Party shall have delivered to JPMSI and Administrative Agent an Officers' Certificate, in form and substance reasonably satisfactory to JPMSI and Administrative Agent, to the effect that the representations and warranties in Section 5 hereof are true, correct and complete in all material respects on and as of the Restatement Effective Date to the same extent as though made on and as of that date (or, to the extent such representations and warranties specifically relate to an earlier date, that such representations and warranties were true, correct and complete in all material respects on and as of such earlier date) and that Credit Agreement Parties shall have performed in all material respects all agreements and satisfied all conditions which this Agreement provides shall be performed or satisfied by them on or before the Restatement Effective Date except as otherwise disclosed to and agreed to in writing by JPMSI, Administrative Agent and Requisite Lenders.

Notwithstanding anything herein to the contrary, it is understood and agreed that the documents and other items set forth on Schedule 6.12 (Post-Closing Deliveries) annexed hereto shall be delivered after the Restatement Effective Date in accordance with and to the extent required under subsection 6.12.

4.2 Conditions to All Loans.

The obligations of Lenders to make Loans on each Funding Date are subject to the following further conditions precedent:

A. Administrative Agent shall have received on or before that Funding Date, in accordance with the provisions of subsection 2.1B, an originally executed Notice of Borrowing, in each case signed by the chief executive officer, the principal financial officer, the principal accounting officer or the treasurer of Borrower or by any authorized employee of Borrower designated by any of the above-described officers on behalf of Borrower in a writing delivered to Administrative Agent.

B. As of that Funding Date:

(i) The representations and warranties contained herein and in the other Loan Documents shall be true, correct and complete in all material respects on and as of that Funding Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true, correct and complete in all material respects on and as of such earlier date;

(ii) No event shall have occurred and be continuing or would result from the consummation of the borrowing contemplated by such Notice of Borrowing that would constitute an Event of Default or a Potential Event of Default;

(iii) No order, judgment or decree of any court, arbitrator or governmental authority shall purport to enjoin or restrain any Lender from making the Loans to be made by it on that Funding Date;

(iv) The making of the Loans requested on such Funding Date shall not violate any law including Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System; and

(v) There shall not be pending or, to the knowledge of any Credit Agreement Party, threatened, any action, suit, proceeding, governmental investigation or arbitration against or affecting Holdings or any of its Subsidiaries or any property of Holdings or any of its Subsidiaries that has not been disclosed by any Credit Agreement Party in writing pursuant to subsection 5.6 or 6.1(ix) prior to the making of the last preceding Loans (or, in the case of the initial Loans, prior to the execution of this Agreement), and there shall have occurred no development not so disclosed in any such action, suit, proceeding, governmental investigation or arbitration so disclosed, that, in either event, in the reasonable opinion of Administrative Agent or of Requisite Lenders, would be expected to have a Material Adverse Effect; and no injunction or other restraining order shall have been issued and no hearing to cause an injunction or other restraining order to be issued shall be pending or noticed with respect to any action, suit or proceeding seeking to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated by this Agreement or the making of Loans hereunder.

4.3 Conditions to Letters of Credit.

The issuance of any Letter of Credit hereunder (whether or not the applicable Issuing Lender is obligated to issue such Letter of Credit) is subject to the following conditions precedent:

A. On or before the date of issuance of the initial Letter of Credit pursuant to this Agreement, the initial Loans shall have been made.

B. On or before the date of issuance of such Letter of Credit, Administrative Agent shall have received, in accordance with the provisions of subsection 3.1B(i), an originally executed Notice of Issuance of Letter of Credit, in each case signed by the chief executive officer, the principal financial officer, the principal accounting officer or the treasurer of Borrower or by any authorized employee of Borrower designated by any of the above-described officers on behalf of Borrower in a writing delivered to Administrative Agent, together with all other information specified in subsection 3.1B(i) and such other documents or information as the applicable Issuing Lender may reasonably require in connection with the issuance of such Letter of Credit.

C. On the date of issuance of such Letter of Credit, all conditions precedent described in subsection 4.2B shall be satisfied to the same extent as if the issuance of such Letter of Credit were the making of a Loan and the date of issuance of such Letter of Credit were a Funding Date.

SECTION 5.
CREDIT AGREEMENT PARTIES' REPRESENTATIONS AND WARRANTIES

In order to induce Lenders to enter into this Agreement and to make the Loans, to induce Issuing Lenders to issue Letters of Credit and to induce other Lenders to purchase participations therein, the Credit Agreement Parties represent and warrant to each Lender, on the date of this Agreement, on each Funding Date and on the date of issuance of each Letter of Credit, that the following statements are true, correct and complete:

5.1 Organization, Powers, Qualification, Good Standing, Business and Subsidiaries.

A. Organization and Powers. Each Loan Party is a corporation, partnership or limited liability company organized, validly existing and in good standing under the laws of its jurisdiction of organization as specified in Schedule 5.1 annexed hereto. Each Loan Party has all requisite corporate, partnership or limited liability company power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents and Related Agreements to which it is a party and to carry out the transactions contemplated thereby.

B. Qualification and Good Standing. Each Loan Party is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had and would not reasonably be expected to have a Material Adverse Effect.

C. Conduct of Business. Holdings and its Subsidiaries are engaged only in the businesses permitted to be engaged in pursuant to subsection 7.13.

D. Subsidiaries. All of the Subsidiaries of Holdings as of the Restatement Effective Date are identified in Schedule 5.1 annexed hereto. The equity Securities of each of Holdings' Subsidiaries any portion of the equity Securities of which is pledged under the Collateral Documents are duly authorized, validly issued, fully paid and nonassessable and none of such equity Securities constitutes Margin Stock. Each of the Subsidiaries of Holdings is a corporation, partnership or limited liability company organized, validly existing and in good standing under the laws of its respective jurisdiction of organization, has all requisite corporate, partnership or limited liability company power and authority to own and operate its properties and to carry on its business as now conducted and as proposed to be conducted, and is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, in each case except where failure to be so qualified or in good standing or a lack of such corporate, partnership or limited liability company power and authority has not had and will not have a Material Adverse Effect. Schedule 5.1 annexed hereto (as so supplemented) correctly sets forth, as of the Restatement Effective Date, the ownership interest of Holdings and each of its Subsidiaries in each of the Subsidiaries of Holdings identified therein.

5.2 Authorization of Borrowing, Etc.

A. Authorization of Borrowing. The execution, delivery and performance of the Loan Documents and the Related Agreements have been duly authorized by all necessary corporate or other action on the part of each Loan Party that is a party thereto.

B. No Conflict. The execution, delivery and performance by Loan Parties of the Loan Documents and the Related Agreements to which they are parties and the consummation of the transactions contemplated by the Loan Documents and such Related Agreements do not (i) violate any provision of any law or any governmental rule or regulation applicable to Holdings or any of its Subsidiaries, the Certificate or Articles of Incorporation or Bylaws of Holdings or any of its Subsidiaries or any order, judgment or decree of any court or other agency of government binding on Holdings or any of its Subsidiaries, (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of Holdings or any of its Subsidiaries, (iii) result in or require the creation or imposition of any Lien upon any of the properties or assets of Holdings or any of its Subsidiaries (other than any Liens created under any of the Loan Documents in favor of Collateral Agent on behalf of Lenders), or (iv) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of Holdings or any of its Subsidiaries (except for such approvals or consents which will be obtained on or before the Restatement Effective Date and disclosed in writing to Lenders), except in the case of any violation, conflict, breach, default, result or requirement pursuant to the foregoing clauses (i) through (iv) resulting from the execution, delivery and performance of the Related Agreements, to the extent any such violation, conflict, breach, default, result or requirement would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

C. Governmental Consents. The execution, delivery and performance by Loan Parties of the Loan Documents to which they are parties and the consummation of the transactions contemplated by the Loan Documents do not require any registration with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other governmental authority or regulatory body except to the extent obtained or made and except for those filings that are required to be made to perfect Liens under the Collateral Documents. The execution, delivery and performance by Loan Parties of the Related Agreements to which they are parties and the consummation of the transactions contemplated by the such Related Agreements do not require any registration with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other governmental authority or regulatory body except (i) to the extent obtained or made or (ii) where the failure to obtain or make any of the foregoing, individually or in the aggregate, is not reasonably likely to have a Material Adverse Effect.

D. Binding Obligation. Each of the Loan Documents and Related Agreements has been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

E. Valid Issuance of New Senior Subordinated Notes. Borrower has the corporate power and authority to issue the New Senior Subordinated Notes. The New Senior Subordinated Notes, when issued and paid for, will be the legally valid and binding obligations of Borrower, enforceable against Borrower in accordance with their terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability. The subordination provisions contained in the New Senior Subordinated Note Indenture will be enforceable against the holders thereof, and the Loans, all other monetary Obligations hereunder and all Guaranteed Obligations (as defined in the Subsidiaries Guaranty) of the Subsidiary Guarantors are and will be within the definitions of "Senior Debt", "Guarantor Senior Debt" and "Designated Senior Debt", as applicable, included in such provisions. The New Senior Subordinated Notes, when issued and sold, will either (a) have been registered or qualified under applicable federal and state securities laws or (b) be exempt therefrom.

5.3 Financial Condition.

Holdings has heretofore delivered to JPMSI, Administrative Agent and the Lenders, at Lenders' request, the following financial statements and information: (i) the audited consolidated balance sheets of Holdings and its Subsidiaries for each of Fiscal Year 2002 and the related audited consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such foregoing Fiscal Year and (ii) the unaudited consolidated balance sheet of Borrower and its Subsidiaries for the three-month period ended March 23, 2003 and the related unaudited consolidated statement of income, stockholders' equity and cash flows of Borrower and its Subsidiaries for such period, all included in Borrower's Quarterly Report on Form 10-Q for such period. All such statements were prepared in conformity with GAAP and fairly present, in all material respects, the financial position (on a consolidated basis) of the entities described in such financial statements as at the respective dates thereof and the results of operations and cash flows (on a consolidated basis) of the entities described therein for each of the periods then ended, subject, in the case of any such unaudited financial statements, to changes resulting from audit and normal year-end adjustments and the absence of footnotes. On the Restatement Effective Date, Holdings and its Subsidiaries do not (and will not following the funding of the initial Loans) have any Contingent Obligation, contingent liability or liability for taxes, long-term lease or unusual forward or long-term commitment required to be reported in connection with GAAP that is not reflected in the foregoing financial statements for the Fiscal Year 2002 or the notes thereto and which in any such case is material in relation to the business, operations, properties, assets or condition (financial or otherwise) of Holdings or any of its Subsidiaries.

The Pro Forma Financial Statements, together with a related funds flow statement, delivered to JPMSI, Administrative Agent and Lenders pursuant to subsection 4.1K are based on good-faith estimates and assumptions made by the management of Holdings, and on the Restatement Effective Date such management believe that the projections contained in the Pro Forma Financial Statements were reasonable, it being recognized by Lenders, however, that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by said the Pro Forma Financial Statements probably will differ from the projected results and that the differences may be material.

5.4 No Material Adverse Change.

Since December 29, 2002, no event or change has occurred that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect.

5.5 Title to Properties: Liens; Real Property.

A. Title to Properties; Liens. Holdings and its Subsidiaries have (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), (iii) valid licenses in (in the case of licensed intangible properties), or (iv) good title to (in the case of all other personal property), all of their respective material properties and assets reflected in the most recent financial statements referred to in subsection 5.3 or in the most recent financial statements delivered pursuant to subsection 6.1, in each case subject to Permitted Encumbrances and Liens permitted under subsection 7.2 and except for assets disposed of since the date of such financial statements in the ordinary course of business or as otherwise permitted under subsection 7.7. Except as otherwise permitted by this Agreement, all such properties and assets are free and clear of Liens.

B. Real Property. As of the Restatement Effective Date, Schedule 5.5 annexed hereto contains a true, accurate and complete list of (i) all Real Property Assets owned in fee simple by any U.S. Loan Party, with each such Real Property Asset owned by the U.S. Loan Party specified opposite such Real Property Asset on Schedule 5.5 and (ii) all leases, subleases or assignments of leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof) affecting each Real Property Asset of any U.S. Loan Party, regardless of whether such U.S. Loan Party is the landlord or tenant (whether directly or as an assignee or successor in interest) under such lease, sublease or assignment, except in the case of clause (i) or (ii), as the case may be, all corporate stores owned in fee simple by any U.S. Loan Party and all leases, subleases and assignments of leases affecting any corporate store of any U.S. Loan Party. As of the Restatement Effective Date, except as specified in Schedule 5.5 annexed hereto, each agreement referenced in clause (ii) of the immediately preceding sentence is in full force and effect and no Credit Agreement Party has any knowledge of any default that has occurred and is continuing thereunder (except where the consequences, direct or indirect, of such default or defaults, if any, would not reasonably be expected to have a Material Adverse Effect), and each such agreement constitutes the legally valid and binding obligation of each applicable U.S. Loan Party, enforceable against such U.S. Loan Party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles.

5.6 Litigation; Adverse Facts.

There are no actions, suits, proceedings, arbitrations or governmental investigations (whether or not purportedly on behalf of Holdings or any of its Subsidiaries) at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign (including any Environmental Claims) that are pending or, to the knowledge of any Credit Agreement Party, threatened against or affecting Holdings or any of its Subsidiaries or any property of Holdings or any of its

Subsidiaries and that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. Neither Holdings nor any of its Subsidiaries (i) is in violation of any applicable laws (including Environmental Laws) that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect, or (ii) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

5.7 Payment of Taxes.

Except to the extent permitted by subsection 6.3, all federal, state and other material Tax returns and reports of Holdings and its Subsidiaries required to be filed by any of them have been timely filed, and all taxes shown on such Tax returns to be due and payable and all assessments, fees and other governmental charges upon Holdings and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable. No Credit Agreement Party knows of any written proposed material Tax assessment against Holdings or any of its Subsidiaries which is not being actively contested by Holdings or such Subsidiary in good faith and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

5.8 Performance of Agreements; Materially Adverse Agreements.

A. Neither Holdings nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any of its Contractual Obligations, and no condition exists that, with the giving of notice or the lapse of time or both, would constitute such a default, except where the consequences, direct or indirect, of such default or defaults, if any, would not reasonably be expected to have a Material Adverse Effect.

B. Neither Holdings nor any of its Subsidiaries is a party to or is otherwise subject to any agreements or instruments or any charter or other internal restrictions which, individually or in the aggregate, compliance with which would reasonably be expected to result in a Material Adverse Effect.

5.9 Governmental Regulation.

Neither Holdings nor any of its Subsidiaries is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

5.10 Securities Activities.

A. Neither Holdings nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock.

B. Following application of the proceeds of each Loan, not more than 25% of the value of the assets (either of Holdings only or of Holdings and its Subsidiaries on a consolidated basis) subject to the provisions of subsection 7.2 or 7.7 or subject to any restriction contained in any agreement or instrument, between Borrower and any Lender or any Affiliate of any Lender, relating to Indebtedness and within the scope of subsection 8.2, will be Margin Stock.

5.11 Employee Benefit Plans.

A. Holdings and each of its Subsidiaries are in compliance in all material respects with all applicable provisions and requirements of ERISA and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed in all material respects all their obligations under each Employee Benefit Plan. Each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a determination letter from the Internal Revenue Service to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code.

B. No ERISA Event has occurred or, to the knowledge of Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates, is reasonably expected to occur which has or would reasonably be expected to have a Material Adverse Effect.

C. Except to the extent required under Section 4980B of the Internal Revenue Code, the aggregate liabilities with respect to health or welfare benefits (through the purchase of insurance or otherwise) provided or promised for any retired or former employee of Holdings or any of its Subsidiaries do not have a Material Adverse Effect.

D. As of the most recent valuation date for any Pension Plan, the amount of unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans, does not exceed \$2,000,000.

E. As of the most recent valuation date for each Multiemployer Plan for which the actuarial report is available, the potential liability of Holdings, its Subsidiaries and their respective ERISA Affiliates for a complete withdrawal from such Multiemployer Plan (within the meaning of Section 4203 of ERISA), when aggregated with such potential liability for a complete withdrawal from all Multiemployer Plans, based on information available pursuant to Section 4221(e) of ERISA, does not have a Material Adverse Effect.

5.12 Certain Fees.

Except as set forth on Schedule 5.12 annexed hereto, no broker's or finder's fee or commission will be payable with respect to this Agreement or any of the transactions contemplated hereby, and Credit Agreement Parties hereby indemnify Lenders on a joint and several basis against, and agree that they will hold Lenders harmless from, any claim, demand or liability

for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable fees, expenses and disbursements of counsel) arising in connection with any such claim, demand or liability.

5.13 Environmental Protection.

(i) Neither Holdings nor any of its Subsidiaries, nor any of their respective Facilities or operations is subject to any outstanding (a) Environmental Claim or (b) written order, consent decree or settlement agreement with any Person relating to (i) any Environmental Law or (ii) any Hazardous Materials Activity that, in the case of (a) or (b), individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect;

(ii) Neither Holdings nor any of its Subsidiaries has received any letter or written request for information from any governmental agency under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9604) or any comparable state law with respect to any liability or liabilities that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect;

(iii) There are no and have been no conditions, occurrences, or Hazardous Materials Activities which could reasonably be expected to form the basis of an Environmental Claim against Holdings or any of its Subsidiaries that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect;

(iv) Holdings has designated certain executives to monitor and maintain compliance with Environmental Laws and correct any incidents of noncompliance;

(v) Compliance with all current or reasonably foreseeable future requirements pursuant to or under Environmental Laws would not, individually or in the aggregate, reasonably be expected to give rise to a Material Adverse Effect; and

(vi) No event or condition has occurred or is occurring with respect to Holdings or any of its Subsidiaries relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity which individually or in the aggregate has had or would reasonably be expected to have a Material Adverse Effect.

5.14 Employee Matters.

There is no strike or work stoppage in existence or threatened involving Holdings or any of its Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

5.15 Solvency.

Each Loan Party is and, upon the incurrence of any Obligations by such Loan Party on any date on which this representation is made, will be, Solvent.

5.16 Matters Relating to Collateral.

A. Creation, Perfection and Priority of Liens. The execution and delivery of the Collateral Documents by U.S. Loan Parties, together with (i) the actions taken on or prior to the date hereof pursuant to subsections 4.1I, 4.1J, 6.8 and 6.9B and (ii) the delivery to Collateral Agent of any Pledge Agreement Collateral not delivered to Collateral Agent at the time of execution and delivery of the applicable Collateral Document (all of which Pledge Agreement Collateral has been so delivered to the extent required by the respective Collateral Documents) are effective to create in favor of Collateral Agent for the benefit of Secured Creditors, as security for the respective Secured Obligations (as defined in the applicable Collateral Document in respect of any Collateral), a valid and perfected First Priority Lien on all of the Collateral, and all filings and other actions necessary or desirable to perfect and maintain the perfection and First Priority status of such Liens have been duly made or taken and remain in full force and effect, other than the filing of any UCC financing statements delivered to Collateral Agent for filing (but not yet filed) and the periodic filing of UCC continuation statements in respect of UCC financing statements filed by or on behalf of Collateral Agent.

B. Governmental Authorizations. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for either (i) the pledge or grant by any U.S. Loan Party of the Liens purported to be created in favor of Collateral Agent pursuant to any of the Collateral Documents or (ii) the exercise by Collateral Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to any of the Collateral Documents or created or provided for by applicable law), except for filings or recordings contemplated by subsection 5.16A and except as may be required, in connection with the disposition of any Pledge Agreement Collateral, by laws generally affecting the offering and sale of securities.

C. Absence of Third-Party Filings. Except such as may have been filed in favor of Collateral Agent as contemplated by subsection 5.16A, (i) no effective UCC financing statement, fixture filing or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office, except with respect to Permitted Encumbrances and Liens permitted under subsection 7.2A, and (ii) no effective filing covering all or any part of the IP Collateral is on file in the PTO.

D. Margin Regulations. The pledge of the Pledge Agreement Collateral pursuant to the Collateral Documents does not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

E. Legal Names; Type of Organization (and Whether a Registered Organization); Jurisdiction of Organization; Etc. Schedule 5.16 attached hereto contains the exact legal name of Holdings, Borrower and each U.S. Subsidiary Guarantor, the type of organization of Holdings, Borrower and each U.S. Subsidiary Guarantor, whether or not Holdings, Borrower and each U.S. Subsidiary Guarantor is a registered organization, the jurisdiction of organization of Holdings, Borrower and each U.S. Subsidiary Guarantor, and the organizational identification number (if any) of Holdings, Borrower and each U.S. Subsidiary Guarantor. To the extent that Holdings, Borrower or any U.S. Subsidiary Guarantor does not have an organizational identification number on the date hereof and later obtains one, Holdings, Borrower or such U.S. Subsidiary

Guarantor shall promptly thereafter notify Collateral Agent of such organizational identification number and shall take all actions reasonably satisfactory to Collateral Agent to the extent necessary to maintain the security interest of Collateral Agent in the Collateral intended to be granted hereby fully perfected and in full force and effect.

F. Information Regarding Collateral. All information supplied to Administrative Agent or Collateral Agent by or on behalf of any U.S. Loan Party with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is accurate and complete in all material respects.

5.17 Related Agreements.

Holdings and/or Borrower have delivered to Lenders complete and correct copies of each Related Agreement and of all exhibits and schedules thereto.

5.18 Disclosure.

All representations and warranties of Holdings or any of its Subsidiaries and all information contained in the Confidential Information Memorandum, any Related Agreement or any Loan Document or in any other document, certificate or written statement furnished to Lenders by or on behalf of Holdings or any of its Subsidiaries for use in connection with the transactions contemplated by this Agreement, taken as a whole, are true and correct in all material respects and do not omit to state a material fact (known to any Credit Agreement Party, in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein (taken as a whole) not misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by Holdings and Borrower to be reasonable at the time made, it being recognized by 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. There are no facts known (or which should upon the reasonable exercise of diligence be known) to any Credit Agreement Party (other than matters of a general economic nature) that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect and that have not been disclosed herein or in such other documents, certificates and statements furnished to Lenders for use in connection with the transactions contemplated hereby.

5.19 Subordination of Senior Subordinated Notes, Permitted Seller Notes, Shareholder Subordinated Notes, Shareholder Subordinated PIK Notes and Permitted Additional Subordinated Indebtedness.

The subordination provisions of the Senior Subordinated Notes, any Permitted Seller Notes, Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes and, on and after the execution and delivery thereof, each of the agreements or instruments relating to the Permitted Additional Subordinated Indebtedness, are enforceable against Holdings, Borrower, the respective Subsidiary Guarantors and the holders thereof, and the Loans and other Obligations hereunder and under the other Loan Documents (including, without limitation, each Guaranty) are and will be within the definition of "Senior Indebtedness", "Senior Debt",

"Guarantor Senior Debt" or "Designated Senior Debt" (or any similar terms in any of such cases), as applicable, included in such provisions.

SECTION 6.
CREDIT AGREEMENT PARTIES' AFFIRMATIVE COVENANTS

Credit Agreement Parties covenant and agree that, so long as any of the Commitments hereunder shall remain in effect and until payment in full of all of the Loans and other Obligations (other than inchoate indemnification obligations with respect to claims, losses or liabilities which have not yet arisen and are not yet due and payable) and the cancellation or expiration of all Letters of Credit, unless Requisite Lenders shall otherwise give prior written consent, each Credit Agreement Party shall perform, and shall cause each of its respective Subsidiaries to perform, all covenants in this Section 6.

6.1 Financial Statements and Other Reports.

Holdings will maintain, and cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit preparation of financial statements in conformity with GAAP. Holdings will deliver to Administrative Agent, with sufficient copies for each Lender (and Administrative Agent will, after receipt thereof, deliver to each Lender):

(i) Quarterly Financials: as soon as available and in any event within 45 days after the end of each Accounting Quarter (other than for the fourth Accounting Quarter in each Fiscal Year), (a) the consolidated balance sheet of Holdings and its Subsidiaries as at the end of such Accounting Quarter and the related consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such Accounting Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Accounting Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the Financial Plan for the current Fiscal Year, all in reasonable detail and certified by the principal financial officer or principal accounting officer of Holdings that they fairly present, in all material respects, the financial condition of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments and the absence of footnotes, and (b) a narrative report describing the operations of Holdings and its Subsidiaries in the form prepared for presentation to senior management for such Accounting Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Accounting Quarter, it being understood that (x) the delivery by Holdings of its Form 10-Q as filed with the Securities and Exchange Commission shall satisfy the requirements of this subsection 6.1(i) and (y) the delivery by Borrower of its Form 10-Q as filed with the Securities and Exchange Commission shall satisfy the requirements of Holdings under (but only under) preceding clause (b) of this subsection 6.1(i);

(ii) Year-End Financials: as soon as available and in any event within 90 days after the end of each Fiscal Year, (a) the consolidated balance sheet of Holdings and its

Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of Holdings and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year and the corresponding figures from the Financial Plan for the Fiscal Year covered by such financial statements, all in reasonable detail and certified by the principal financial officer or principal accounting officer of Holdings that they fairly present, in all material respects, the financial condition of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, (b) a narrative report describing the operations of Holdings and its Subsidiaries in the form prepared for presentation to senior management for such Fiscal Year, and (c) in the case of such consolidated financial statements, a report thereon of an Independent Public Accountant, which report shall be unqualified, shall express no doubts about the ability of Holdings and its Subsidiaries to continue as a going concern, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Holdings and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards, it being understood that (x) the delivery by Holdings of its Form 10-K as filed with the Securities and Exchange Commission shall satisfy the requirements of this subsection 6.1(ii) and (y) the delivery by Borrower of its Form 10-K as filed with the Securities and Exchange Commission shall satisfy the requirements of Holdings under (but only under) preceding clause (b) of this subsection 6.1(ii);

(iii) Officers' and Compliance Certificates: together with each delivery of financial statements of Holdings and its Subsidiaries pursuant to subdivisions (i) and (ii) above, (a) an Officers' Certificate of Holdings stating that the signers have reviewed the terms of this Agreement and have made, or caused to be made under their supervision, a review in reasonable detail of the transactions and condition of Holdings and its Subsidiaries during the accounting period covered by such financial statements and that such review has not disclosed the existence during or at the end of such accounting period, and that the signers do not have knowledge of the existence as at the date of such Officers' Certificate, of any condition or event that constitutes an Event of Default or Potential Event of Default, or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action Holdings or any of its Subsidiaries has taken, is taking and proposes to take with respect thereto; and (b) a Compliance Certificate of Holdings demonstrating in reasonable detail compliance during and at the end of the applicable accounting periods with the restrictions contained in Section 7, in each case to the extent compliance with such restrictions is required to be tested at the end of the applicable accounting period;

(iv) Reconciliation Statements: if, as a result of any change in accounting principles and policies from those used in the preparation of the audited financial statements referred to in subsection 5.3, the consolidated financial statements of Holdings and its Subsidiaries delivered pursuant to subdivisions (i), (ii) or (xii) of this subsection

6.1 will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then (1) together with the first delivery of financial statements pursuant to subdivision (i), (ii) or (xii) of this subsection 6.1 following such change, consolidated financial statements of Holdings and its Subsidiaries for (y) the current Fiscal Year to the effective date of such change and (z) the full Fiscal Year immediately preceding the Fiscal Year in which such change is made, in each case prepared on a pro forma basis as if such change had been in effect during such periods, and (2) together with each delivery of financial statements pursuant to subdivision (i), (ii) or (xii) of this subsection 6.1 following such change, a written statement of the principal accounting officer or principal financial officer of Holdings setting forth the differences (including any differences that would affect any calculations relating to the financial covenants set forth in subsection 7.6) which would have resulted if such financial statements had been prepared without giving effect to such change;

(v) Accountants' Certification: together with each delivery of consolidated financial statements of Holdings and its Subsidiaries pursuant to subdivision (ii) above, a written statement by the independent certified public accountants giving the report thereon (a) stating that their audit examination has included a review of the terms of this Agreement and the other Loan Documents as they relate to accounting matters, (b) stating whether, in connection with their audit examination, any condition or event that constitutes an Event of Default or Potential Event of Default of a financial nature has come to their attention and, if such a condition or event has come to their attention, specifying the nature and period of existence thereof; provided that such accountants shall not be liable by reason of any failure to obtain knowledge of any such Event of Default or Potential Event of Default that would not be disclosed in the course of their audit examination, and (c) stating that based on their audit examination nothing has come to their attention that causes them to believe either or both that the information contained in the certificates delivered therewith pursuant to subdivision (iii) above is not correct or that the matters set forth in the Compliance Certificates delivered therewith pursuant to clause (b) of subdivision (iii) above for the applicable Fiscal Year are not stated in accordance with the terms of this Agreement;

(vi) Accountants' Reports: promptly upon receipt thereof (unless restricted by applicable professional standards), copies of all reports submitted to Holdings by independent certified public accountants in connection with each annual, interim or special audit of the financial statements of Holdings and its Subsidiaries made by such accountants, including any comment letter submitted by such accountants to management in connection with their annual audit;

(vii) SEC Filings and Press Releases: promptly upon their becoming available, copies of (a) all financial statements, reports, notices and proxy statements sent or made available generally by Holdings to analysts or its security holders or by any Subsidiary of Holdings to analysts or its security holders other than Holdings or another Subsidiary of Holdings, (b) all regular and periodic reports and all registration statements (other than on Form S-8 or a similar form) and prospectuses, if any, filed by Holdings or any of its Subsidiaries with any securities exchange or with the Securities and Exchange

Commission or any governmental or private regulatory authority, and (c) all press releases and other written, publicly announced notices by Holdings or any of its Subsidiaries concerning material developments in the business of Holdings or any of its Subsidiaries;

(viii) Events of Default, Etc.: promptly upon any Responsible Officer of any Credit Agreement Party obtaining knowledge (a) of any condition or event that constitutes an Event of Default or Potential Event of Default, or becoming aware that any Lender has given any notice (other than to Administrative Agent) or taken any other action with respect to a claimed Event of Default or Potential Event of Default, (b) that any Person has given any notice to Holdings or any of its Subsidiaries or taken any other action with respect to a claimed default or event or condition of the type referred to in subsection 8.2, (c) of any condition or event that would be required to be disclosed in a current report filed by any Credit Agreement Party with the Securities and Exchange Commission on Form 8-K (Items 1, 2, 4, 5 and 6 of such Form as in effect on the date hereof) if such Credit Agreement Party were required to file such reports under the Exchange Act, or (d) of the occurrence of any event or change that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect, an Officers' Certificate specifying the nature and period of existence of such condition, event or change, or specifying the notice given or action taken by any such Person and the nature of such claimed Event of Default, Potential Event of Default, default, event or condition, and what action Holdings or any of its Subsidiaries has taken, is taking and proposes to take with respect thereto;

(ix) Litigation or Other Proceedings: promptly upon any Responsible Officer of any Credit Agreement Party obtaining knowledge of (a) the institution of, or non-frivolous threat of, any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration against or affecting Holdings or any of its Subsidiaries or any property of Holdings or any of its Subsidiaries (collectively, "Proceedings") not previously disclosed in writing by any Credit Agreement Party to Lenders or (b) any material development in any Proceeding that, in any case:

(1) if adversely determined, would reasonably be expected to have a Material Adverse Effect; or

(2) seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby;

written notice thereof together with such other information as may be reasonably available to any Credit Agreement Party to enable Lenders and their counsel to evaluate such matters;

(x) ERISA Events: promptly upon becoming aware of the occurrence of or forthcoming occurrence of (x) any ERISA Event (other than an ERISA Event concerning a Multiemployer Plan) or (y) any ERISA Event concerning a Multiemployer Plan which would reasonably be expected to result in a material liability to Holdings, any of its

Subsidiaries or any of their respective ERISA Affiliates, a written notice specifying the nature thereof, what action Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto;

(xi) ERISA Notices: with reasonable promptness, copies of (a) if requested by the Requisite Lenders, each Schedule B (Actuarial Information) to any annual report (Form 5500 Series) filed by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan, as Administrative Agent shall reasonably request; (b) all notices received by Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERISA Event which would reasonably be expected to result in a material liability to Holdings, any of its Subsidiaries or any of their respective ERISA Affiliates; and (c) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as Administrative Agent shall reasonably request;

(xii) Financial Plans: as soon as practicable and in any event no later than 45 days after the beginning of each Fiscal Year, a consolidated plan and financial forecast for such Fiscal Year and the next succeeding Fiscal Year (the "Financial Plan" for such Fiscal Years), including (a) a forecasted consolidated balance sheet and forecasted consolidated statements of income and cash flows of Holdings and its Subsidiaries for each such Fiscal Year, together with a pro forma Compliance Certificate for the first such Fiscal Year and an explanation of the significant assumptions on which such forecasts are based, and (b) such other information regarding such projections as Administrative Agent may reasonably request;

(xiii) Insurance: together with each delivery of financial statements of Holdings and its Subsidiaries pursuant to subdivision (ii), a report in form and substance satisfactory to Administrative Agent outlining all material changes made to insurance coverage maintained as of the Restatement Effective Date or the date of the most recent such report by Holdings and its Subsidiaries;

(xiv) New Subsidiaries: promptly upon any Person becoming a Subsidiary of Holdings, a written notice setting forth with respect to such Person (a) the date on which such Person became a Subsidiary of Holdings and (b) the ownership and debt and equity capitalization of such Subsidiary;

(xv) Material Contracts: promptly, and in any event within ten Business Days after any Material Contract of Holdings or any of its Subsidiaries is terminated or amended in a manner that is materially adverse to Holdings or such Subsidiary, as the case may be, or any new Material Contract is entered into, a written statement describing such event with copies of such material amendments or new contracts, and an explanation of any actions being taken with respect thereto;

(xvi) Foreign Subsidiaries: together with each delivery of financial statements of Holdings and its Subsidiaries pursuant to subdivision (ii), a report in form and

substance reasonably satisfactory to Administrative Agent setting forth the book value of the consolidated gross assets of each Foreign Subsidiary; and

(xvii) Other Information: with reasonable promptness, such other information and data with respect to Holdings or any of its Subsidiaries as from time to time may be reasonably requested by Administrative Agent or any Lender (acting through Administrative Agent).

6.2 Corporate Existence, Etc.

Except as permitted under subsection 7.7, Holdings will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its corporate, partnership or limited liability company, as the case may be, existence and all rights and franchises material to its business; provided, however, that neither Holdings nor any of its Subsidiaries shall be required to preserve any such right or franchise if the Board of Directors of Holdings or such Subsidiary shall determine that the preservation thereof is no longer desirable in the conduct of the business of Holdings or such Subsidiary, as the case may be, and that the loss thereof is not disadvantageous in any material respect to Holdings, such Subsidiary or Lenders.

6.3 Payment of Taxes and Claims; Tax Consolidation.

A. Holdings will, and will cause each of its Subsidiaries to, pay all federal, state and other material taxes, assessments and other like governmental charges imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any material penalty accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable and by law have or may become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; provided that no such charge or claim need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as (1) such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor and (2) in the case of a charge or claim which has or may become a Lien against any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such charge or claim.

B. Holdings will not, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income Tax return with any Person (other than any of its Subsidiaries).

6.4 Maintenance of Properties; Insurance; Application of Net Insurance/ Condemnation Proceeds.

A. Maintenance of Properties. Holdings will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear and damage by casualty excepted, all material properties used or useful in the business of Holdings and its Subsidiaries and from time to time will make or cause to be made all repairs, renewals and replacements thereof which are useful, customary or appropriate for companies in similar businesses.

B. Insurance. Holdings will maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Holdings and its Subsidiaries as may customarily be carried or maintained under similar circumstances by corporations of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for corporations similarly situated in the industry. Without limiting the generality of the foregoing, Holdings will maintain or cause to be maintained flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System. Each such policy of insurance related to property damage, casualty or business interruption shall (a) name Administrative Agent for the benefit of Lenders as an additional insured thereunder as its interests may appear and (b) in the case of each business interruption and property damage insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to Administrative Agent, that names Administrative Agent for the benefit of Lenders as the loss payee thereunder for any covered loss in excess of \$1,000,000 and provides for at least 30 days, prior written notice to Administrative Agent of any modification or cancellation of such policy.

C. Application of Net Insurance/Condemnation Proceeds.

(i) Business Interruption Insurance. Upon receipt by Holdings or any of its Subsidiaries of any business interruption insurance proceeds constituting Net Insurance/Condemnation Proceeds, (a) so long as no Event of Default shall have occurred and be continuing, Holdings or such Subsidiary may retain and apply such Net Insurance/Condemnation Proceeds for working capital purposes of Borrower and its Subsidiaries, and (b) if an Event of Default shall have occurred and be continuing, Borrower shall within five Business Days of the receipt thereof apply an amount equal to such Net Insurance/Condemnation Proceeds to prepay the Loans (and/or the Revolving Loan Commitments shall be reduced) as provided in subsection 2.4B(iii)(b);

(ii) Casualty Insurance/Condemnation Proceeds. Within five Business Days of receipt by Holdings or any of its Subsidiaries of any Net Insurance/Condemnation Proceeds other than from business interruption insurance, (a) so long as no Event of Default shall have occurred and be continuing and so long as the aggregate amount of Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds received from the Restatement Effective Date to the date of determination does not exceed \$75,000,000, Holdings may deliver to Administrative Agent an Officers' Certificate setting forth (1) that portion of such Net Insurance/Condemnation Proceeds (the "Proposed Insurance Reinvestment Proceeds") that Borrower or any of its Subsidiaries intends to use (or enter into a contract to use) within 360 days of such date of receipt to pay or reimburse the costs of repairing, restoring or replacing the assets in respect of which such Net Insurance/Condemnation Proceeds were received or to reinvest in Eligible Assets and (2) the proposed use of the Proposed Insurance Reinvestment Proceeds and such other information with respect to such proposed use as Administrative Agent may reasonably request, and Borrower shall, or shall cause one or more of its Subsidiaries to, promptly

apply such Proposed Insurance Reinvestment Proceeds to pay or reimburse the costs of repairing, restoring or replacing the assets in respect of which such Proposed Insurance Reinvestment Proceeds were received or to reinvestment in Eligible Assets, provided that if such Proposed Insurance Reinvestment Proceeds are not so applied within 360 days after the date of receipt thereof, then to the extent the sum of the Net Asset Sale Proceeds plus Net Insurance/Condemnation Proceeds received during the Net Asset Sale/Net Insurance Proceeds Period not reinvested pursuant to subsection 2.4B(iii)(a) or this subsection 6.4C(ii), as applicable, equals or exceeds \$7,500,000, such Proposed Insurance Reinvestment Proceeds shall be applied to prepay the Loans (and/or the Revolving Loan Commitments shall be reduced) as provided in subsection 2.4B(iii)(b), and (b) if an Event of Default shall have occurred and be continuing, Borrower shall apply an amount equal to such Net Insurance/Condemnation Proceeds to prepay the Loans (and/or the Revolving Loan Commitments shall be reduced) as provided in subsection 2.4B(iii)(b).

(iii) Net Insurance/Condemnation Proceeds Received by Administrative Agent. Within five Business Days of receipt by Administrative Agent of any Net Insurance/Condemnation Proceeds as loss payee, (a) if and to the extent Borrower would have been required to apply such Net Insurance/Condemnation Proceeds (if it had received them directly) to prepay the Loans and/or reduce the Revolving Loan Commitments, Administrative Agent shall, and Borrower hereby authorizes Administrative Agent to, apply such Net Insurance/Condemnation Proceeds to prepay the Loans (and/or the Revolving Loan Commitments shall be reduced) as provided in subsection 2.4B(iii)(b), and (b) to the extent the foregoing clause (a) does not apply, Administrative Agent shall deliver such Net Insurance/Condemnation Proceeds to Borrower, and Borrower shall, or shall cause one or more of its Subsidiaries to, promptly apply such Net Insurance/Condemnation Proceeds (other than any business interruption insurance proceeds) to the costs of repairing, restoring, or replacing the assets in respect of which such Net Insurance/Condemnation Proceeds were received or to reinvestment in Eligible Assets.

6.5 Inspection Rights; Audits of Inventory and Accounts Receivable; Lender Meeting.

A. Inspection Rights. Holdings shall, and shall cause each of its Subsidiaries to, permit any authorized representatives designated by any Lender to visit and inspect any of the properties of Holdings or any of its Subsidiaries, to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their affairs, finances and accounts with its and their officers and independent public accountants (provided that Holdings or Borrower may, if they so choose, be present at or participate in any such discussion), all upon reasonable notice and at such reasonable times during normal business hours as may be requested; provided, however, that (x) no more than one such audit and inspection shall occur during any Fiscal Year unless an Event of Default has occurred and is continuing and (y) each Lender shall at all times coordinate with Administrative Agent the frequency and timing of such visits and inspections so as to reasonably minimize the burden imposed on Holdings and its Subsidiaries.

B. Lender Meeting. Credit Agreement Parties will, upon the request of JPMSI, Administrative Agent or Requisite Lenders, participate in a meeting of Administrative Agent and Lenders once during each Fiscal Year to be held at Holdings' corporate offices (or at such other location as may be agreed to by Credit Agreement Parties and Administrative Agent) at such time as may be agreed to by Credit Agreement Parties and Administrative Agent.

6.6 Compliance with Laws, Etc.

Holdings shall comply, and shall cause each of its Subsidiaries to comply, with the requirements of all applicable laws, rules, regulations and orders of any governmental authority (including all Environmental Laws), except where noncompliance would not reasonably be expected to cause, individually or in the aggregate, a Material Adverse Effect.

6.7 Environmental Review and Investigation, Disclosure, Etc.; Actions Regarding Hazardous Materials Activities, Environmental Claims and Violations of Environmental Laws.

A. Environmental Review and Investigation. Credit Agreement Parties agree that Administrative Agent may, (i) at any time a fact, event or condition arises that, in Administrative Agent's reasonable discretion, Administrative Agent determines could give rise to environmental liabilities at any Facility that would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, retain, at Borrower's expense, an independent professional consultant to review any environmental audits, investigations, analyses and reports relating to Hazardous Materials at such Facility prepared by or for Borrower and (ii) in the event (a) Administrative Agent reasonably believes that any Credit Agreement Party has breached any representation, warranty or covenant contained in subsection 5.6 (as such subsection pertains to environmental matters), 5.13, 6.6 (as such subsection pertains to environmental matters) or 6.7 or that there has been a material violation of Environmental Laws at any Facility or by Holdings or any of its Subsidiaries at any other location, conduct its own investigation of such breach or violation or (b) an Event of Default has occurred and is continuing and the repayment of any amount due hereunder has been accelerated, conduct its own investigation of any Facility. For purposes of conducting an investigation pursuant to clause (ii) of the preceding sentence, Credit Agreement Parties hereby grant to Administrative Agent and its agents, employees, consultants and contractors the right to enter into or onto any Facilities currently owned, leased, operated or used by Holdings or any of its Subsidiaries and to perform such tests on such property (including taking samples of soil, groundwater and suspected asbestos-containing materials) as are reasonably necessary in connection therewith (to the extent, at any Facility leased by Holdings or any of its Subsidiaries, such actions are permitted by the owner of such Facility). Any such investigation of any Facility shall be conducted, unless otherwise agreed to by Holdings and Administrative Agent, during normal business hours and, to the extent reasonably practicable, shall be conducted so as not to interfere with the ongoing operations at such Facility or to cause any damage or loss to any property at such Facility. Each Credit Agreement Party and Administrative Agent hereby acknowledge and agree that any report of any investigation conducted at the request of Administrative Agent pursuant to this subsection 6.7A will be obtained and shall be used by Administrative Agent and Lenders for the purposes of Lenders' internal credit decisions, to monitor and police the Loans and to protect Lenders' security interests, if any, created by the Loan Documents. Administrative Agent agrees to deliver a copy

of any such report to Holdings with the understanding that Credit Agreement Parties acknowledge and agree that (x) they will indemnify and hold harmless Administrative Agent and each Lender from any costs, losses or liabilities relating to any Credit Agreement Party's use of or reliance on such report, (y) neither Administrative Agent nor any Lender makes any representation or warranty with respect to such report, and (z) by delivering such report to Holdings, neither Administrative Agent nor any Lender is requiring or recommending the implementation of any suggestions or recommendations contained in such report.

B. Environmental Disclosure. Holdings will deliver to Administrative Agent, with sufficient copies for each Lender (and Administrative Agent will, after receipt thereof, deliver to each Lender):

(i) Environmental Audits and Reports. As soon as practicable following receipt thereof, copies of all material environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Holdings or any of its Subsidiaries or by independent consultants, governmental authorities or any other Persons, with respect to environmental matters at any Facility that would reasonably be expected to have a Material Adverse Effect.

(ii) Notice of Certain Releases, Remedial Actions, Etc. Promptly upon the occurrence thereof, written notice describing in reasonable detail (a) any Release required to be reported to any federal, state or local governmental or regulatory agency under any applicable Environmental Laws unless such Release would not reasonably be expected to result in a Material Adverse Effect, (b) any remedial action taken by any Credit Agreement Party or any other Person in response to (1) any Hazardous Materials Activities the existence of which would reasonably be expected to result in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect, or (2) any Environmental Claims of which Holdings or any of its Subsidiaries has notice that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect, and (c) any Credit Agreement Party's discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility that would reasonably be expected to cause such Facility or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws, which would reasonably be expected to have a Material Adverse Effect.

(iii) Written Communications Regarding Environmental Claims, Releases, Etc. As soon as practicable following the sending or receipt thereof by Holdings or any of its Subsidiaries, a copy of any and all material written communications with respect to (a) any Environmental Claims that, individually or in the aggregate, would reasonably be expected to give rise to a Material Adverse Effect, (b) any Release required to be reported to any federal, state or local governmental or regulatory agency unless such Release would not reasonably be expected to result in a Material Adverse Effect, and (c) any request for information from any governmental agency that suggests such agency is investigating whether Holdings or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity unless such Hazardous Materials Activity could not reasonably be expected to have a Material Adverse Effect.

(iv) Notice of Certain Proposed Actions Having Environmental Impact. Prompt written notice describing in reasonable detail (a) any proposed acquisition of stock, assets, or property by Holdings or any of its Subsidiaries that could reasonably be expected to (1) expose Holdings or any of its Subsidiaries to, or result in, Environmental Claims that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (2) affect the ability of Holdings or any of its Subsidiaries to maintain in full force and effect all material Governmental Authorizations required under any Environmental Laws for their respective operations and (b) any proposed action to be taken by Holdings or any of its Subsidiaries to modify current operations in a manner that would reasonably be expected to subject Holdings or any of its Subsidiaries to any material additional obligations or requirements under any Environmental Laws where such obligations or reimbursements would reasonably be expected to have a Material Adverse Effect.

(v) Other Information. With reasonable promptness, such other documents and information as from time to time may be reasonably requested by Administrative Agent or any Lender (acting through Administrative Agent) in relation to any matters disclosed pursuant to this subsection 6.7.

C. Actions Regarding Hazardous Materials Activities, Environmental Claims and Violations of Environmental Laws. Holdings shall operate and maintain, and shall cause each of its Subsidiaries to operate and maintain, all Facilities, and shall conduct, and shall cause each of its Subsidiaries to conduct, all Hazardous Materials Activity undertaken in connection with the maintenance or operation of such Facilities, in compliance with applicable Environmental Laws, except for such noncompliance as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

6.8 Execution of Subsidiaries Guaranty and Personal Property Collateral Documents by Future Subsidiaries.

A. Execution of Subsidiaries Guaranty and Personal Property Collateral Documents. In the event that any Person becomes a Domestic Subsidiary of Holdings after the date hereof, Holdings will promptly notify Administrative Agent of that fact and cause such Subsidiary to execute and deliver to Collateral Agent counterparts of the Subsidiaries Guaranty, Pledge Agreement and Security Agreement and to take all such further actions and execute all such further documents and instruments (including actions, documents and instruments comparable to those described in subsection 4.1J) as may be reasonably necessary or, in the reasonable opinion of Administrative Agent, desirable to create in favor of Collateral Agent, for the benefit of Secured Creditors, a valid and perfected First Priority Lien on all of the personal and mixed property assets of such Subsidiary described in the applicable forms of Collateral Documents.

B. Subsidiary Charter Documents, Legal Opinions, Etc. Holdings shall deliver to Administrative Agent, together with such Loan Documents, (i) certified copies of such Subsidiary's Certificate or Articles of Incorporation (or equivalent organizational documents), together with a good standing certificate from the Secretary of State of the jurisdiction of its organization and, to the extent requested by Administrative Agent, each other state in which such Person is qualified as a foreign entity to do business and, to the extent generally available, a

certificate or other evidence of good standing as to payment of any applicable franchise or similar taxes from the appropriate taxing authority of each of such jurisdictions, each to be dated a recent date prior to their delivery to Administrative Agent, (ii) a copy of such Subsidiary's Bylaws (or equivalent organizational documents), certified by its secretary or an assistant secretary as of a recent date prior to their delivery to Administrative Agent, (iii) a certificate executed by the secretary or an assistant secretary of such Subsidiary as to (a) the fact that the attached resolutions of the Board of Directors of such Subsidiary approving and authorizing the execution, delivery and performance of such Loan Documents are in full force and effect and have not been modified or amended and (b) the incumbency and signatures of the officers of such Subsidiary executing such Loan Documents, and (iv) to the extent requested by Administrative Agent, a favorable opinion of counsel to such Subsidiary, in form and substance reasonably satisfactory to Administrative Agent and its counsel, as to (a) the due organization and good standing of such Subsidiary, (b) the due authorization, execution and delivery by such Subsidiary of such Loan Documents, (c) the enforceability of such Loan Documents against such Subsidiary, (d) such other matters (including matters relating to the creation and perfection of Liens in any Collateral pursuant to such Loan Documents) as Administrative Agent may reasonably request, all of the foregoing to be reasonably satisfactory in form and substance to Administrative Agent and its counsel.

6.9 Conforming Leasehold Interests; Matters Relating to Additional Real Property Collateral.

A. Conforming Leasehold Interests. Upon the request of Administrative Agent or the Requisite Lenders, Holdings shall use commercially reasonable efforts to, or shall cause such Subsidiary to use commercially reasonable efforts to, cause each Material Leasehold Property of Holdings or such Subsidiary to be a Conforming Leasehold Interest.

B. Additional Mortgages, Etc. From and after the Restatement Effective Date, upon the request of Administrative Agent or the Requisite Lenders at any time or from time to time, Holdings, Borrower and each U.S. Subsidiary Guarantor, as the case may be, shall (i) grant to Collateral Agent, a First Priority Lien securing the Obligations in respect of any Real Property Asset owned in fee by such Loan Party and all Material Leasehold Properties of such Loan Party (other than any such Real Property Asset the encumbrancing of which requires the consent of any applicable lessor or the then-existing senior lienholder, where Holdings and its Subsidiaries are unable, after exercising commercially reasonable efforts, to obtain such lessor's or senior lienholder's consent (any such non-excluded Real Property Asset described above being an "Additional Mortgaged Property")) and (ii) deliver to Administrative Agent the following:

(i) Additional Mortgage. A fully executed and notarized Mortgage (an "Additional Mortgage"), in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering the interest of such U.S. Loan Party in such Additional Mortgaged Property;

(ii) Opinions of Counsel. (a) A favorable opinion of counsel to such U.S. Loan Party, in form and substance satisfactory to Administrative Agent and its counsel, as to the due authorization, execution and delivery by such U.S. Loan Party of such Additional Mortgage and such other matters as Administrative Agent may reasonably

request, and (b) if required by Administrative Agent, an opinion of counsel (which counsel shall be reasonably satisfactory to Administrative Agent) in the state in which such Additional Mortgaged Property is located with respect to the enforceability of such Additional Mortgage and such other matters as Administrative Agent may reasonably request, in each case in form and substance reasonably satisfactory to Administrative Agent;

(iii) Landlord Consent and Estoppel: Recorded Leasehold Interest. In the case of an Additional Mortgaged Property consisting of a Leasehold Property, (a) a Landlord Consent and Estoppel and (b) evidence that such Leasehold Property is a Recorded Leasehold Interest;

(iv) Title Insurance. (a) If required by Administrative Agent, an ALTA mortgagee title insurance policy or an unconditional commitment therefor (an "Additional Mortgage Policy") issued by the Title Company with respect to such Additional Mortgaged Property, in an amount reasonably satisfactory to Administrative Agent, insuring fee simple title to, or a valid leasehold interest in, such Additional Mortgaged Property vested in such U.S. Loan Party and assuring Administrative Agent that such Additional Mortgage creates a valid and enforceable First Priority mortgage Lien on such Additional Mortgaged Property, subject only to a standard survey exception, which Additional Mortgage Policy (1) shall include an endorsement for mechanics' liens, for future advances (in each case, if available) under this Agreement and for any other matters reasonably requested by Administrative Agent and (2) shall provide for affirmative insurance and such reinsurance as Administrative Agent may reasonably request, all of the foregoing in form and substance reasonably satisfactory to Administrative Agent; and (b) evidence satisfactory to Administrative Agent that such U.S. Loan Party has (i) delivered to the Title Company all certificates and affidavits required by the Title Company in connection with the issuance of the Additional Mortgage Policy and (ii) paid to the Title Company or to the appropriate governmental authorities all expenses and premiums of the Title Company in connection with the issuance of the Additional Mortgage Policy and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Additional Mortgage in the appropriate real estate records; provided, however, that Administrative Agent shall allow for such reasonable revisions to the applicable Mortgage and shall otherwise take such steps as are reasonable and customary to minimize recording, mortgage recording, stamp, documentary and intangible taxes, at Borrower's cost;

(v) Title Report. If no Additional Mortgage Policy is required with respect to such Additional Mortgaged Property, a title report issued by the Title Company with respect thereto, last updated not more than 30 days prior to the date such Additional Mortgage is to be recorded and reasonably satisfactory in form and substance to Administrative Agent;

(vi) Copies of Documents Relating to Title Exceptions. Copies of all recorded documents listed as exceptions to title or otherwise referred to in the Additional Mortgage Policy or title report delivered pursuant to clause (iv) or (v) above;

(vii) Matters Relating to Flood Hazard Properties. (a) Evidence, which may be in the form of a surveyor's note on a survey or a report from a flood hazard search firm or a letter from an insurance broker or a municipal engineer, as to (1) whether such Additional Mortgaged Property is a Flood Hazard Property and (2) if so, whether the community in which such Flood Hazard Property is located is participating in the National Flood Insurance Program, (b) if such Additional Mortgaged Property is a Flood Hazard Property, such Loan Party's written acknowledgment of receipt of written notification from Administrative Agent (1) that such Additional Mortgaged Property is a Flood Hazard Property and (2) as to whether the community in which such Flood Hazard Property is located is participating in the National Flood Insurance Program, and (c) in the event such Additional Mortgaged Property is a Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, evidence that Holdings or any of its Subsidiaries has obtained flood insurance in respect of such Flood Hazard Property to the extent required under the applicable regulations of the Board of Governors of the Federal Reserve System; and

(viii) Environmental Audit. If required by Administrative Agent, reports and other information, in form, scope and substance reasonably satisfactory to Administrative Agent and prepared by environmental consultants reasonably satisfactory to Administrative Agent, concerning any environmental hazards or liabilities to which Holdings or any of its Subsidiaries may be subject with respect to such Additional Mortgaged Property.

C. Real Estate Appraisals. In the event that Administrative Agent or the Requisite Lenders determines in its or their reasonable discretion (whether as a result of a position taken by an applicable bank regulatory agency or official, or otherwise) that real estate appraisals satisfying the requirements set forth in 12 C.F.R., Part 34-Subpart C, or any successor or similar statute, rule, regulation, guideline or order (any such appraisal, a "Required Appraisal") are or were required to be obtained, or should be obtained, in connection with any property subject to a Mortgage then, within 90 days after receiving written notice thereof from Administrative Agent or the Requisite Lenders, as the case may be, Holdings shall cause such Required Appraisal to be delivered, at the expense of Holdings and Borrower, to Administrative Agent, which Required Appraisal, and the respective appraiser, shall be reasonably satisfactory to Administrative Agent.

6.10 Interest Rate Protection.

Borrower shall maintain in effect one or more Interest Rate Agreements with respect to their floating rate Indebtedness (including, without limitation, their Indebtedness under this Agreement), each such Interest Rate Agreement to be in form and substance reasonably satisfactory to Administrative Agent, to the extent necessary in order that after giving effect thereto at least 40% of the aggregate principal amount of the consolidated Indebtedness of Holdings and its Subsidiaries bears interest at a fixed rate of interest for a period of at least three years following the Restatement Effective Date.

6.11 Additional Foreign Subsidiary Collateral.

If, following a change in the relevant provisions of the Internal Revenue Code, counsel for Holdings acceptable to Administrative Agent does not within 30 days after a request from Administrative Agent or Requisite Lenders deliver evidence, in form and substance satisfactory to Administrative Agent with respect to any Foreign Subsidiary which has not already had all of its capital stock pledged pursuant to the Collateral Documents, that (i) a pledge of 65% or more of the total combined voting power of all classes of capital stock of such Foreign Subsidiary entitled to vote and (ii) the entering into by such Foreign Subsidiary of a guaranty in substantially the form of the Subsidiaries Guaranty, in any such case would cause the undistributed earnings of such Foreign Subsidiary as determined for Federal income Tax purposes to be treated as a deemed dividend to such Foreign Subsidiary's United States parent for Federal income Tax purposes, then: in the case of a failure to deliver the evidence described in clause (i) above, that portion of such Foreign Subsidiary's outstanding capital stock so issued by such Foreign Subsidiary, in each case not theretofore pledged pursuant to the Collateral Documents, shall be pledged to Collateral Agent pursuant to the Collateral Documents (or another pledge agreement in substantially similar form, if necessary), and in the case of a failure to deliver the evidence described in clause (ii) above, such Foreign Subsidiary shall execute and deliver the Subsidiaries Guaranty and other Collateral Documents (or other guaranty and security agreements in substantially similar form, if necessary), granting Collateral Agent a security interest in all of such Foreign Subsidiary's real, mixed and personal property and securing the Obligations, in each case to the extent that such pledge of capital stock and entry into such guaranty and related documents is permitted by the laws of the applicable foreign jurisdictions.

6.12 Post-Closing Deliveries.

Holdings and/or Borrower shall cause any actions set forth on Schedule 6.12 annexed hereto to be taken within the time period(s) specified on such Schedule 6.12 and in form and substance reasonably satisfactory to Administrative Agent and JPMSI.

SECTION 7. CREDIT AGREEMENT PARTIES' NEGATIVE COVENANTS

Credit Agreement Parties covenant and agree that, so long as any of the Commitments hereunder shall remain in effect and until payment in full of all of the Loans and other Obligations (other than inchoate indemnification obligations with respect to claims, losses or liabilities which have not yet arisen and are not yet due and payable) and the cancellation or expiration of all Letters of Credit, unless Requisite Lenders shall otherwise give prior written consent, Credit Agreement Parties shall perform, and shall cause each of their respective Subsidiaries to perform, all covenants in this Section 7.

7.1 Indebtedness.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

- (i) Borrower may become and remain liable with respect to the Obligations;

(ii) Holdings and its Subsidiaries may become and remain liable with respect to Contingent Obligations permitted by subsection 7.4 and, upon any matured obligations actually arising pursuant thereto, the Indebtedness corresponding to the Contingent Obligations so extinguished;

(iii) Borrower and its Subsidiaries may become and remain liable with respect to (a) Indebtedness in respect of Capital Leases and (b) Indebtedness secured by Liens permitted under subsection 7.2A(iv), provided that the aggregate amount of Indebtedness described in clauses (a) and (b) shall not exceed \$35,000,000 at any time outstanding;

(iv) Borrower may become and remain liable with respect to Indebtedness to any U.S. Subsidiary Guarantor, and any U.S. Subsidiary Guarantor may become and remain liable with respect to Indebtedness to Borrower or any other U.S. Subsidiary Guarantor; provided that (a) all such intercompany Indebtedness shall be evidenced by promissory notes pledged to Collateral Agent pursuant to the Pledge Agreement, and (b) any payment by any such Subsidiary of Borrower under any guaranty of the Obligations shall result in a pro tanto reduction of the amount of any intercompany Indebtedness owed by such Subsidiary to Borrower or to any of such U.S. Subsidiary Guarantors for whose benefit such payment is made;

(v) (a) Borrower and any wholly owned Subsidiary of Borrower may become and remain liable with respect to Indebtedness to any wholly owned Foreign Subsidiary, and (b) any Foreign Subsidiary (x) may remain liable with respect to Indebtedness to Borrower or to any of the U.S. Subsidiary Guarantors set forth on Schedule 7.1(v) annexed hereto in amounts not to exceed the respective amounts set forth on such schedule and (y) may become and remain liable with respect to additional Indebtedness to Borrower or any U.S. Subsidiary Guarantor so long as the aggregate outstanding amount of such Indebtedness under this clause (y) does not exceed the limits on such Indebtedness set forth in subsection 7.3(xiii); provided that (1) all intercompany Indebtedness described in clause (b) shall be evidenced by promissory notes pledged to Collateral Agent pursuant to the Pledge Agreement, and (2) all intercompany Indebtedness described in clause (a) owed by Borrower or any U.S. Subsidiary Guarantor to any wholly owned Foreign Subsidiary shall be subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the applicable promissory notes or an intercompany subordination agreement;

(vi) Borrower may become and/or remain liable with respect to Indebtedness evidenced by (a) the New Senior Subordinated Notes and (b) the Existing Senior Subordinated Notes in an aggregate principal amount not to exceed \$415,500,000 (as such amount may be reduced by repayments of principal thereof after the Restatement Effective Date);

(vii) Holdings and its Subsidiaries, as applicable, may remain liable with respect to Indebtedness described in Schedule 7.1(vii) annexed hereto;

(viii) Holdings may become and remain liable with respect to Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes issued in lieu of cash

payments permitted under subsections 7.5(viii) and (xi) to repurchase capital stock (and options and warrants to purchase such capital stock) of Holdings held by any shareholders of Holdings (other than Bain and the Other Investors), provided, that the aggregate principal amount of Shareholder Subordinated Notes shall not exceed \$20,000,000 at any time outstanding;

(ix) Borrower may become and remain liable with respect to Permitted Seller Notes issued as consideration in Permitted Acquisitions; provided that the aggregate principal amount of Permitted Seller Notes at any time outstanding shall not exceed \$10,000,000;

(x) Foreign Subsidiaries of Borrower may become and remain liable with respect to Indebtedness under lines of credit extended after the Restatement Effective Date to any such Foreign Subsidiary by Persons other than Holdings or any of its Subsidiaries, the proceeds of which Indebtedness are used for such Foreign Subsidiary's working capital or other corporate purposes, provided that the aggregate principal amount of all such Indebtedness outstanding at any time for all such Foreign Subsidiaries (such Indebtedness being the "Foreign Subsidiary Working Capital Indebtedness") shall not exceed \$5,000,000;

(xi) Holdings may remain liable with respect to the Seller Contingent Note, provided that (x) the maximum principal amount thereof shall not exceed \$15,000,000 at any one time outstanding and (y) in no event shall interest thereon accrue at a rate in excess of 8% per annum;

(xii) Borrower may become and remain liable for Permitted Additional Subordinated Indebtedness, provided that (x) no Potential Event of Default or Event of Default is in existence at the time of any incurrence thereof and immediately after giving effect thereto, (y) Holdings shall have delivered to Administrative Agent an Officer's Certificate (together with supporting calculations), in form and substance reasonably satisfactory to Administrative Agent, certifying as to pro forma compliance with the financial covenants set forth in subsections 7.6A, 7.6B and 7.6C (for such purpose as if such Permitted Additional Subordinated Indebtedness (and all other indebtedness incurred after the last day of the Test Period then last ended and then outstanding) had been incurred (and the proceeds thereof applied), and the Senior Subordinated Notes refinanced with the proceeds of such Permitted Additional Subordinated Indebtedness had been refinanced, in each case on the first day of the Test Period then last ended and taking account of any additional adjustments required by subsection 7.6D) and (z) the aggregate principal amount thereof, when added to the aggregate principal amount of the Senior Subordinated Notes then outstanding (after giving effect to any repayment of principal thereof with the proceeds of the incurrence of such Permitted Additional Subordinated Indebtedness), shall not exceed \$550,000,000 at any one time outstanding; and

(xiii) Borrower and its Subsidiaries may become and remain liable with respect to Indebtedness in addition to the Indebtedness otherwise permitted under this subsection; provided that the aggregate outstanding principal amount of the Indebtedness incurred

pursuant to this clause (xiii), together with the maximum aggregate liability, contingent or otherwise, with respect to Contingent Obligations incurred pursuant to subsection 7.4(xi) shall not exceed \$55,000,000 at any time outstanding.

7.2 Liens and Related Matters.

A. Prohibition on Liens. Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind of Holdings or any of its Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the Uniform Commercial Code of any State or under any similar recording or notice statute, except:

(i) Permitted Encumbrances;

(ii) Liens created pursuant to the Collateral Documents in favor of Collateral Agent for the benefit of Secured Creditors securing U.S. Loan Parties' obligations under this Agreement and/or under Interest Rate Agreements and/or Currency Agreements with any Secured Creditors (including the Existing Swap Agreements);

(iii) Liens arising in connection with Capital Leases permitted under subsection 7.1(iii)(a); provided that no such Lien shall extend to or cover any Collateral or assets other than the assets subject to such Capital Leases;

(iv) Liens securing Indebtedness permitted by subsection 7.1(iii)(b) incurred (a) to finance the acquisition, construction or improvement of any real property or tangible personal property assets acquired or held by Borrower or any of its Subsidiaries in the ordinary course of business; provided that (1) such Liens shall be created within 180 days after the acquisition, construction or improvement of such assets, and (2) the principal amount of Indebtedness secured by any such Liens shall at no time exceed 100%, and the proceeds of such Indebtedness shall be used to provide not less than 75%, of the original purchase price of such asset or the amount expended to construct or improve such asset, as the case may be; or (b) to renew, extend or refinance any Indebtedness described in clause (a); provided that the amount of any such Indebtedness does not exceed the amount of Indebtedness so renewed, extended or refinanced which is unpaid and outstanding immediately prior to such renewal, extension or refinancing; and provided, further, that in the case of clause (a) or (b), (1) such Liens attach solely to the assets financed with such Indebtedness, (2) no recourse may be had under the Indebtedness secured by such Lien against any Person other than the borrower of such Indebtedness for the payment of principal, interest, fees, costs or premium on such Indebtedness or for any claim based thereon, and (3) the financial covenants under any Indebtedness secured by such Liens are, in each case, no more restrictive than those set forth in this Agreement; and

(v) Other Liens securing Indebtedness in an aggregate amount not to exceed \$35,000,000 at any time outstanding.

B. No Further Negative Pledges. Except (i) with respect to property encumbered by a Permitted Encumbrance or to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to an Asset Sale and (ii) for restrictions and encumbrances permitted pursuant to clauses (d), (h) and (i) of subsection 7.2C below, neither Holdings nor any of its Subsidiaries shall enter into any agreement (other than the Senior Subordinated Note Indentures, any other agreement prohibiting only the creation of Liens securing Subordinated Indebtedness) prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired.

C. No Restrictions on Subsidiary Distributions to Holdings or Other Subsidiaries. Except as provided herein, Holdings will not, and will not permit any of its Subsidiaries to, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any such Subsidiary to (i) pay dividends or make any other distributions on any of such Subsidiary's capital stock owned by Holdings or any other Subsidiary of Holdings, (ii) repay or prepay any Indebtedness owed by such Subsidiary to Holdings or any other Subsidiary of Holdings, (iii) make loans or advances to Holdings or any other Subsidiary of Holdings, or (iv) transfer any of its property or assets to Holdings or any other Subsidiary of Holdings, except for such encumbrances or restrictions existing under or by reason of (a) applicable law, (b) this Agreement and the other Credit Documents, (c) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Borrower or any of their respective Subsidiaries, (d) customary provisions restricting assignment of any agreement entered into by Borrower or any of their respective Subsidiaries in the ordinary course of business, (e) the Senior Subordinated Note Indentures, (f) customary provisions restricting the transfer of assets subject to Liens permitted under subsections 7.2A(iii) and 7.2A(iv), (g) any Permitted Seller Note, (h) any restriction or encumbrance with respect to a Subsidiary imposed pursuant to an agreement which has been entered into for the sale or disposition of all or substantially all of the capital stock or assets of such Subsidiary, so long as such sale or disposition of all or substantially all of the capital stock or assets of such Subsidiary is permitted under this Agreement, (i) restrictions applicable to any Joint Venture that is a Subsidiary existing at the time of the acquisition thereof as a result of an Investment pursuant to subsection 7.3 or a Permitted Acquisition effected in accordance with subsection 7.7(xvi), provided that the restrictions applicable to the respective such Joint Venture are not made worse, or more burdensome, from the perspective of Borrower and its Subsidiaries, than those as in effect immediately before giving effect to the consummation of the respective Investment or Permitted Acquisition, (k) any document or instrument evidencing Foreign Subsidiary Working Capital Indebtedness permitted under subsection 7.1(x) so long as such encumbrance or restriction only applies to the Foreign Subsidiary of Holdings incurring such Indebtedness and (l) any agreement or instrument governing Permitted Additional Subordinated Indebtedness.

7.3 Investments; Joint Ventures.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including any Joint Venture, except:

(i) Holdings and its Subsidiaries may make and own Investments in Cash Equivalents and, to the extent acquired and held in the ordinary course of business, Foreign Cash Equivalents;

(ii) Foreign Subsidiaries of Holdings may make and own Investments in Foreign Cash Equivalents and Cash Equivalents;

(iii) Holdings may continue to own the Investments owned by it as of the Restatement Effective Date in Borrower, and Borrower and its Subsidiaries may continue to own the Investments owned by them as of the Restatement Effective Date in any Subsidiaries of Borrower and make additional Investments in Subsidiaries of Borrower that are U.S. Subsidiary Guarantors;

(iv) Holdings and its Subsidiaries may own Investments in their respective Subsidiaries to the extent that such Investments reflect an increase in the value of such Subsidiaries;

(v) Borrower and its Subsidiaries may make intercompany loans to the extent permitted under subsections 7.1(iv) and 7.1(v);

(vi) Borrower and its Subsidiaries may make Consolidated Capital Expenditures permitted by subsection 7.8;

(vii) Borrower and its Subsidiaries may continue to own the Investments owned by them and described in Schedule 7.3(vii) annexed hereto;

(viii) Holdings, Borrower and its Subsidiaries may make loans and advances to employees, officers, executives or consultants to Borrower and its Subsidiaries in the ordinary course of business of Borrower (subject to applicable law) and its respective Subsidiaries as presently conducted for the purpose of purchasing capital stock of Holdings, so long as the aggregate principal amount of such loans and advances outstanding at any time shall not exceed \$10,000,000;

(ix) Borrower and its Subsidiaries may acquire and hold receivables owing to them, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms (including the dating of receivables) of Borrower or such Subsidiary;

(x) Borrower and its Subsidiaries may acquire and own Investments (including debt obligations) received in connection with the bankruptcy or reorganization of Franchisees, suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(xi) Borrower and its Subsidiaries may make and own Investments consisting of deposits made in the ordinary course of business consistent with past practices to secure the performance of leases;

(xii) (w) Holdings may make cash common equity contributions to the capital of Borrower, (x) Borrower may make cash common equity contributions to each U.S. Subsidiary Guarantor that is a direct wholly owned Subsidiary of Borrower, (y) each U.S. Subsidiary Guarantor may make cash common equity contributions to its direct wholly owned Subsidiaries that are U.S. Subsidiary Guarantors, and (z) any Foreign Subsidiary

that is a wholly owned Subsidiary of Borrower may make cash common equity contributions to its direct wholly owned Subsidiaries that are Foreign Subsidiaries;

(xiii) Borrower and its Domestic Subsidiaries may make and own Investments in Foreign Subsidiaries of Borrower in an aggregate amount not to exceed \$20,000,000 at any time outstanding (without regard to write-downs or write-offs thereof), provided that (x) at no time may equity Investments in Foreign Subsidiaries made pursuant to this clause (xiii) exceed \$10,000,000 and (y) each such Investment is subject to the Lien in favor of Collateral Agent as, and to the extent required by, the Collateral Documents;

(xiv) Borrower and its Subsidiaries may make and own Investments consisting of notes received in connection with any asset sale; provided that the aggregate principal amount of such notes at any time outstanding (excluding all such notes outstanding on the Restatement Effective Date) shall not exceed \$30,000,000; provided, further, notwithstanding the foregoing proviso, Borrower and its Subsidiaries may make and own Investments consisting of Cash, promissory notes or deferred payment obligations in connection with the sale, lease, upgrading, modification or replacement of the Domino's PULSE System, provided that there is no Cash cost or expense to Holdings or its Subsidiaries in connection therewith at any time;

(xv) Borrower and its Subsidiaries may make and own Investments in any Person which (a) (1) result in the creation of an account arising in the ordinary course of Borrower's or such Subsidiary's business or (2) result from the restructure, reorganization or similar composition of trade account obligations which arose in the ordinary course of business and which are owing to Borrower or such Subsidiary from financially distressed debtors, and (b) are, in each case, subject to the Lien in favor of Collateral Agent under the Collateral Documents;

(xvi) Holdings and its Subsidiaries may make and own Investments permitted under subsection 7.7(x), (xi) and (xiii);

(xvii) Borrower and its Subsidiaries may make and own Investments in wholly owned Domestic Subsidiaries of Borrower consisting of intercompany Indebtedness of such Subsidiaries converted to equity Investments, provided that the underlying intercompany Indebtedness was permitted hereunder at the time of such conversion;

(xviii) Borrower and its Subsidiaries may make and own Investments in Subsidiaries acquired pursuant to Permitted Acquisitions under subsection 7.7(xvi);

(xix) Borrower and its Subsidiaries may make and own Investments in Franchisees (whether foreign or domestic) on any date in an amount not to exceed \$60,000,000 at any time, provided that (x) each such Investment is subject to the Lien in favor of Collateral Agent under the Collateral Documents, (y) at no time may Investments in foreign Franchisees exceed \$30,000,000 and (z) at no time may equity Investments in Franchisees exceed \$30,000,000;

(xx) Borrower and its Subsidiaries may make and own Investments consisting of loans and advances to Franchisees to fund the purchase by such Franchisees of

computer hardware in respect of the Domino's PULSE System (and upgrades and modifications thereto and replacements thereof), so long as (a) the aggregate principal amount of such loans and advances shall not exceed \$10,000,000 at any one time outstanding and (b) each such loan or advance shall be evidenced by a promissory note;

(xxi) Borrower and its Subsidiaries may make and own other Investments in an aggregate amount not to exceed at any time \$30,000,000 (provided, that (x) no more than \$15,000,000 of Investments made in reliance on this subsection (xxi) may be of a type described in preceding subsections (ii) through (xx) of this Section 7.3 and (y) no Investments may be made and owned in reliance on this subsection (xxi) in respect of Investments of a type described in preceding subsection (viii) of this Section 7.3).

7.4 Contingent Obligations.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create or become or remain liable with respect to any Contingent Obligation, except:

(i) Subsidiaries of Borrower may become and remain liable with respect to Contingent Obligations in respect of the Subsidiaries Guaranty, and Holdings may become and remain liable with respect to Contingent Obligations in respect of the Holdings Guaranty;

(ii) Borrower may become and remain liable with respect to Contingent Obligations in respect of Letters of Credit;

(iii) Borrower may become and remain liable with respect to Contingent Obligations under (A) Hedge Agreements (x) required under subsection 6.10 and (y) providing protection against fluctuations in currency values in connection with Borrower's or any of its Subsidiaries' operations, so long as management of Borrower or such Subsidiary, as the case may be, has determined that the entering into of any such Hedge Agreement is a bona fide hedging activity (and is not for speculative purposes) and is in the ordinary course of business and (B) Commodity Agreements in connection with Borrower's or any of its Subsidiaries' operations, so long as management of Borrower or such Subsidiary, as the case may be, has determined that the entering into of any such Commodity Agreement is a bona fide hedging activity (and is not for speculative purposes) and is in the ordinary course of business;

(iv) Borrower and its Subsidiaries may become and remain liable with respect to Contingent Obligations in respect of (a) customary indemnification and purchase price adjustment obligations incurred in connection with Asset Sales or other sales of assets, (b) standard contractual indemnities entered into by Holdings and Borrower in favor of an underwriter (and any additional Persons satisfactory to Administrative Agent or JPMSI) pursuant to a customary underwriting agreement in respect to an initial public offering of common stock of Holdings or an offering by Borrower of Permitted Additional Subordinated Indebtedness, (c) endorsements of instruments for deposit or collection in the ordinary course of business, and (d) standard contractual indemnities entered into in the ordinary course of business;

(v) Borrower and its Subsidiaries may become and remain liable with respect to Contingent Obligations under guarantees in the ordinary course of business of the obligations of suppliers, customers, Franchisees and licensees of Borrower and its Subsidiaries;

(vi) Holdings and its Subsidiaries, as applicable, may remain liable with respect to Contingent Obligations described in Schedule 7.4 annexed hereto;

(vii) Subsidiary Guarantors may become and remain liable with respect to Contingent Obligations arising under their subordinated guaranties of (x) the Senior Subordinated Notes as set forth in the Senior Subordinated Note Indentures and (y) in respect of the Permitted Additional Subordinated Indebtedness as evidenced by documentation consistent with the definition of Permitted Additional Subordinated Indebtedness;

(viii) Borrower and its Subsidiaries may become and remain liable with respect to Contingent Obligations consisting of guaranties of obligations of any Subsidiary of Borrower under any worker's compensation or casualty self-insurance program of such Subsidiary administered in accordance with applicable law;

(ix) Holdings and its Subsidiaries may become and remain liable with respect to Contingent Obligations consisting of (a) guaranties by Holdings and its Subsidiaries of Indebtedness, leases and other contractual obligations permitted to be incurred by Borrower or its wholly owned Domestic Subsidiaries and (b) guaranties by Foreign Subsidiaries of Holdings of Indebtedness, leases and other contractual obligations permitted to be incurred by other wholly owned Foreign Subsidiaries of Holdings;

(x) Subject to the limitations set forth in subsection 7.1(x), Borrower may become and remain liable with respect to Contingent Obligations consisting of guaranties by Borrower of Foreign Subsidiary Working Capital Indebtedness (including letters of credit issued for the account of Borrower and its Subsidiaries and in favor of lenders in respect of any such Foreign Subsidiary Working Capital Indebtedness); and

(xi) Borrower and its Subsidiaries may become and remain liable with respect to Contingent Obligations not otherwise permitted under this subsection; provided that the maximum aggregate liability, contingent or otherwise, of Borrower and its Subsidiaries in respect of all such Contingent Obligations, together with the aggregate outstanding principal amount of Indebtedness of Borrower and its Subsidiaries incurred pursuant to subsection 7.1(xiii), shall at no time exceed \$55,000,000.

7.5 Restricted Junior Payments. Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Junior Payment; provided that:

(i) (x) any wholly-owned Subsidiary of Borrower can pay dividends to Borrower or any wholly owned Subsidiary of Borrower and (y) any non-wholly-owned Subsidiary of Borrower may pay cash dividends to its shareholders generally so long as Borrower or its respective Subsidiary which owns the equity interest in the Subsidiary paying such cash dividends receives at least its proportionate share thereof (based upon

its relative holding of the equity interests in the Subsidiary paying such cash dividends and taking into account the relative preferences, if any, of the various classes of equity interests of such Subsidiary);

(ii) so long as no Default or Event of Default then exists or would result therefrom, Borrower may make Restricted Junior Payments to Holdings, and Holdings may make Restricted Junior Payments in the aggregate amount not to exceed the sum of \$15,000,000 plus the amount of the accrued interest on the Seller Contingent Note, to the extent necessary, to pay any Contingent Obligation, Indebtedness or accrued interest under the Seller Contingent Note in accordance with its terms (as in effect as of the Restatement Effective Date);

(iii) so long as no Default or Event of Default then exists or would result therefrom, Borrower may (in accordance with each of the following separate baskets in clauses (x) and (y)) repurchase Senior Subordinated Notes and Permitted Additional Subordinated Indebtedness; provided, that the aggregate amount of such Restricted Junior Payment shall not exceed in the aggregate the sum of (x) the Excess Proceeds Amount and (y) the aggregate amount of Net Common Equity Proceeds and Qualified Preferred Stock Proceeds received by Holdings from the sale or issuance of Holdings Common Stock or Qualified Preferred Stock, as the case may be, not required to be applied to the payment of the Loans and/or reduction of the Revolving Loan Commitments pursuant to subsection 2.4B(iii)(e); provided, further, notwithstanding the foregoing proviso, Borrower may repurchase Senior Subordinated Notes and Permitted Additional Subordinated Indebtedness with the proceeds of Permitted Additional Subordinated Indebtedness;

(iv) Borrower may make regularly scheduled payments of interest in respect of (x) the Senior Subordinated Notes in accordance with the terms of, and only to the extent required by, and subject to the subordination provisions contained in, the Senior Subordinated Notes and the Senior Subordinated Note Indentures and (y) the Permitted Additional Subordinated Indebtedness in accordance with the terms of, and only to the extent required by, and subject to the subordination provisions contained in, the Permitted Additional Subordinated Indebtedness and the instruments and agreements governing the same;

(v) if payments are required to be made by Holdings under the Recapitalization Agreement, Borrower may make Restricted Junior Payments to Holdings to the extent necessary to enable Holdings to make such payments;

(vi) Borrower may make Restricted Junior Payments to Holdings, and Holdings may make Restricted Junior Payments (a) in an aggregate amount not to exceed (x) at any time prior to a Qualified IPO, \$1,500,000 in any Fiscal Year, to the extent necessary to permit Holdings to pay general administrative costs and expenses (including professional fees and director indemnities) and (y) at any time on and after a Qualified IPO, \$5,000,000 in any Fiscal Year, to the extent necessary to permit Holdings to pay general administrative costs and expenses (including professional fees and director indemnities) and such other bona fide costs and expenses associated with Holdings being

a "public company" and (b) to the extent necessary to permit Holdings to discharge the consolidated Tax liabilities of Holdings and its Subsidiaries;

(vii) so long as no Event of Default under subsection 8.1, 8.6 or 8.7 shall have occurred and be continuing, (x) Holdings and its Subsidiaries may make payments of the Bain Management Fees owing under the Bain Advisory Services Agreement when and as due, provided that the portion of such fee that accrued but was not payable during the existence and continuation of such Event of Default shall be permitted to be paid at such time as such Event of Default has been cured or waived and no other Event of Default is then in existence and (y) on and after the consummation of a Qualified IPO, Holdings may prepay in full the Bain Management Fees owing to Bain over the term of the Bain Advisory Services Agreement, so long as (I) such prepayment is made solely with Net Common Equity Proceeds received by Holdings from the sale or issuance of Holdings Common Stock and (II) the aggregate amount of the Bain Management Fees so prepaid does not exceed \$10,000,000;

(viii) so long as no Potential Event of Default or Event of Default then exists or would result therefrom, Borrower may make Restricted Junior Payments to Holdings to the extent required for Holdings to make, and Holdings may make, Restricted Junior Payments in an aggregate amount not to exceed \$17,500,000 in the aggregate to the extent necessary to make repurchases of capital stock (and options or warrants to purchase such capital stock) of Holdings held by any shareholder of Holdings (other than Bain and the Other Investors) and/or to make payments of principal and/or interest under (and in accordance with the terms of) Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes permitted under subsection 7.1(viii) (subject, however, to the subordination provisions contained in such Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes), provided that Borrower and Holdings may make additional Restricted Junior Payments for the purposes described above in this subsection 7.5(viii) in an aggregate amount not to exceed \$10,000,000 at any time on and after a Qualified IPO, if on or after a Qualified IPO Holdings shall have delivered to Administrative Agent an Officer's Certificate (together with supporting calculations), in form and substance reasonably satisfactory to Administrative Agent, certifying that the Senior Leverage Ratio, calculated as of the last day of the Test Period then last ended (which day shall be on or after the date of consummation of the Qualified IPO) immediately prior to the date of such Officer's Certificate, is less than 1.75:1.0 (such calculation to be determined on a pro forma basis, as if all indebtedness incurred after the last day of the Test Period then last ended and then outstanding (including any indebtedness incurred to finance such repurchases) had been incurred on the first day of the Test Period then last ended and taking account of any additional adjustments required by subsection 7.6D);

(ix) so long as no Event of Default is then in existence or would result therefrom, Borrower may make scheduled interest and principal payments in respect of Permitted Seller Notes permitted under subsection 7.1(ix) in accordance with the terms of such Permitted Seller Notes;

(x) Holdings may pay regularly accruing dividends with respect to Qualified Preferred Stock through the issuance of additional shares of Qualified Preferred Stock (but in no event shall such dividends be Cash) if required by the terms of the documentation governing the same (as in effect on the Restatement Effective Date;

(xi) so long as no Potential Event of Default or Event of Default then exists or would result therefrom, Borrower may make Restricted Junior Payments to Holdings to the extent necessary to enable Holdings to, and Holdings may (x) repurchase the capital stock of Holdings from a Franchisee and (y) make payments of principal and/or interest under (and in accordance with the terms of) Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes permitted under subsection 7.1(viii) (subject, however, to the subordination provisions contained in such Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes) in the aggregate at any time, in connection with (x) the Permitted Acquisition of a pizza franchise from a Franchisee or Franchisee Affiliate or (y) the termination of such Franchisee's franchise agreement, provided that the aggregate amount of such repurchases and payments of principal and/or interest shall not exceed in the aggregate at any time \$15,000,000 and, provided, further, that Borrower and Holdings may make additional Restricted Junior Payments for the purposes described above in this subsection 7.5(xi) in an aggregate amount not to exceed \$5,000,000 at any time on and after a Qualified IPO, if on or after a Qualified IPO Holdings shall have delivered to Administrative Agent an Officer's Certificate (together with supporting calculations), in form and substance reasonably satisfactory to Administrative Agent, certifying that the Senior Leverage Ratio, calculated as of the last day of the Test Period then last ended (which day shall be on or after the date of consummation of the Qualified IPO) immediately prior to the date of such Officer's Certificate, is less than 1.75:1.0 (such calculation to be determined on a pro forma basis, as if all indebtedness incurred after the last day of the Test Period then last ended and then outstanding (including any indebtedness incurred to finance such repurchases and payments of principal and/or interest) had been incurred on the first day of the Test Period then last ended and taking account of any additional adjustments required by subsection 7.6D);

(xii) Borrower may make Restricted Junior Payments to Holdings to the extent necessary to enable Holdings to, and Holdings may make payments to consummate the Transaction on the Restatement Effective Date;

(xiii) so long as no Potential Event of Default or Event of Default then exists or would result therefrom, Borrower may make Restricted Junior Payments to Holdings to the extent required for Holdings to make, and Holdings may make, Restricted Junior Payments in an aggregate amount not to exceed \$5,000,000 in the aggregate to the extent necessary to make repurchases of capital stock (and options or warrants to purchase such capital stock) of Holdings held by directors, managers or employees of Borrower or its Subsidiaries upon the death, disability or termination of employment of any such director, manager or employee; and

(xiv) so long as no Default or Event of Default then exists or would result therefrom, Borrower may make scheduled principal payments on, or repurchase on the

open market, Existing Senior Subordinated Notes, provided that (x) the aggregate amount of Cash used to make payments and/or repurchases pursuant to this subsection 7.5(xiv) shall not exceed \$13,200,000, (y) the Cash paid in respect of such payment or repurchase shall not exceed the principal amount of such Existing Senior Subordinated Notes so repaid or repurchased and (z) any such Existing Senior Subordinated Notes so repurchased are permanently retired and/or cancelled after such repurchase.

7.6 Financial Covenants.

A. Minimum Interest Coverage Ratio. Holdings shall not permit the ratio of (i) Consolidated Adjusted EBITDA to (ii) Consolidated Cash Interest Expense for any Test Period ending during any of the Accounting Quarters set forth below to be less than the correlative ratio indicated:

ACCOUNTING QUARTER	MINIMUM INTEREST COVERAGE RATIO
3 rd / Accounting Quarter of Fiscal Year 2003	2.10x
4 th / Accounting Quarter of Fiscal Year 2003	2.10x
1 st / Accounting Quarter of Fiscal Year 2004	2.10x
2 nd / Accounting Quarter of Fiscal Year 2004	2.10x
3 rd / Accounting Quarter of Fiscal Year 2004	2.10x
4 th / Accounting Quarter of Fiscal Year 2004	2.10x
1 st / Accounting Quarter of Fiscal Year 2005	2.10x
2 nd / Accounting Quarter of Fiscal Year 2005	2.10x
3 rd / Accounting Quarter of Fiscal Year 2005	2.10x
4 th / Accounting Quarter of Fiscal Year 2005	2.20x
1 st / Accounting Quarter of Fiscal Year 2006	2.30x
2 nd / Accounting Quarter of Fiscal Year 2006	2.30x
3 rd / Accounting Quarter of Fiscal Year 2006	2.30x
4 th / Accounting Quarter of Fiscal Year 2006	2.30x
1 st / Accounting Quarter of Fiscal Year 2007	2.40x

ACCOUNTING QUARTER	MINIMUM INTEREST COVERAGE RATIO
2/nd/ Accounting Quarter of Fiscal Year 2007	2.40x
3/rd/ Accounting Quarter of Fiscal Year 2007	2.40x
4/th/ Accounting Quarter of Fiscal Year 2007	2.40x
1/st/ Accounting Quarter of Fiscal Year 2008	2.60x
2/nd/ Accounting Quarter of Fiscal Year 2008	2.60x
3/rd/ Accounting Quarter of Fiscal Year 2008	2.60x
4/th/ Accounting Quarter of Fiscal Year 2008	2.60x
1/st/ Accounting Quarter of Fiscal Year 2009	2.85x
2/nd/ Accounting Quarter of Fiscal Year 2009	2.85x
3/rd/ Accounting Quarter of Fiscal Year 2009	2.85x
4/th/ Accounting Quarter of Fiscal Year 2009	2.85x
1/st/ Accounting Quarter of Fiscal Year 2010	3.10x
2/nd/ Accounting Quarter of Fiscal Year 2010	3.10x

B. Maximum Leverage Ratio. Holdings shall not permit the Leverage Ratio on the last day of any Test Period ending during any of the Accounting Quarters set forth below to exceed the correlative ratio indicated:

ACCOUNTING QUARTER	MAXIMUM LEVERAGE RATIO
3/rd/ Accounting Quarter of Fiscal Year 2003	5.75x
4/th/ Accounting Quarter of Fiscal Year 2003	5.75x
1/st/ Accounting Quarter of Fiscal Year 2004	5.75x
2/nd/ Accounting Quarter of Fiscal Year 2004	5.75x
3/rd/ Accounting Quarter of Fiscal Year 2004	5.75x
4/th/ Accounting Quarter of Fiscal Year 2004	5.50x

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ACCOUNTING QUARTER

MAXIMUM LEVERAGE RATIO

1/st/ Accounting Quarter of Fiscal Year 2005	5.25x
2/nd/ Accounting Quarter of Fiscal Year 2005	5.25x
3/rd/ Accounting Quarter of Fiscal Year 2005	5.25x
4/th/ Accounting Quarter of Fiscal Year 2005	5.00x
1/st/ Accounting Quarter of Fiscal Year 2006	4.75x
2/nd/ Accounting Quarter of Fiscal Year 2006	4.75x
3/rd/ Accounting Quarter of Fiscal Year 2006	4.75x
4/th/ Accounting Quarter of Fiscal Year 2006	4.75x
1/st/ Accounting Quarter of Fiscal Year 2007	4.25x
2/nd/ Accounting Quarter of Fiscal Year 2007	4.25x
3/rd/ Accounting Quarter of Fiscal Year 2007	4.25x
4/th/ Accounting Quarter of Fiscal Year 2007	4.25x
1/st/ Accounting Quarter of Fiscal Year 2008	3.75x
2/nd/ Accounting Quarter of Fiscal Year 2008	3.75x
3/rd/ Accounting Quarter of Fiscal Year 2008	3.75x
4/th/ Accounting Quarter of Fiscal Year 2008	3.75x
1/st/ Accounting Quarter of Fiscal Year 2009	3.25x
2/nd/ Accounting Quarter of Fiscal Year 2009	3.25x
3/rd/ Accounting Quarter of Fiscal Year 2009	3.25x
4/th/ Accounting Quarter of Fiscal Year 2009	3.25x
1/st/ Accounting Quarter of Fiscal Year 2010	3.00x
2/nd/ Accounting Quarter of Fiscal Year 2010	3.00x

C. Maximum Senior Leverage Ratio. Holdings shall not permit the Senior Leverage Ratio on the last day of any Test Period ending during any of the Accounting Quarters set forth below to exceed the correlative ratio indicated:

ACCOUNTING QUARTER	MAXIMUM SENIOR LEVERAGE RATIO
3/rd/ Accounting Quarter of Fiscal Year 2003	3.50x
4/th/ Accounting Quarter of Fiscal Year 2003	3.50x
1/st/ Accounting Quarter of Fiscal Year 2004	3.50x
2/nd/ Accounting Quarter of Fiscal Year 2004	3.50x
3/rd/ Accounting Quarter of Fiscal Year 2004	3.25x
4/th/ Accounting Quarter of Fiscal Year 2004	3.25x
1/st/ Accounting Quarter of Fiscal Year 2005	3.00x
2/nd/ Accounting Quarter of Fiscal Year 2005	3.00x
3/rd/ Accounting Quarter of Fiscal Year 2005	3.00x
4/th/ Accounting Quarter of Fiscal Year 2005	3.00x
1/st/ Accounting Quarter of Fiscal Year 2006	2.75x
2/nd/ Accounting Quarter of Fiscal Year 2006	2.75x
3/rd/ Accounting Quarter of Fiscal Year 2006	2.50x
4/th/ Accounting Quarter of Fiscal Year 2006	2.50x
1/st/ Accounting Quarter of Fiscal Year 2007	2.25x
2/nd/ Accounting Quarter of Fiscal Year 2007	2.25x
3/rd/ Accounting Quarter of Fiscal Year 2007	2.25x
4/th/ Accounting Quarter of Fiscal Year 2007	2.25x
1/st/ Accounting Quarter of Fiscal Year 2008	2.25x

ACCOUNTING QUARTER	MAXIMUM SENIOR LEVERAGE RATIO
2/nd/ Accounting Quarter of Fiscal Year 2008	2.25x
3/rd/ Accounting Quarter of Fiscal Year 2008	2.25x
4/th/ Accounting Quarter of Fiscal Year 2008	2.25x
1/st/ Accounting Quarter of Fiscal Year 2009	2.25x
2/nd/ Accounting Quarter of Fiscal Year 2009	2.25x
3/rd/ Accounting Quarter of Fiscal Year 2009	2.25x
4/th/ Accounting Quarter of Fiscal Year 2009	2.25x
1/st/ Accounting Quarter of Fiscal Year 2010	2.25x
2/nd/ Accounting Quarter of Fiscal Year 2010	2.25x

D. Certain Calculations. With respect to any period during which a Permitted Acquisition occurs, for purposes of determining compliance with the financial covenants set forth in this subsection 7.6, Consolidated Adjusted EBITDA and Consolidated Cash Interest Expense shall be calculated with respect to such periods and such New Business on a pro forma basis, taking into account, in the case of a determination of Consolidated Adjusted EBITDA, factually supportable and identifiable cost savings and expenses which would be accounted for as an adjustment pursuant to Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the Securities and Exchange Commission as of December 29, 2002, which pro forma adjustments shall be certified by the principal financial officer, principal accounting officer or treasurer of Holdings using the historical financial statements of the New Business so acquired or to be acquired and the consolidated financial statements of Holdings and its Subsidiaries which shall be reformulated (i) as if such Permitted Acquisition, and any acquisitions which have been consummated during such period, any Indebtedness or other liabilities incurred in connection with any such acquisition and any permitted cost savings and expenses had been consummated, incurred or realized, as the case may be, at the beginning of such period (and assuming that such Indebtedness bears interest during any portion of the applicable measurement period prior to the relevant acquisition at the weighted average of the interest rates applicable to outstanding Loans during such period), and (ii) otherwise in conformity with certain procedures to be agreed upon between Administrative Agent, Holdings and Borrower, all such calculations to be in form and substance reasonably satisfactory to Administrative Agent.

7.7 Restriction on Fundamental Changes; Asset Sales and Recapitalizations.

Holdings shall not, and shall not permit any of its Subsidiaries to, issue any capital stock or other equity interests or enter into any transaction of merger or consolidation, or

liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease or sub-lease (as lessor or sublessor), transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its business, property or assets, whether now owned or hereafter acquired, or acquire by purchase or otherwise all or substantially all the business, property or fixed assets of, or stock or other evidence of beneficial ownership of, any Person or any division or line of business of any Person, except:

(i) any Subsidiary of Borrower may be merged with or into Borrower or any wholly owned U.S. Subsidiary Guarantor, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to Borrower or any wholly owned U.S. Subsidiary Guarantor; provided that, in the case of such a merger involving Borrower, Borrower shall be the continuing or surviving corporation, and in the case of any other such merger, such wholly owned U.S. Subsidiary Guarantor shall be the continuing or surviving corporation;

(ii) any Foreign Subsidiary of Borrower may be merged with or into any wholly owned Foreign Subsidiary, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to any wholly owned Foreign Subsidiary; provided that (i) in the case of such a merger, such wholly owned Foreign Subsidiary shall be the continuing or surviving corporation and (ii) in each case, the stock of such wholly owned Foreign Subsidiary is pledged pursuant to, and to the extent required under, the Collateral Documents;

(iii) Borrower and its Subsidiaries may make Consolidated Capital Expenditures permitted under subsection 7.8;

(iv) Borrower and its Subsidiaries may dispose of obsolete, uneconomical, negligible, worn out or surplus property (including Intellectual Property) in the ordinary course of business;

(v) Borrower and its Subsidiaries may sell, lease, license or otherwise dispose of assets in transactions that do not constitute or are excluded from the definition of Asset Sales (including, without limitation, inventory and other assets acquired for resale to Franchisees in the ordinary course of business); provided that the consideration received for such assets shall be in an amount at least equal to the fair market value thereof;

(vi) subject to subsection 7.12, Borrower and its Subsidiaries may make Asset Sales of assets having a fair market value not in excess of \$75,000,000; provided that (x) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof and (y) the proceeds of such Asset Sales shall be applied as required by subsection 2.4B(iii)(a);

(vii) Borrower and its Subsidiaries may sell or discount, in each case without recourse, accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof;

(viii) Borrower and its Subsidiaries may sell or exchange specific items of equipment, so long as the purpose of each such sale or exchange is to acquire (and results within 90 days of such sale or exchange in the acquisition of) replacement items of equipment which are the functional equivalent of the item of equipment so sold or exchanged;

(ix) Borrower and its Subsidiaries may, in the ordinary course of business, license as licensee or licensor patents, trademarks, copyrights and know-how to or from third Persons, so long as any such license by Borrower or any of its Subsidiaries in its capacity as licensor is (x) permitted to be assigned pursuant to the Collateral Documents (to the extent that a security interest in such patents, trademarks, copyrights and know-how is granted thereunder) and (y) does not otherwise prohibit the granting of a Lien by Borrower or any of its Subsidiaries pursuant to the Collateral Documents in the Intellectual Property covered by such license;

(x) Borrower and its Subsidiaries may sell or otherwise transfer inventory to their respective Subsidiaries for resale by such Subsidiaries, and Subsidiaries of Borrower may sell or otherwise transfer inventory to Borrower for resale by Borrower so long as the security interest granted to Collateral Agent pursuant to the Collateral Documents in the inventory so transferred shall remain in full force and effect and perfected (to at least the same extent as in effect immediately prior to such transfer);

(xi) Borrower may contribute cash to one or more direct wholly owned Domestic Subsidiaries that is a U.S. Subsidiary Guarantor;

(xii) Borrower and its Domestic Subsidiaries may transfer cash and other assets (other than inventory) to wholly owned Foreign Subsidiaries in accordance with Section 7.3(xiii);

(xiii) Borrower and any Domestic Subsidiary of Borrower may transfer cash and other assets to Borrower or any other wholly owned Domestic Subsidiary of Borrower that is a U.S. Subsidiary Guarantor, so long as the security interests granted to Collateral Agent of Lenders pursuant to the Collateral Documents in the assets so transferred shall remain in full force and effect and perfected (to at least the same extent as in effect immediately prior to such transfer);

(xiv) Borrower and its Subsidiaries may license software necessary to operate the Domino's PULSE System to their Franchisees in the ordinary course of business;

(xv) Holdings may issue (x) Holdings Common Stock and (y) Qualified Preferred Stock, so long as, with respect to each issuance thereof, Holdings receives equivalent consideration therefor (as determined in good faith by Holdings);

(xvi) Borrower or any wholly-owned Subsidiary of Borrower may make acquisitions of assets and businesses (including acquisitions of the capital stock or other equity interests of another Person), provided that:

(a) immediately prior to and after giving effect to any such acquisition, Borrower and its Subsidiaries shall be in compliance with the provisions of subsection 7.13 hereof;

(b) if such acquisition is structured as a stock acquisition, then either (A) the Person so acquired becomes a wholly owned Subsidiary of Borrower or (B) such Person is merged with and into Borrower or a wholly owned Subsidiary of Borrower (with Borrower or such wholly owned Subsidiary being the surviving corporation in such merger), and in any case, all of the provisions of subsection 6.8 have been complied with in respect of such Person;

(c) (1) Holdings shall be in compliance with the covenants set forth in subsection 7.6 hereof (determined on a pro forma basis, as if the acquisition had been consummated, and any indebtedness incurred to finance such acquisition (and all other indebtedness incurred after the last day of the Test Period then last ended and then outstanding) had been incurred, in each case on the first day of the Test Period then last ended and taking account of any additional adjustments required by subsection 7.6D), (2) at the time of such acquisition (and immediately after giving effect thereto), the Liquidity shall exceed \$20,000,000, (3) no Event of Default or Potential Event of Default shall have occurred and be continuing at the time of such acquisition or shall be caused thereby; and (4) Holdings shall have delivered to Administrative Agent an Officer's Certificate (together with supporting information therefor), in form and substance reasonably satisfactory to Administrative Agent, certifying as to the foregoing; provided that, notwithstanding the foregoing, in the event that the Permitted Acquisition Cost of the proposed acquisition is less than or equal to \$5,000,000, the requirement to provide an Officer's Certificate pursuant to, this clause (c) shall not be applicable; and

(d) any assets acquired pursuant to such acquisition shall be subject to a First Priority Lien in favor of Collateral Agent on behalf of Lenders pursuant to the Collateral Documents;

(xvii) Borrower and its Subsidiaries may issue capital stock to the extent permitted by subsection 7.12(ii);

(xviii) Borrower and its Subsidiaries may sell or liquidate Cash Equivalents for Cash at fair market value (as reasonably determined by Borrower or the respective Subsidiary); and

(xix) Holdings may merge with and into a newly formed corporation organized in a State of the United States (other than Michigan) for purposes of reincorporating in such jurisdiction, so long as (i) no Potential Event of Default or Event of Default shall then exist or result therefrom, (ii) such newly formed entity owns no assets and has no liabilities immediately prior to such merger, (iii) the surviving entity of such merger shall have entered into an assumption agreement, in form and substance satisfactory to Administrative Agent, pursuant to which such surviving entity shall assume all of

Holdings' rights, interests and obligations hereunder and under the other Loan Documents to which Holdings is a party, (iv) the surviving entity of such merger shall have taken all actions requested by Administrative Agent to preserve, protect and maintain the security interests granted by such surviving entity pursuant to the Collateral Documents to which it has become a party and (v) Administrative Agent shall have received an opinion in form and substance reasonably satisfactory to Administrative Agent covering such matters in connection with such merger as Administrative Agent may reasonably request.

To the extent the Requisite Lenders waive the provisions of this Section 7.7 with respect to the sale or other disposition of any Collateral, or any Collateral is sold or otherwise disposed of as permitted by this Section 7.7, such Collateral (unless transferred to Holdings or a Subsidiary thereof) shall be sold or otherwise disposed of free and clear of the Liens created by the Collateral Documents and Administrative Agent shall take such actions (including, without limitation, directing Collateral Agent to take such actions) to effectuate the release and discharge of such Collateral so sold or otherwise disposed of and such other actions as are appropriate in connection therewith, provided, however, that the foregoing shall not be deemed to amend or modify subsection 10.6(B) so as to require anything other than the consent of each Lender with respect to a release of all or substantially all of the Collateral.

7.8 Consolidated Capital Expenditures.

A. Credit Agreement Parties shall not, and shall not permit their respective Subsidiaries to, make or incur Consolidated Capital Expenditures, in any Fiscal Year indicated below, in an aggregate amount in excess of the corresponding amount (as adjusted in accordance with the provisos hereto, the "Maximum Consolidated Capital Expenditures Amount") set forth in the table below opposite such Fiscal Year; provided that in the event that the Maximum Consolidated Capital Expenditures Amount for any Fiscal Year (before giving effect to any increase pursuant to this proviso) exceeds the amount of Consolidated Capital Expenditures actually made or incurred by Credit Agreement Parties and their respective Subsidiaries in such Fiscal Year, 50% of such excess may be carried forward and utilized by Credit Agreement Parties and their respective Subsidiaries to make Consolidated Capital Expenditures in any subsequent Fiscal Year:

Fiscal Year	Maximum Consolidated Capital Expenditures
-----	-----
2003	\$ 45,000,000
2004	\$ 45,000,000
2005	\$ 45,000,000
2006	\$ 47,500,000
2007	\$ 50,000,000
2008	\$ 50,000,000
2009	\$ 50,000,000
2010	\$ 50,000,000

; provided, however, that solely for purposes of the determination of Maximum Consolidated Capital Expenditures Amount pursuant to this subsection 7.8A, Credit Agreement Parties may exclude from Consolidated Capital Expenditures Capital Leases covering one or more of Borrower's or its Subsidiaries' leased distribution centers in an aggregate amount not to exceed \$5,000,000 at any time.

B. Notwithstanding anything in this subsection to the contrary, so long as no Event of Default or Potential Event of Default shall have occurred and be continuing or shall be caused thereby, Borrowers and their respective Subsidiaries may make Consolidated Capital Expenditures at any time in an aggregate amount equal to the Excess Proceeds Amount at such time (which Consolidated Capital Expenditures shall not be included in any determination of Consolidated Capital Expenditures under subsections 7.8A and 7.8C).

C. Notwithstanding anything in this subsection to the contrary, so long as no Event of Default or Potential Event of Default shall have occurred and be continuing or shall be caused thereby, Borrower and its Subsidiaries may make Consolidated Capital Expenditures at any time in an aggregate amount not to exceed \$35,000,000 in respect to leasehold improvements of the WRC (which Consolidated Capital Expenditures shall not be included in any determination of Consolidated Capital Expenditures under subsection 7.8A and 7.8B).

7.9 Sales and Lease-Backs.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (i) which Holdings or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person (other than Holdings or any of its Subsidiaries) and (ii) which Holdings or any of its Subsidiaries intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by Holdings or any of its Subsidiaries to any Person (other than Holdings or any of its Subsidiaries) in connection with such lease.

7.10 Sale or Discount of Receivables.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, sell with recourse, or discount or otherwise sell for less than the face value thereof, any of its notes or accounts receivable; provided, however, that Borrower and its Subsidiaries may, in the exercise of their reasonable business judgment in connection with efforts to collect amounts owed thereunder, discount or sell (to the extent permitted under subsection 7.7(vii)) for less than the face value thereof any accounts receivable.

7.11 Transactions with Shareholders and Affiliates.

Holdings shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any holder of 5% or more of any class of equity Securities of Holdings or with any Affiliate of Holdings or of any such holder, on terms that are less favorable to Holdings or that Subsidiary, as the case may be, than those that

might be obtained at the time from Persons who are not such a holder or Affiliate; provided that the foregoing restriction shall not apply to (i) any transaction between Holdings and any of its wholly owned Subsidiaries or between any of its wholly owned Subsidiaries, (ii) any payment from Borrower to Holdings expressly permitted under subsection 7.5, (iii) any employment agreement entered into by Holdings or any of its Subsidiaries in the ordinary course of business, (iv) any issuance of capital stock of Holdings in connection with employment arrangements, stock options and stock ownership plans of Holdings or any of its Subsidiaries entered into in the ordinary course of business, (v) any of the Recapitalization Transactions (as defined in the 1998 Credit Agreement) or the Transaction, (vi) reasonable and customary fees paid to members of the Boards of Directors of Holdings and its Subsidiaries, (vii) so long as no Event of Default under subsection 8.1, 8.6 or 8.7 is then in existence or would result from the payment thereof, (x) any payment by Holdings or any of its Subsidiaries of Bain Management Fees under the Bain Advisory Services Agreement as and when due, provided if any such fees cannot be paid as provided above as a result of the existence of such an Event of Default, such fees shall continue to accrue and shall be permitted to be paid at such time as all such Events of Default have been cured or waived and no other Event of Default is then in existence and (y) any prepayment by Holdings of the Bain Management Fees owing to Bain over the term of the Bain Advisory Services Agreement to the extent permitted by subsection 7.5(vii)(y) and (viii) (x) the reimbursement of Bain for its reasonable out-of-pocket expenses under the Bain Advisory Services Agreement incurred in connection with performing management services to Holdings and its Subsidiaries and (y) the payment to Bain and related Persons of reasonable amounts payable to them in respect of Indemnified Liabilities (as such term is defined in the Bain Advisory Services Agreement) in accordance with the terms and conditions of the Bain Advisory Services Agreement, except to the extent resulting from the gross negligence of Bain.

7.12 Disposal of Subsidiary Stock.

Except for any sale of 100% of the capital stock or other equity Securities of any of its Subsidiaries in compliance with the provisions of subsection 7.7(vi), Holdings shall not:

(i) directly or indirectly sell, assign, pledge or otherwise encumber or dispose of any shares of capital stock or other equity Securities of any of its Subsidiaries, except to qualify directors if required by applicable law; or

(ii) permit any of its Subsidiaries directly or indirectly to sell, assign, pledge or otherwise encumber or dispose of any shares of capital stock or other equity Securities of any of its Subsidiaries (including such Subsidiary), except (x) to Borrower or another Subsidiary of Holdings (subject to the restrictions on such disposition otherwise imposed hereunder) or (y) to qualify directors if required by applicable law.

7.13 Conduct of Business.

From and after the Restatement Effective Date, Borrower shall not, and shall not permit any of its Subsidiaries to, engage in any business other than (i) the businesses engaged in by Borrower and its Subsidiaries on the Restatement Effective Date and similar or related or supportive businesses and (ii) such other lines of business as may be consented to by Requisite Lenders. Holdings shall engage in no business and have no assets (including Intellectual

Property) other than (i) owning the stock of Borrower, (ii) the issuance of and activities related to the maintenance and servicing of the Shareholder Subordinated Notes and Shareholder Subordinated PIK Notes as permitted hereunder, (iii) the entering into, and the performance of its obligations under, the Holdings Guaranty, the Pledge Agreement, the Security Agreement, the Related Agreements to which it is a party and the Bain Advisory Services Agreement, (iv) the receipt of Cash dividends or Cash distributions from Borrower in accordance with the provisions hereof and (v) activities associated with expenses paid with any dividends paid to Holdings which are permitted under subsection 7.5; provided that notwithstanding the foregoing, Holdings may engage in activities incidental to (a) the maintenance of its corporate existence in compliance with applicable law, (b) legal, Tax and accounting matters in connection with any of the foregoing activities and (c) entering into, and performing its obligations under, this Agreement and the Loan Documents to which it is a party. Notwithstanding anything to the contrary contained above in this Section 7.13 or elsewhere in this Agreement, the Excluded Special Purpose Subsidiary shall not engage in any business other than (i) the collection and application of payments from Franchisees of Holdings and its Subsidiaries to be used for the advertising and promotion of the business of Holdings, its Subsidiaries and their respective Franchisees, (ii) the incurrence (and servicing) of intercompany Indebtedness from Borrower in an aggregate outstanding principal amount not to exceed \$5,000,000 at any one time outstanding, so long as (x) the proceeds therefrom are used solely for the advertising and promotion of the business of Holdings, its Subsidiaries and their respective Franchises and (y) such intercompany Indebtedness is evidenced by a promissory note pledged to Collateral Agent pursuant to the Pledge Agreement and (iii) those activities that are incidental to (x) the maintenance of its corporate existing compliance with applicable law and (y) Tax and accounting matters in connection with any of the foregoing activities.

7.14 Amendments or Waivers of Certain Agreements; Amendments of Documents Relating to Subordinated Indebtedness; Designation of "Designated Senior Debt".

A. Amendments or Waivers of Certain Agreements. No Credit Agreement Party or any of its Subsidiaries will agree to any amendment to, or waive any of its rights under, the Bain Advisory Services Agreement or any Related Agreement (other than any Related Agreement evidencing or governing any Subordinated Indebtedness) after the Restatement Effective Date if any such amendment or waiver would, individually or in the aggregate, reasonably be expected to be materially adverse to Lenders without in each case obtaining the prior written consent of Requisite Lenders to such amendment or waiver.

B. Amendments of Documents Relating to Subordinated Indebtedness, Etc. Credit Agreement Parties shall not, and shall not permit any of their respective Subsidiaries to, amend or otherwise change the terms of any Subordinated Indebtedness, or make any payment consistent with an amendment thereof or change thereto, if the effect of such amendment or change is to increase the interest rate on such Subordinated Indebtedness, change (to earlier dates) any dates upon which payments of principal or interest are due thereon, change any event of default or condition to an event of default with respect thereto (other than to eliminate any such event of default or increase any grace period related thereto), change the redemption, prepayment or defeasance provisions thereof, change the subordination provisions of such Subordinated Indebtedness (or of any guaranty thereof), or change any collateral therefor (other

than to release such collateral), or if the effect of such amendment or change, together with all other amendments or changes made, is to increase materially the obligations of the obligor thereunder or to confer any additional rights on the holders of such Subordinated Indebtedness (or a trustee or other representative on their behalf) which would reasonably be expected to be materially adverse to any Loan Party or Lenders.

C. Designation of "Designated Senior Debt". Neither Holdings nor any of its Subsidiaries shall designate any Indebtedness as "Senior Debt", "Guarantor Senior Debt", "Designated Senior Debt" or "Senior Indebtedness" (or any similar term) (as such term or terms are defined in the Senior Subordinated Note Indentures and, on and after the execution and delivery thereof, any agreement relating to Permitted Additional Subordinated Indebtedness) for purposes of the Senior Subordinated Note Indentures and, on and after the execution and delivery thereof, any agreement relating to Permitted Additional Subordinated Indebtedness, without the prior written consent of Requisite Lenders.

7.15 Change of Legal Names; Type of Organization (and Whether a Registered Organization); Jurisdiction of Organization; Etc.

Neither Holdings, Borrower nor any U.S. Subsidiary Guarantor shall change its legal name, its type of organization, its status as a registered organization (in the case of a registered organization), its jurisdiction of organization, its location, or its organizational identification number (if any), except that any such changes shall be permitted (so long as not in violation of the applicable requirements of the Collateral Documents and so long as same do not involve (x) a registered organization ceasing to constitute same or (y) Holdings, Borrower or any U.S. Subsidiary Guarantor changing its jurisdiction of organization or location from the United States or a State thereof to a jurisdiction of organization or location, as the case may be, outside the United States or a State thereof) if (i) it shall have given to Collateral Agent not less than 15 days' prior written notice of each change to the information listed on Schedule 5.16 (as adjusted for any subsequent changes thereto previously made in accordance with this sentence), together with a supplement to Schedule 5.16 which shall correct all information contained therein for Holdings, Borrower or the respective U.S. Subsidiary Guarantor, and (ii) in connection with the respective such change or changes, it shall have taken all action reasonably requested by Collateral Agent to maintain the security interests of Collateral Agent in the Collateral intended to be granted hereby pursuant to the Collateral Documents at all times fully perfected and in full force and effect.

7.16 Fiscal Year.

Holdings and Borrower shall not change their Fiscal Year-end from the Sunday nearest to December 31.

SECTION 8.
EVENTS OF DEFAULT

If any of the following conditions or events ("Events of Default") shall occur:

8.1 Failure to Make Payments When Due.

Failure by Borrower to pay any installment of principal of any Loan when due, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; failure by Borrower to pay when due any amount payable to an Issuing Lender in reimbursement of any drawing under a Letter of Credit; or failure by Borrower to pay any interest on any Loan or any fee or any other amount due under this Agreement within three days after the date due; or

8.2 Default in Other Agreements.

(i) Failure of Holdings or any of its Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in subsection 8.1) or Contingent Obligations in an individual principal amount of \$5,000,000 or more or with an aggregate principal amount of \$10,000,000 or more, in each case beyond the end of any grace period provided therefor; or (ii) breach or default by Holdings or any of its Subsidiaries with respect to any other material term of (a) one or more items of Indebtedness or Contingent Obligations in the individual or aggregate principal amounts referred to in clause (i) above or (b) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness or Contingent Obligation(s), if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness or Contingent Obligation(s) (or a trustee on behalf of such holder or holders) to cause, that Indebtedness or Contingent Obligation(s) to become or be declared due and payable prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be (upon the giving or receiving of notice, lapse of time, both, or otherwise); or

8.3 Breach of Certain Covenants.

Failure of any Credit Agreement Party to perform or comply with any term or condition contained in subsection 2.5 or 6.2 or Section 7 of this Agreement; provided, however, that such failure with respect to the covenants contained in subsections 7.1, 7.2, 7.3 and 7.4 shall not constitute an Event of Default for ten days after such failure so long as Credit Agreement Parties are diligently pursuing the cure of such failure; or

8.4 Breach of Warranty.

Any representation, warranty, certification or other statement made by Holdings or any of its Subsidiaries in any Loan Document or in any statement or certificate at any time given by Holdings or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect on the date as of which made; or

8.5 Other Defaults Under Loan Documents.

(a) Any Loan Party shall default in the performance of or compliance with any term contained in this Agreement or any of the other Loan Documents, other than any such term referred to in any other subsection of this Section 8 or in subsections 3.9(c) or (d) of the Security Agreement, and such default shall not have been remedied or waived within 30 days after the earlier of (i) a Responsible Officer of such Loan Party becoming aware of such default or (ii) receipt by Holdings and/or such Loan Party of notice from Administrative Agent or any Lender of such default or (b) any Loan Party shall default in the performance of or compliance with any term contained in subsections 3.9(c) or (d) of the Security Agreement, and such default shall not have been remedied or waived within 5 days after the earlier of (i) a Responsible Officer of such Loan Party becoming aware of such default or (ii) receipt by Holdings and/or such Loan Party of notice from Administrative Agent or any Lender of such default; or

8.6 Involuntary Bankruptcy, Appointment of Receiver, Etc.

(i) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries), or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries), and any such event described in this clause (ii) shall continue for 60 days unless dismissed, bonded or discharged; or

8.7 Voluntary Bankruptcy; Appointment of Receiver, Etc.

(i) Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) shall make any assignment for the benefit of creditors; or (ii) Holdings or any of its Subsidiaries (other than Immaterial Subsidiaries) shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the Board of Directors of Holdings or any of its Subsidiaries (or any committee thereof) shall adopt any resolution or

otherwise authorize any action to approve any of the actions referred to in clause (i) above or this clause (ii); or

8.8 Judgments and Attachments.

Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of \$5,000,000 or (ii) in the aggregate at any time an amount in excess of \$10,000,000 (in either case not adequately covered by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage without any material reservations of right) shall be entered or filed against Holdings or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of 60 days (or in any event later than five days prior to the date of any proposed sale thereunder); or

8.9 Dissolution.

Any order, judgment or decree shall be entered against Holdings or any of its Subsidiaries decreeing the dissolution or split up of Holdings or that Subsidiary and such order shall remain undischarged or unstayed for a period in excess of 30 days; or

8.10 Employee Benefit Plans.

There shall exist one or more ERISA Events which, individually or in the aggregate, has or would reasonably be expected to have a Material Adverse Effect; or

8.11 Change in Control.

(i) Holdings shall cease to own directly 100% of the capital stock of Borrower; or (ii) at any time prior to the consummation of a Qualified IPO, Bain and the Other Investors, collectively, shall beneficially own less than any other Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as in effect on the Restatement Effective Date) other than a Permitted Group on a fully diluted basis of the economic and voting interest in Holdings' Voting Stock; or (iii) a majority of the members of the Board of Directors of Holdings or Borrower shall not be Continuing Directors; or (iv) at any time prior to the consummation of a Qualified IPO, Bain shall (a) cease to have a presently exercisable right to vote more of the issued and outstanding Voting Stock of Holdings than any one of the Other Investors, or (b) cease to beneficially own a greater percentage of the economic value of Holdings' Voting Stock than the percentage beneficially owned by any one of the Other Investors; or (v) at any time prior to the consummation of a Qualified IPO, the ratio of (a) either (x) the percentage of the issued and outstanding Voting Stock of Holdings or (y) the percentage of the economic value of Voting Stock of Holdings, in each case held by Bain at any time, to (b) either (x) the percentage of the issued and outstanding Voting Stock of Holdings or (y) the percentage of the economic value of Voting Stock of Holdings, in each case held by Bain on the Restatement Effective Date, shall at any time be less than .40:1.0; or (vi) at any time on or after the consummation of a Qualified IPO, any Person or "group" (within the meaning of Rule 13d-5 of the Securities Exchange Act of 1934, as in effect on the date hereof) (other than Bain and the Other Investors) shall (a) have acquired beneficial ownership of 30% or more on a fully diluted basis of the economic and voting interest in Holdings' capital stock or (b) have obtained the

power (whether or not exercised) to elect a majority of Holdings' directors; or (vii) a "Change of Control" under the Senior Subordinated Note Indentures, any other Subordinated Indebtedness or any Preferred Stock or any documentation governing the same shall occur; or

8.12 Invalidity of Guaranties; Failure of Security; Repudiation of Obligations.

At any time after the execution and delivery thereof, (i) any Guaranty for any reason, other than the satisfaction in full of all Obligations (other than inchoate indemnification obligations with respect to claims, losses or liabilities which have not yet arisen and are not yet due and payable), shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void, (ii) any Collateral Document shall cease to be in full force and effect (other than by reason of a release of Collateral thereunder in accordance with the terms hereof or thereof, the satisfaction in full of the Obligations (other than inchoate indemnification obligations with respect to claims, losses or liabilities which have not yet arisen and are not yet due and payable) or any other termination of such Collateral Document in accordance with the terms hereof or thereof) or shall be declared null and void, or Collateral Agent shall not have or shall cease to have a valid and perfected First Priority Lien in any Collateral purported to be covered thereby in which the security interest granted to the Collateral Agent is at that time required to be perfected by the Collateral Documents having a fair market value, individually or in the aggregate, exceeding \$5,000,000, in each case for any reason other than the failure of Collateral Agent, Administrative Agent or any Lender to take any action within its control, or (iii) any Loan Party shall contest the validity or enforceability of any Loan Document in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Loan Document to which it is a party; or

THEN (i) upon the occurrence of any Event of Default described in subsection 8.6 or 8.7, each of (a) the unpaid principal amount of and accrued interest on the Loans, (b) an amount equal to the maximum amount that may at any time be drawn under all Letters of Credit then outstanding (whether or not any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required to draw under such Letter of Credit), and (c) all other Obligations shall automatically become immediately due and payable, without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Credit Agreement Party, and the obligation of each Lender to make any Loan, the obligation of Administrative Agent to issue any Letter of Credit and the right of any Lender to issue any Letter of Credit hereunder shall thereupon terminate, and (ii) upon the occurrence and during the continuation of any other Event of Default, Administrative Agent shall, upon the written request or with the written consent of Requisite Lenders, by written notice to Borrower, declare all or any portion of the amounts described in clauses (a) through (c) above to be, and the same shall forthwith become, immediately due and payable, and the obligation of each Lender to make any Loan, the obligation of Administrative Agent to issue any Letter of Credit and the right of any Lender to issue any Letter of Credit hereunder shall thereupon terminate; provided that the foregoing shall not affect in any way the obligations of Lenders under subsection 3.3C(i) or the obligations of Lenders to purchase participations in any unpaid Swing Line Loans as provided in subsection 2.1A(iii).

Any amounts described in clause (b) above, when received by Administrative Agent, shall be held by Collateral Agent pursuant to the terms of the Cash Collateral Account (as defined in the Security Agreement) and shall be applied as therein provided.

Notwithstanding anything contained in the second preceding paragraph, if at any time within 60 days after an acceleration of the Loans pursuant to clause (ii) of such paragraph Borrower shall pay all arrears of interest and all payments on account of principal which shall have become due otherwise than as a result of such acceleration (with interest on principal and, to the extent permitted by law, on overdue interest, at the rates specified in this Agreement) and all Events of Default and Potential Events of Default (other than non-payment of the principal of and accrued interest on the Loans, in each case which is due and payable solely by virtue of acceleration) shall be remedied or waived pursuant to subsection 10.6, then Requisite Lenders, by written notice to Borrower, may at their option rescind and annul such acceleration and its consequences; but such action shall not affect any subsequent Event of Default or Potential Event of Default or impair any right consequent thereon. The provisions of this paragraph are intended merely to bind Lenders to a decision which may be made at the election of Requisite Lenders and are not intended, directly or indirectly, to benefit any Credit Agreement Party, and such provisions shall not at any time be construed so as to grant any Credit Agreement Party the right to require Lenders to rescind or annul any acceleration hereunder or to preclude Administrative Agent, Collateral Agent or Lenders from exercising any of the rights or remedies available to them under any of the Loan Documents, even if the conditions set forth in this paragraph are met.

SECTION 9. AGENTS

9.1 Appointment.

A. Appointment of Agents. JPMSI and Citigroup are hereby appointed Arrangers hereunder, and each Lender hereby authorizes each of Arrangers to act as its agent in accordance with the terms of this Agreement and the other Loan Documents. JPMorgan Chase Bank is hereby appointed Administrative Agent hereunder and under the other Loan Documents and each Lender hereby authorizes Administrative Agent to act as its agent in accordance with the terms of this Agreement and the other Loan Documents. Citicorp is hereby appointed Syndication Agent hereunder. Bank One is hereby appointed Documentation Agent hereunder. Each Lender hereby authorizes and confirms the appointment by Administrative Agent of JPMorgan Chase Bank as Collateral Agent under the Collateral Documents and each Lender hereby authorizes Collateral Agent to act as its agent in accordance with the terms of this Agreement and the other Loan Documents. Each Agent hereby agrees to act upon the express conditions contained in this Agreement and the other Loan Documents, as applicable. The provisions of this Section 9 are solely for the benefit of Agents and Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties under this Agreement, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Holdings or any of its Subsidiaries. JPMSI, without consent of or notice to any party hereto, may assign any and all of its rights or obligations hereunder to any of its Affiliates. As of the date on which JPMSI notifies Borrower that it has

concluded its primary syndication of the Loans and Commitments, all obligations of JPMSI and Citigroup, in their respective capacity as Arrangers hereunder, shall terminate. Citicorp, in its capacity as Syndication Agent, shall have no obligations hereunder. Bank One, in its capacity as Documentation Agent, shall have no obligations hereunder.

B. Appointment of Supplemental Collateral Agents. It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case Administrative Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, it may be necessary that Administrative Agent appoint an additional individual or institution as a separate trustee, co-trustee, collateral agent or collateral co-agent (any such additional individual or institution being referred to herein individually as a "Supplemental Collateral Agent" and collectively as "Supplemental Collateral Agents").

In the event that Administrative Agent appoints a Supplemental Collateral Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Agent to the extent, and only to the extent, necessary to enable such Supplemental Collateral Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Agent shall run to and be enforceable by either Administrative Agent or such Supplemental Collateral Agent, and (ii) the provisions of this Section 9 and of subsections 10.2 and 10.3 that refer to Administrative Agent shall inure to the benefit of such Supplemental Collateral Agent and all references therein to Administrative Agent shall be deemed to be references to Administrative Agent and/or such Supplemental Collateral Agent, as the context may require.

Should any instrument in writing from any Credit Agreement Party or any other Loan Party be required by any Supplemental Collateral Agent so appointed by Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, such Credit Agreement Party shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by Administrative Agent. In case any Supplemental Collateral Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Collateral Agent, to the extent permitted by law, shall vest in and be exercised by Administrative Agent until the appointment of a new Supplemental Collateral Agent.

9.2 Powers and Duties; General Immunity.

A. Powers; Duties Specified. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Loan Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent shall have only those duties and responsibilities that are expressly specified in this Agreement and the other Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. No Agent shall have, by reason of this Agreement or any of the other Loan Documents, a fiduciary relationship in respect of any Lender; and nothing in this Agreement or any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect of this Agreement or any of the other Loan Documents except as expressly set forth herein or therein.

B. No Responsibility for Certain Matters. No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectibility or sufficiency of this Agreement or any other Loan Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to Lenders or by or on behalf of any Loan Party to any Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Potential Event of Default. Anything contained in this Agreement to the contrary notwithstanding, Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the Letter of Credit Usage or the component amounts thereof.

C. Exculpatory Provisions. None of Agents nor any of their respective officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by any Agent under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection with this Agreement or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Requisite Lenders (or such other Lenders as may be required to give such instructions under subsection 10.6) and, upon receipt of such instructions from Requisite Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall

be protected in relying on opinions and judgments of attorneys (who may be attorneys for Holdings and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of Requisite Lenders (or such other Lenders as may be required to give such instructions under subsection 10.6).

D. Agent Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans and the Letters of Credit, each Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not performing the duties and functions delegated to it hereunder, and the term "Lender" or "Lenders" or any similar term shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to and generally engage in any kind of banking, trust, financial advisory or other business with Holdings or any of its Subsidiaries or Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Holdings and its Subsidiaries for services in connection with this Agreement and otherwise without having to account for the same to Lenders.

9.3 Representations and Warranties; No Responsibility for Appraisal of Creditworthiness.

Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of Holdings and its Subsidiaries in connection with the making of the Loans and the issuance of Letters of Credit hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of Holdings and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto (except as provided in subsection 6.1), whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

9.4 Right to Indemnity.

Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent, to the extent that such Agent shall not have been reimbursed by any Credit Agreement Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including reasonable counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as such Agent in any way relating to or arising out of this Agreement or the other Loan Documents; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct. If any indemnity furnished to any Agent for any purpose shall,

in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided that in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof; and provided, further, that this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso to the immediately preceding sentence.

9.5 Successor Administrative Agent and Swing Line Lender.

A. Successor Administrative Agent. Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to Lenders and Borrower, and Administrative Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to Borrower and Administrative Agent and signed by Requisite Lenders. Upon any such notice of resignation or any such removal, Requisite Lenders shall have the right, upon five Business Days' notice to Borrower, to appoint a successor Administrative Agent with the consent (so long as no Event of Default is then in existence) of Borrower (which consent shall not be unreasonably withheld or delayed). Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent and the retiring or removed Administrative Agent shall be discharged from its duties and obligations under this Agreement. After any retiring or removed Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement.

B. Successor Swing Line Lender. Any resignation or removal of Administrative Agent pursuant to subsection 9.5A shall also constitute the resignation or removal of JPMorgan Chase Bank or its successor as Swing Line Lender, and any successor Administrative Agent appointed pursuant to subsection 9.5A shall, upon its acceptance of such appointment, become the successor Swing Line Lender for all purposes hereunder. In such event (i) Borrower shall prepay any outstanding Swing Line Loans made by the retiring or removed Administrative Agent in its capacity as Swing Line Lender, (ii) upon such prepayment, the retiring or removed Administrative Agent and Swing Line Lender shall surrender any Swing Line Note held by it to Borrower for cancellation, and (iii) if so requested by the successor Administrative Agent and Swing Line Lender in accordance with subsection 2.1E, Borrower shall issue a new Swing Line Note to the successor Administrative Agent and Swing Line Lender substantially in the form of Exhibit II annexed hereto, in the principal amount of the Swing Line Loan Commitment then in effect and with other appropriate insertions.

9.6 Collateral Documents and Guaranty.

Each Lender hereby further authorizes Collateral Agent, on behalf of and for the benefit of Lenders, to enter into each Collateral Document as secured party and to be the agent for and representative of the Lenders under the Guaranties, and each Lender agrees to be bound by the terms of each Collateral Document and each Guaranty; provided that Collateral Agent

shall not enter into or consent to any material amendment, modification, termination or waiver of any provision contained in any Collateral Document or Guaranty without the prior consent of Requisite Lenders (or such other Lenders as may be required to give such instructions under subsection 10.6); provided, further, however, that, without further written consent or authorization from Lenders, Collateral Agent may execute any documents or instruments necessary to (a) release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted by this Agreement or as permitted or required under the Collateral Documents or to which Requisite Lenders (or such other Lenders as may be required to give such consent under subsection 10.6) have otherwise consented or (b) release any Subsidiary Guarantor from the Subsidiaries Guaranty if all of the capital stock or other equity interests of such Subsidiary Guarantor is or are sold to any Person pursuant to a sale or other disposition permitted hereunder or to which Requisite Lenders (or such other Lenders as may be required to give such consent under subsection 10.6) have otherwise consented; provided, however, that nothing in this subsection shall require consent to release from the Subsidiaries Guaranty any Person which, immediately after such sale, shall be a Domestic Subsidiary of Holdings which is obligated to and will enter into the Subsidiaries Guaranty. Anything contained in any of the Loan Documents to the contrary notwithstanding, Credit Agreement Parties, Administrative Agent, Collateral Agent and each Lender hereby agree that (X) no Lender shall have any right individually to realize upon any of the Collateral under any Collateral Document or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies under the Collateral Documents and the Guaranties may be exercised solely by Administrative Agent and/or Collateral Agent for the benefit of Secured Creditors in accordance with the terms thereof, and (Y) in the event of a foreclosure by Collateral Agent on any of the Collateral pursuant to a public or private sale, Collateral Agent or any Secured Creditor may be the purchaser of any or all of such Collateral at any such sale and Collateral Agent, as agent for and representative of Secured Creditors (but not any Secured Creditor or Secured Creditors in its or their respective individual capacities unless Requisite Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by Collateral Agent at such sale.

SECTION 10.
MISCELLANEOUS

10.1 Assignments and Participations in Loans and Letters of Credit.

A. General. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Lender that issues any Letter of Credit), except that (I) none of the Credit Agreement Parties may assign or otherwise transfer any of its respective rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any of the Credit Agreement Parties without such consent shall be null and void); provided that (A) Borrower may assign all of its rights, interest and obligations hereunder and under the other Loan Documents to which it is a party to a newly-formed wholly-owned direct Subsidiary of Borrower ("NewCo Borrower"), so long as (i) concurrently therewith, Borrower shall have assigned, contributed and transferred substantially all of its assets

and other liabilities to Newco Borrower (excluding the capital stock of NewCo Borrower), (ii) immediately after giving effect thereto, Borrower shall have merged with and into Holdings (with Holdings as the surviving corporation of such merger), (iii) Holdings shall have pledged all of the capital stock of Newco Borrower to Collateral Agent pursuant to the Pledge Agreement as security for the Guaranteed Obligations, (iv) the Requisite Lenders shall have approved (x) an amendment to this Agreement permitting the foregoing transactions (and making appropriate technical modifications to give effect to the modified corporate structure) and (y) the form of the assignment, assumption and contribution agreement required to effect the foregoing transactions, (v) no Event of Default is then in existence and (vi) no Event of Default under, and as defined in the Senior Subordinated Note Indentures, is then in existence or would result from the foregoing transactions and (B) Holdings may assign all of its rights, interest and obligations hereunder and under the other Loan Documents to which it is a party in connection with any merger permitted by Section 7.7(xix) and in accordance with the requirements thereof and (II) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Lender that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of Administrative Agent, JPMSI, Issuing Lenders and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

B. Amounts and Terms of Assignments. (i) Subject to the conditions set forth in paragraph B(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of: (a) Borrower, provided that no consent of Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default has occurred and is continuing, any other assignee; and (b) Administrative Agent, provided that no consent of Administrative Agent shall be required for an assignment to an assignee that is a Lender, an Affiliate of a Lender or an Approved Fund of any Lender immediately prior to giving effect to such assignment, except in the case of an assignment of a Revolving Loan Commitment to an assignee that is not a Lender with a Revolving Loan Exposure.

(ii) Assignments shall be subject to the following additional conditions: (a) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund of any Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment, the amount of the Commitment of the assigning Lender subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to Administrative Agent) shall not be less than \$5,000,000 for the Revolving Loan Commitments (and related Obligations) or \$1,000,000 for Term Loans unless each of Borrower and Administrative Agent otherwise consent, provided that (1) no such consent of Borrower shall be required if an Event of Default has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any; (b) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this Section 10.1B(ii)(b) shall not be construed to prohibit assignment of a proportionate part of all the assigning Lender's rights and

obligations in respect of one Class of Commitments or Loans; (c) the parties to each assignment shall execute and deliver to Administrative Agent an Assignment Agreement, together with a processing and recordation fee of \$3,500; provided that in the event of a concurrent assignment to two or more assignees that are Affiliates of one another, or two or more Approved Funds managed by the same investment advisor or affiliated investment advisors, only one such \$3500 processing and recordation fee shall be payable; (d) the assignee, if it shall not be a Lender, shall deliver to Administrative Agent an Administrative Questionnaire; and (e) in the case of an assignment by a Lender to a CLO managed by such Lender or an Affiliate of such Lender, unless such assignment (or an assignment by a CLO managed by the same manager or an Affiliate of such manager) shall have been approved by Borrower (Borrower hereby agreeing that such approval, if requested, will not be unreasonably withheld or delayed), the assigning Lender shall retain the sole right to approve any amendment, modification or waiver of any provision of this Agreement, provided that the Assignment Agreement between such Lender and such CLO may provide that such Lender will not, without the consent of such CLO, agree to any amendment, modification or waiver described in the first proviso to subsection 10.6B that affects such CLO.

For the purposes of this Section 10.1B, the terms "Approved Fund" and "CLO" have the following meanings:

"Approved Fund" means (a) a CLO and (b) with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"CLO" means any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Lender or an Affiliate of such Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph B(iv) of this Section, from and after the effective date specified in each Assignment Agreement the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.6, 2.7, 3.6 and 10.3). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 10.1B shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection 10.1C.

(iv) Upon its receipt of a duly completed Assignment Agreement executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in subsection 10.1B(ii) and any written consent to such assignment required by subsection 10.1B(i), Administrative Agent shall accept such Assignment Agreement and record

the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

C. Participations. (i) Any Lender may, without the consent of or notice to any Loan Party, Administrative Agent, JPMSI, any Issuing Lender or Swing Line Lender, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (a) such Lender's obligations under this Agreement shall remain unchanged, (b) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (c) the Loan Parties, Administrative Agent, JPMSI, Issuing Lenders and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to subsection 10.6B that affects such Participant. Subject to paragraph C(ii) of this Section, Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.6, 2.7 and 3.6 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection 10.1B. To the extent permitted by law, each Participant also shall be entitled to the benefits and limitations of Section 10.4 as though it were a Lender, provided such Participant agrees to be subject to Section 10.5 as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Sections 2.7 and 3.6 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with Borrower's prior written consent. A Participant that would be a Non-US Lender if it were a Lender shall not be entitled to the benefits of Section 2.7 unless Borrower is notified of the participation sold to such Participant.

D. Assignments to Federal Reserve Bank and Fund Trustees. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this subsection shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In the case of any Lender that is a fund that invests in bank loans, such Lender may, without the consent of Borrower, or Administrative Agent, assign or pledge all or portion of its rights under this Agreement, including the Loans and Notes or any other instrument evidencing its rights as a Lender under this Agreement, to any holder of, trustee for, or any other representative of holders of, obligations owed or securities issued, by such fund, as security for such obligations or securities; provided that (x) any foreclosure or similar action by such trustee or representative shall be subject to the provisions of this Section 10.1 concerning assignments and (y) no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

E. Information. Each Lender may furnish any information concerning Holdings and its Subsidiaries in the possession of that Lender from time to time to assignees and participants (including prospective assignees and participants), subject to subsection 10.19.

F. Representations of Lenders. Each Lender listed on the signature pages hereof hereby represents and warrants (i) that it is an Eligible Assignee described in clause (A) of the definition thereof; (ii) that it has experience and expertise in the making of or investing in loans such as the Loans; and (iii) that it will make its Loans for its own account in the ordinary course of its business and without a view to distribution of such Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this subsection 10.1, the disposition of such Loans or any interests therein shall at all times remain within its exclusive control). Each Lender that becomes a party hereto pursuant to an Assignment Agreement shall be deemed to agree that the representations and warranties of such Lender contained in Section 2(c) of such Assignment Agreement are incorporated herein by this reference.

10.2 Expenses.

If the transactions contemplated hereby are consummated, Borrower agrees to pay promptly (i) all the actual and reasonable costs and expenses of Agents in connection with the preparation of the Loan Documents and any consents, amendments (requested by or for the benefit of any Loan Party), waivers or other modifications thereto; (ii) all the costs of furnishing all opinions by counsel for any Loan Party (including any opinions requested by Lenders as to any legal matters arising hereunder) and of any Loan Party's performance of and compliance with all agreements and conditions on its part to be performed or complied with under this Agreement and the other Loan Documents including with respect to confirming compliance with environmental, insurance and solvency requirements; (iii) the reasonable fees, expenses and disbursements of counsel to JPMSI and counsel to Administrative Agent (in each case including allocated costs of internal counsel) in connection with the negotiation, preparation, execution and administration of the Loan Documents and any consents, amendments (requested by or for the benefit of any Loan Party), waivers or other modifications thereto and any other documents or matters requested by any Loan Party; (iv) all the reasonable costs and reasonable expenses of Administrative Agent and Collateral Agent in connection with the creation and perfection of Liens in favor of Collateral Agent on behalf of Lenders pursuant to any Collateral Document, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums, and reasonable fees, expenses and disbursements of counsel to JPMSI, counsel to Administrative Agent and counsel to Collateral Agent and of counsel providing any opinions that JPMSI, Administrative Agent, Collateral Agent or Requisite Lenders may request in respect of the Collateral Documents or the Liens created pursuant thereto; (v) all the reasonable costs and reasonable expenses (including the reasonable fees, expenses and disbursements of any auditors, accountants or appraisers and any environmental or other consultants, advisors and agents employed or retained by Administrative Agent or JPMSI and their respective counsel) of obtaining and reviewing any appraisals provided for under subsection 6.9C and any environmental audits or reports provided for under subsection 6.9B(viii); (vi) all the reasonable costs and reasonable expenses (including the reasonable fees, expenses and disbursements of any consultants, advisors and agents employed or retained by Administrative Agent or Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral;

(vii) all other reasonable costs and expenses incurred by JPMSI or Administrative Agent in connection with the syndication of the Loans and/or the Commitments and the negotiation, preparation and execution of the Loan Documents and any consents, amendments (requested by or for the benefit of any Loan Party), waivers or other modifications thereto and the transactions contemplated thereby; and (viii) after the occurrence and during the continuance of an Event of Default, all reasonable costs and expenses, including reasonable attorneys' fees (including allocated reasonable costs of internal counsel) and reasonable costs of settlement, incurred by JPMSI, Administrative Agent, any Issuing Lender and any Lender in enforcing any Obligations of or in collecting any payments due from any Loan Party hereunder or under the other Loan Documents by reason of such Event of Default (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranties) or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or pursuant to any insolvency or bankruptcy proceedings.

10.3 Indemnity.

In addition to the payment of expenses pursuant to subsection 10.2, whether or not the transactions contemplated hereby are consummated, Borrower agrees to defend (subject to Indemnitees' reasonable selection of counsel), indemnify, pay and hold harmless Agents (including Collateral Agent), Issuing Lenders and Lenders, and the officers, partners, directors, trustees, employees, agents and affiliates of any of Agents (including Collateral Agent), Issuing Lenders and Lenders (collectively called the "Indemnitees"), from and against any and all Indemnified Liabilities (as hereinafter defined); provided that no Borrower shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence, bad faith or willful misconduct of that Indemnitee.

As used herein, "Indemnified Liabilities" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, actions, judgments, suits, claims (including Environmental Claims), reasonable costs (including the reasonable costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), reasonable expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any reasonable fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of (i) this Agreement or the other Loan Documents or the Related Agreements or the transactions contemplated hereby or thereby (including Lenders' agreement to make the Loans hereunder or the use or intended use of the proceeds thereof or the issuance of Letters of Credit hereunder or the use or intended use of any thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other

realization upon any of the Collateral or the enforcement of the Guaranties)), or (ii) any Environmental Claim or any Hazardous Materials Activity relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of Holdings or any of its Subsidiaries.

If any action for Indemnified Liabilities is brought against any Indemnified Party (other than regulatory, supervisory or similar investigations), Borrower may assume the defense of such action for which indemnification is sought hereunder with counsel reasonably selected by such Indemnified Party and at Borrower's expense; provided that (i) Borrower shall keep such Indemnified Party fully informed with respect to the conduct of the defense of such action, (ii) Borrower shall consult in good faith with such Indemnified Party before taking any material decision about the conduct of the defense of such claim, and (iii) Borrower shall conduct the defense of such claim properly and diligently; and provided, further, that Borrower shall not have the right to assume the defense of such action on behalf of such Indemnified Party and the relevant Indemnified Party will be entitled, at Borrower's expense, to employ separate counsel (but only one such counsel in any jurisdiction in connection with any action) and to participate in the defense of such action if (i) the actual or potential defendants in any such action include both Borrower and such Indemnified Party and such Indemnified Party shall have reasonably concluded that material legal defenses are available to it that are different from or additional to those available to Borrower, (ii) Borrower shall not have employed counsel reasonably acceptable to such Indemnified Party within a reasonable time after notice of the institution of such action or (iii) Borrower shall authorize such Indemnified Party to employ separate counsel at Borrower's expense.

Borrower shall not, without the prior written consent of each Indemnified Party affected thereby, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification may be sought hereunder (whether or not such Indemnified Party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of such Indemnified Party from all liability arising out of such action or claim in the event such Indemnified Party is party thereto, (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of such Indemnified Party and (iii) does not require such Indemnified Party to pay any form of consideration to any party or parties (including, without limitation, the payment of money) in connection therewith.

To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this subsection 10.3 may be unenforceable in whole or in part because they are violative of any law or public policy, Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

10.4 Set-Off; Security Interest in Deposit Accounts.

(a) In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default each Lender (and each of its Affiliates) is hereby authorized by each Loan Party at any time or from time to time subject to the consent of Collateral Agent, without notice

to any Loan Party or to any other Person (other than Collateral Agent), any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts or payroll accounts) and any other Indebtedness at any time held or owing by that Lender or its Affiliates to or for the credit or the account of any Loan Party against and on account of the obligations and liabilities of such Loan Party which are then due and payable to that Lender under this Agreement, the Letters of Credit and participations therein and the other Loan Documents, including all claims of any nature or description arising out of or connected with this Agreement, the Letters of Credit and participations therein or any other Loan Document, irrespective of whether or not that Lender shall have made any demand hereunder, which are then due and payable. Each Loan Party hereby further grants to Collateral Agent and each Lender (and its Affiliates) a security interest in all deposits and accounts maintained with Collateral Agent or such Lender (and its Affiliates) as security for the Obligations.

(b) NOTWITHSTANDING THE FOREGOING SUBSECTION (a), AT ANY TIME THAT THE LOANS OR ANY OTHER OBLIGATION SHALL BE SECURED BY REAL PROPERTY LOCATED IN CALIFORNIA, NO LENDER SHALL EXERCISE A RIGHT OF SETOFF, LENDER'S LIEN OR COUNTERCLAIM OR TAKE ANY COURT OR ADMINISTRATIVE ACTION OR INSTITUTE ANY PROCEEDING TO ENFORCE ANY PROVISION OF THIS AGREEMENT OR ANY NOTE UNLESS IT IS TAKEN WITH THE CONSENT OF THE REQUISITE LENDERS OR, TO THE EXTENT REQUIRED BY SUBSECTION 10.6 OF THIS AGREEMENT, ALL OF THE LENDERS, AT ALL TIMES PRIOR TO THE TIME ON WHICH ALL OBLIGATIONS HAVE BEEN PAID IN FULL, IF SUCH SETOFF OR ACTION OR PROCEEDING WOULD OR MIGHT (PURSUANT TO SECTIONS 580a, 580b, 580d AND 726 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE OR SECTION 2924 OF THE CALIFORNIA CIVIL CODE, IF APPLICABLE, OR OTHERWISE) AFFECT OR IMPAIR THE VALIDITY, PRIORITY, OR ENFORCEABILITY OF THE LIENS GRANTED TO COLLATERAL AGENT PURSUANT TO THE COLLATERAL DOCUMENTS OR THE ENFORCEABILITY OF THE NOTES AND OTHER OBLIGATIONS HEREUNDER, AND ANY ATTEMPTED EXERCISE BY ANY LENDER OF ANY SUCH RIGHT WITHOUT OBTAINING SUCH CONSENT OF THE PARTIES AS REQUIRED ABOVE, SHALL BE NULL AND VOID. THIS SUBSECTION (b) SHALL BE SOLELY FOR THE BENEFIT OF EACH OF THE LENDERS HEREUNDER.

10.5 Ratable Sharing.

Lenders hereby agree among themselves that if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms of this Agreement), by realization upon security, through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, amounts payable in respect of Letters of Credit, fees and other amounts then due and owing to that Lender hereunder or under the other Loan Documents (collectively, the "Aggregate Amounts Due" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender,

then the Lender receiving such proportionately greater payment shall (i) notify Administrative Agent and each other Lender of the receipt of such payment and (ii) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided that if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. Borrower expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by Borrower to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

10.6 Amendments and Waivers.

A. No failure or delay by Administrative Agent, JPMSI, any Issuing Lender or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of Administrative Agent, JPMSI, any Issuing Lender and Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any of the Credit Agreement Parties or any of their respective Subsidiaries therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 10.6, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Potential Event of Default or Event of Default, regardless of whether Administrative Agent, JPMSI, any Lender or any Issuing Lender may have had notice or knowledge of such Potential Event of Default or Event of Default at the time.

B. Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Credit Agreement Parties and the Requisite Lenders or by the Credit Agreement Parties and Administrative Agent with the consent of the Requisite Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Potential Events of Defaults or Events of Default or of a mandatory reduction in the Revolving Loan Commitments shall not constitute an increase of the Commitment of any Lender, and that an increase in the available portion of any Commitment of any Lender shall not constitute an increase in the Commitment of such Lender), (ii) reduce or forgive the principal amount of any Loan or reimbursement obligation in respect of any Letter of Credit or reduce the rate of interest thereon (except in connection with the waiver of applicability of any post-default increases in interest rates), or reduce any fees payable hereunder, without the written consent of each Lender

affected thereby (it being understood that any amendment or modification to a definition used in the computation of compliance with the financial covenants contained in this Agreement shall not constitute a reduction in any rate of interest or fees for purposes of this clause (ii), notwithstanding the fact that such amendment or modification actually results in such a reduction), (iii) postpone the scheduled date of payment of the principal amount of any Loan or reimbursement obligation in respect of any Letter of Credit, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change subsections 2.4C(iii), 3.3C(ii) or Section 10.5 in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section 10.6B (except for technical amendments with respect to additional extensions of credit pursuant to this Agreement which afford the protections to such additional extensions of credit of the type provided to the Term Loans and the Revolving Loan Commitments on the Restatement Effective Date) or the percentage set forth in the definition of "Requisite Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder (it being understood that, with the consent of the Requisite Lenders, additional extensions of credit pursuant to this Agreement (including extensions of credit to refinance, in whole or in part, then outstanding Loans hereunder) may be included in the determination of the Requisite Lenders on substantially the same basis as the extensions of Term Loans and Revolving Loan Commitments are included on the Restatement Effective Date), without the written consent of each Lender (or each Lender of such Class, as the case may be), (vi) release all or substantially all of the Guarantors from their respective Guaranties (except as expressly provided in the relevant Guaranty), or limit its liability in respect of such Guaranty, without the written consent of each Lender, (vii) release all or substantially all of the Collateral from the Liens of the Collateral Documents, without the written consent of each Lender, (viii) change any provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each adversely affected Class (in addition to any consent required under any other clause of this Section) (it being understood, however, that no such consent shall be required in cases where additional extensions of credit pursuant to this Agreement (including extensions of credit to refinance, in whole or in part, then outstanding Loans hereunder) are being afforded substantially the same treatment afforded to the Term Loans or Revolving Loans pursuant to this Agreement as originally in effect), (ix) amend, modify or waive the conditions precedent in Sections 4.1 and 4.2 to the making of any Revolving Loan or otherwise affect the rights of the Revolving Loan Lenders thereunder, without the written consent of Revolving Loan Lenders holding a majority of Revolving Loan Commitments and (x) amend, waive or modify the approval rights of the Lenders with respect to a nine or twelve month Interest Period as provided in subsection 2.2B, without the written consent of each Lender affected thereby; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of Administrative Agent, JPMSI, any Issuing Lender or Swing Line Lender hereunder without the prior written consent of Administrative Agent, JPMSI, each affected Issuing Lender or Swing Line Lender, as the case may be.

10.7 Independence of Covenants.

All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of an Event of Default or Potential Event of Default if such action is taken or condition exists.

10.8 Notices.

A. Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to Holdings or Borrower, to Domino's, Inc., 30 Frank Lloyd Wright Drive, Ann Arbor, MI 48106, Attention of Joe Donovan, Vice President and Treasurer (Telecopy No. (800) 472-2062);

(ii) if to Administrative Agent, to JPMorgan Chase Bank, 270 Park Avenue, 47th Floor, New York, New York 10017, Attention of Teri Streusand (Telecopy No. (212) 270-6637), with a copy to JPMorgan Chase Bank, 270 Park Avenue, New York 10017, Attention of Ruby Tulloch (Telecopy No. (212) 270-7594);

(iii) if to an Issuing Lender, (x) in the case of JPMorgan, to it at JPMorgan Chase Bank, Letters of Credit Department, 1040 Highland Manor Drive, Tampa, FL 33610, Attention of James Alonzo (Telecopy No. (813) 432-5161) and (y) in the case of Bank One, to it at Bank One, NA, Letters of Credit Department, 300 South Riverride Plaza, MC: IL1-0236, Chicago, IL 60670, Attention of Evelyn Abbasi (Telecopy No. (312) 954-5986);

(iv) if to Swing Line Lender, to JPMorgan Chase Bank, 270 Park Avenue, New York 10017, Attention of Ruby Tulloch (Telecopy No. (212) 270-7594); and

(v) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

B. All notices and other communications provided for herein shall be deemed to have been given when delivered in person or by courier service, upon receipt of telefacsimile or telex, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided that notices to JPMSI or Administrative Agent shall not be effective until received.

C. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2.

D. Administrative Agent or Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

E. Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

10.9 Survival of Representations, Warranties and Agreements.

A. All representations, warranties and agreements made herein shall survive the execution and delivery of this Agreement and the making of the Loans and the issuance of the Letters of Credit hereunder.

B. Notwithstanding anything in this Agreement or implied by law to the contrary, agreements of Credit Agreement Parties set forth in subsections 2.6D, 2.7, 3.5A, 3.6, 10.2, 10.3 and 10.4 and the agreements of Lenders set forth in subsections 9.2C, 9.4 and 10.5 shall survive the payment of the Loans, the cancellation or expiration of the Letters of Credit and the reimbursement of any amounts drawn thereunder, and the termination of this Agreement.

10.10 Failure or Indulgence Not Waiver; Remedies Cumulative.

No failure or delay on the part of Administrative Agent, Collateral Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. All rights and remedies existing under this Agreement and the other Loan Documents are cumulative to, and not exclusive of, any rights or remedies otherwise available.

10.11 Marshalling; Payments Set Aside.

None of Administrative Agent, Collateral Agent or any Lender shall be under any obligation to marshal any assets in favor of Borrower or any other party or against or in payment of any or all of the Obligations. To the extent that Borrower makes a payment or payments to Administrative Agent, Collateral Agent or Lenders (or to Administrative Agent for the benefit of Lenders), or Administrative Agent, Collateral Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

10.12 Severability.

In case any provision in or obligation under this Agreement or the Notes shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

10.13 Obligations Several; Independent Nature of Lenders' Rights.

The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

10.14 Headings.

Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

10.15 Applicable Law.

THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

10.16 Successors and Assigns.

This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders (it being understood that Lenders' rights of assignment are subject to subsection 10.1). Neither any Credit Agreement Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by such Credit Agreement Party without the prior written consent of all Lenders.

10.17 Consent to Jurisdiction and Service of Process.

ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY CREDIT AGREEMENT PARTY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY OBLIGATIONS THEREUNDER, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN

THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH CREDIT AGREEMENT PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY

(I) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NON-EXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS;

(II) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS;

(III) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO SUCH CREDIT AGREEMENT PARTY AT ITS ADDRESSES PROVIDED IN ACCORDANCE WITH SUBSECTION 10.8;

(IV) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (III) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER SUCH CREDIT AGREEMENT PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT;

(V) AGREES THAT LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST BORROWER IN THE COURTS OF ANY OTHER JURISDICTION; AND

(VI) AGREES THAT THE PROVISIONS OF THIS SUBSECTION 10.17 RELATING TO JURISDICTION AND VENUE SHALL BE BINDING AND ENFORCEABLE TO THE FULLEST EXTENT PERMISSIBLE UNDER NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1402 OR OTHERWISE.

10.18 Waiver of Jury Trial.

EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/ BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this Agreement, and that each will continue to rely on this waiver in their related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY

REFERRING TO THIS SUBSECTION 10.18 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

10.19 Confidentiality.

Each Lender shall hold all non-public information obtained pursuant to the requirements of this Agreement in accordance with such Lender's customary procedures for handling confidential information of this nature and in accordance with prudent lending or investing practices, it being understood and agreed by each Credit Agreement Party that in any event a Lender may make disclosures to Affiliates of such Lender or disclosures reasonably required by any bona fide assignee, transferee or participant in connection with the contemplated assignment or transfer by such Lender of any Loans or any participations therein or by any direct or indirect contractual counterparties (or the professional advisors thereto) in swap agreements (provided that such swap counterparties and advisors are advised of and agree to be bound by the provisions of this subsection 10.19) or disclosures required or requested by any governmental agency or representative thereof or by the NAIC or pursuant to legal process; provided that, unless specifically prohibited by applicable law or court order, each Lender shall notify Holdings of any request by any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition of such Lender by such governmental agency) for disclosure of any such non-public information prior to disclosure of such information; and provided further that in no event shall any Lender be obligated or required to return any materials furnished by Holdings or any of its Subsidiaries. Notwithstanding anything herein to the contrary, any party to this Agreement (and any employee, representative or other agent of such party) may disclose to any and all Persons, without limitation of any kind, such party's U.S. federal income tax treatment and the U.S. federal income tax structure of the transactions contemplated hereby relating to such party and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. However, no disclosure of any information relating to such tax treatment or tax structure may be made to the extent nondisclosure is reasonably necessary in order to comply with applicable securities laws.

10.20 Counterparts; Effectiveness.

A. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

B. This Agreement shall become effective on the date (the "Restatement Effective Date") on which (i) Borrower, each Lender with a Term Loan Commitment, each Lender with a Revolving Loan Commitment, the Requisite Lenders (determined immediately

before the occurrence of the Restatement Effective Date and without giving effect thereto), and Agents shall have signed a counterpart hereof (whether the same or different counterparts) and shall have delivered the same (including by way of facsimile transmission) to Administrative Agent and (ii) the conditions contained in Section 4.1 are met to the satisfaction of JPMSI and Administrative Agent and the Requisite Lenders (determined immediately after the occurrence of the Restatement Effective Date). Unless Administrative Agent has received actual notice from any Lender that the conditions contained in Section 4.1 have not been met to its satisfaction, upon the satisfaction of the condition described in clause (i) of the immediately preceding sentence and upon Administrative Agent's good faith determination that the conditions described in clause (ii) of the immediately preceding sentence have been met, then the Restatement Effective Date shall have been deemed to have occurred, regardless of any subsequent determination that one or more of the conditions thereto had not been met (although the occurrence of the Restatement Effective Date shall not release Borrower from any liability for failure to satisfy one or more of the applicable conditions contained in Section 4.1). Administrative Agent will give Borrower and each Lender prompt written notice of the occurrence of the Restatement Effective Date.

10.21 Addition of New Lenders.

On and as of the occurrence of the Restatement Effective Date, each New Lender shall become a "Lender" under, and for all purposes of, this Agreement and the other Credit Documents.

10.22 Special Acknowledgment and Authorization in connection with Amendment and Restatement, etc.

(a) The Lenders hereby authorize JPMorgan Chase Bank, in its capacity as Administrative Agent or Collateral Agent, as applicable, to execute and deliver the Security Agreement, the Pledge Agreement and the Subsidiaries Guaranty in the respective forms thereof attached as Exhibits hereto on the Restatement Effective Date.

(b) The parties hereto acknowledge and agree that upon the occurrence of the Restatement Effective Date, the Security Agreement, the Pledge Agreement and the Subsidiaries Guaranty executed and delivered on such date shall supercede and replace in full the Security Agreement, the Pledge Agreement and the Subsidiaries Guaranty (as each such term is defined in the Original Credit Agreement) in effect immediately prior to the Restatement Effective Date and same shall be in full force and effect in accordance with their respective terms.

SECTION 11. HOLDINGS GUARANTY.

11.1 Guaranty.

In order to induce each Agent, Collateral Agent, each Issuing Lender and the Lenders to enter into this Agreement and to extend credit hereunder, and to induce the other Guaranteed Creditors to enter into and/or maintain Interest Rate Agreements and Currency Agreements (including the Existing Swap Agreements) and in recognition of the direct benefits to be received by Holdings from the proceeds of the Loans, the issuance of the Letters of Credit

and the entering into and/or maintenance of such Interest Rate Agreements and Currency Agreements, Holdings hereby agrees with the Guaranteed Creditors as follows: Holdings hereby unconditionally and irrevocably guarantees as primary obligor and not merely as surety the full and prompt payment when due, whether upon maturity, acceleration or otherwise, of any and all of the Guaranteed Obligations to the Guaranteed Creditors. If any or all of the Guaranteed Obligations to the Guaranteed Creditors becomes due and payable hereunder, Holdings, unconditionally and irrevocably, promises to pay such indebtedness to Administrative Agent and/or the other Guaranteed Creditors, or order, on demand, together with any and all expenses which may be incurred by Administrative Agent and the other Guaranteed Creditors in collecting any of the Guaranteed Obligations. If claim is ever made upon any Guaranteed Creditor for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations and any of the aforesaid payees repays all or part of said amount by reason of (i) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property or (ii) any settlement or compromise of any such claim effected by such payee with any such claimant (including Borrower), then and in such event Holdings agrees that any such judgment, decree, order, settlement or compromise shall be binding upon Holdings, notwithstanding any revocation of this Guaranty or other instrument evidencing any liability of Borrower, and Holdings shall be and remain liable to the aforesaid payees hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.

11.2 Bankruptcy.

Additionally, Holdings unconditionally and irrevocably guarantees the payment of any and all of the Guaranteed Obligations to the Guaranteed Creditors whether or not due or payable by Borrower upon the occurrence of any of the events specified in subsection 8.6 or subsection 8.7, and irrevocably and unconditionally promises to pay such indebtedness to the Guaranteed Creditors, or order, on demand, in lawful money of the United States.

11.3 Nature of Liability.

The liability of Holdings hereunder is primary, absolute and unconditional, exclusive and independent of any security for or other guaranty of the Guaranteed Obligations, whether executed by any other guarantor or by any other party, and the liability of Holdings hereunder shall not, to the maximum extent permitted by applicable law, be affected or impaired by (a) any direction as to application of payment by Borrower or by any other party, or (b) any other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations, or (c) any payment on or in reduction of any such other guaranty or undertaking, or (d) any dissolution, termination or increase, decrease or change in personnel by the Loan Parties, or (e) any payment made to any Guaranteed Creditor on the Guaranteed Obligations which any such Guaranteed Creditor repays to Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and Holdings waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding, or (f) any action or inaction by the Guaranteed Creditors as contemplated in subsection 11.5, or (g) any invalidity, irregularity or enforceability of all or any part of the Guaranteed Obligations or of any security therefor.

11.4 Independent Obligation.

The obligations of Holdings hereunder are independent of the obligations of any other guarantor, any other party or Borrower, and a separate action or actions may be brought and prosecuted against Holdings whether or not action is brought against any other guarantor, any other party or Borrower and whether or not any other guarantor, any other party or Borrower be joined in any such action or actions. Holdings waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof. Any payment by Borrower or other circumstance which operates to toll any statute of limitations as to Borrower shall operate to toll the statute of limitations as to Holdings.

11.5 Authorization.

Holdings authorizes the Guaranteed Creditors without notice or demand (except as shall be required by applicable statute or law and cannot be waived), and without affecting or impairing its liability hereunder, from time to time to:

(a) change the manner, place or terms of payment of, and/or change or extend the time of payment of, renew, increase, accelerate or alter, any of the Guaranteed Obligations (including any increase or decrease in the principal amount thereof or the rate of interest or fees thereon), any security therefor, or any liability incurred directly or indirectly in respect thereof, and the Guaranty herein made shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered;

(b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, impair, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset thereagainst;

(c) exercise or refrain from exercising any rights against Borrower, any other Loan Party or others or otherwise act or refrain from acting;

(d) release or substitute any one or more endorsers, guarantors, Borrower, other Loan Parties or other obligors;

(e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of Borrower to its creditors other than the Guaranteed Creditors;

(f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of Borrower to the Guaranteed Creditors regardless of what liability or liabilities of Borrower remain unpaid;

(g) consent to or waive any breach of, or any act, omission or default under, this Agreement, any other Loan Document, any Interest Rate Agreement or any of the instruments or agreements referred to herein or therein, or otherwise amend, modify or supplement this Agreement, any other Loan Document, any Interest Rate Agreement or Currency Agreement or any of such other instruments or agreements; and/or

(h) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of Holdings from its liabilities under this Guaranty.

11.6 Reliance.

It is not necessary for any Guaranteed Creditor to inquire into the capacity or powers of Holdings or any of its Subsidiaries or the officers, directors, partners or agents acting or purporting to act on their behalf, and any Guaranteed Obligations made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

11.7 Subordination.

Any indebtedness of Borrower now or hereafter owing to Holdings is hereby subordinated to the Guaranteed Obligations of Borrower owing to the Guaranteed Creditors; if Administrative Agent so requests at a time when an Event of Default exists, all such indebtedness of Borrower to Holdings shall be collected, enforced and received by Holdings for the benefit of the Guaranteed Creditors and be paid over to Administrative Agent on behalf of the Guaranteed Creditors on account of the Guaranteed Obligations of Borrower to the Guaranteed Creditors, but without affecting or impairing in any manner the liability of Holdings under the other provisions of this Guaranty. Prior to the transfer by Holdings of any note or negotiable instrument evidencing any such indebtedness of Borrower to Holdings, Holdings shall mark such note or negotiable instrument with a legend that the same is subject to this subordination. Without limiting the generality of the foregoing, Holdings hereby agrees with the Guaranteed Creditors that it will not exercise any right of subrogation which it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the Bankruptcy Code or otherwise) until all Guaranteed Obligations have been irrevocably paid in full in cash.

11.8 Waiver.

A. Holdings waives any right (except as shall be required by applicable statute or law and cannot be waived) to require any Guaranteed Creditor to (i) proceed against Borrower, any other guarantor or any other party, (ii) proceed against or exhaust any security held from Borrower, any other guarantor or any other party or (iii) pursue any other remedy in any Guaranteed Creditor's power whatsoever. Holdings waives any defense based on or arising out of any defense of Borrower, any other guarantor or any other party, other than payment of the Guaranteed Obligations to the extent of such payment, based on or arising out of the disability of Borrower, Holdings, any other guarantor or any other party, or the validity, legality or unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of Borrower other than payment of the Guaranteed

Obligations to the extent of such payment. The Guaranteed Creditors may, at their election, foreclose on any security held by Administrative Agent, Collateral Agent or any other Guaranteed Creditor by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent such sale is permitted by applicable law), or exercise any other right or remedy the Guaranteed Creditors may have against Borrower or any other party, or any security, without affecting or impairing in any way the liability of Holdings hereunder except to the extent the Guaranteed Obligations have been paid. Holdings waives any defense arising out of any such election by the Guaranteed Creditors, even though such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Holdings against Borrower or any other party or any security.

B. Holdings waives (except as shall be required by applicable statute or law and cannot be waived) all presentments, demands for performance, protests and notices, including without limitation notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation or incurring of new or additional Guaranteed Obligations. Holdings assumes all responsibility for being and keeping itself informed of Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks which Holdings assumes and incurs hereunder, and agrees that neither Administrative Agent nor any of the other Guaranteed Creditors shall have any duty to advise Holdings of information known to them regarding such circumstances or risks.

11.9 Maximum Liability.

It is the desire and intent of Holdings and the Guaranteed Creditors that this Guaranty shall be enforced against Holdings to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. If, however, and to the extent that, the obligations of Holdings under this Guaranty shall be adjudicated to be invalid or unenforceable for any reason (including, without limitation, because of any applicable state or federal law relating to fraudulent conveyances or transfers), then the amount of Holdings' obligations under this Guaranty shall be deemed to be reduced and Holdings shall pay the maximum amount of the Guaranteed Obligations which would be permissible under applicable law.

[Remainder of page intentionally left blank]

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

TISM, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S, INC.

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S FRANCHISE HOLDING CO.
(f/k/a Bluefence, Inc.)

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

JPMORGAN CHASE BANK, individually
and as Administrative Agent

By: /s/ Teri Streusand

Name: Teri Streusand
Title: Vice President

J.P. MORGAN SECURITIES INC.,
as Arranger

By: /s/ Robert Anastasio

Name: Robert Anastasio
Title: Vice President

CITICORP NORTH AMERICA, INC.,
individually and as Syndication
Agent

By: /s/ Robert H. Chen

Name: Robert H. Chen
Title: Vice President

CITIGROUP GLOBAL MARKETS INC., as
Arranger

By: /s/ Robert H. Chen

Name: Robert H. Chen
Title: Vice President

BANK ONE, NA, individually and as
Documentation Agent

By: /s/ Jason A. Rastovski

Name: Jason A. Rastovski
Title: Associate Director

PLEDGE AGREEMENT

PLEDGE AGREEMENT, dated as of July 29, 2002 and amended and restated as of June 25, 2003 (as so amended and restated and as the same may be further amended, restated and/or supplemented or otherwise modified from time to time, this "Agreement"), made by each of the undersigned pledgors (each, a "Pledgor" and, together with any other entity that becomes a pledgor hereunder pursuant to Section 5.30 hereof, the "Pledgors") to JPMorgan Chase Bank, as Collateral Agent (together with any successor Collateral Agent, the "Pledgee"), for the benefit of the Secured Creditors (as defined below). Except as otherwise defined herein, capitalized terms used herein and defined in the Credit Agreement (as defined below) shall be used herein as therein defined.

WITNESSETH:

WHEREAS, Domino's, Inc., a Delaware corporation ("Borrower"), TISM, Inc., a Michigan corporation, the Lenders from time to time party thereto, J.P. Morgan Securities Inc. and Citigroup Global Markets Inc., as joint lead arrangers (in such capacity, the "Joint Lead Arrangers"), JPMorgan Chase Bank, as administrative agent for Lenders (in such capacity and together with any successor administrative agent, "Administrative Agent"), Citicorp North America, Inc., as syndication agent (in such capacity and together with any successor syndication agent, the "Syndication Agent"), and Bank One, NA, as documentation agent (in such capacity and together with any successor documentation agent, the "Documentation Agent"), have entered into a Credit Agreement, dated as of July 29, 2002 and amended and restated as of June 25, 2003 (as so amended and restated and as the same may be further amended, restated, supplemented and/or otherwise modified from time to time, the "Credit Agreement"), providing for the making of Loans to Borrower, and the issuance of Letters of Credit for the account of Borrower, in each case as contemplated therein (the Lenders, the Joint Lead Arrangers, the Administrative Agent, the Documentation Agent, the Syndication Agent, each Issuing Lender, the Collateral Agent and the Pledgee are herein called the "Lender Creditors");

WHEREAS, Borrower or any Subsidiary thereof may at any time and from time to time enter into or maintain one or more Interest Rate Agreements and Currency Agreements (collectively, together with the Existing Swap Agreements in effect at any time, the "Secured Hedging Agreements") with one or more Lenders or any affiliate thereof (each such Lender or affiliate, even if the respective Lender subsequently ceases to be a Lender under the Credit Agreement for any reason, together with each financial institution party to an Existing Swap Agreement at any time and each such Lender's, affiliate's or other financial institutions' successors and assigns, are herein called the "Other Creditors," and, together with the Lender Creditors, are herein called the "Secured Creditors");

WHEREAS, pursuant to the Subsidiaries Guaranty, each Pledgor that is a party thereto has jointly and severally guaranteed to the Secured Creditors the payment when due of all Obligations as described in the Subsidiaries Guaranty;

WHEREAS, pursuant to the Holdings Guaranty, Holdings has unconditionally guaranteed to the Guaranteed Creditors the payment when due of all Guaranteed Obligations as described therein;

WHEREAS, the Pledgors have heretofore entered into a Pledge Agreement, dated as of July 29, 2002 (as amended, supplemented or otherwise modified to but not including the date hereof, the "Original Pledge Agreement");

WHEREAS, it is a condition precedent to the making and continuation of Loans and the issuance of Letters of Credit under the Credit Agreement and the maintaining of Secured Hedge Agreements that each Pledgor shall have executed and delivered to the Pledgee this Agreement;

WHEREAS, each Pledgor desires to execute this Agreement to satisfy the conditions described in the preceding paragraph and to amend and restate the Original Pledge Agreement in the form of this Agreement; and

WHEREAS, each Pledgor will obtain benefits from the incurrence and continuation of Loans by, and the issuance of, and participation in, Letters of Credit under the Credit Agreement and the entering into and maintaining of Secured Hedging Agreements and, accordingly, each Pledgor desires to enter into this Agreement in order to satisfy the condition described in the preceding paragraph;

NOW, THEREFORE, in consideration of the benefits accruing to each Pledgor, the receipt and sufficiency of which are hereby acknowledged, each Pledgor hereby makes the following representations and warranties to the Pledgee for the benefit of the Secured Creditors and hereby covenants and agrees with the Pledgee for the benefit of the Secured Creditors as follows:

1. SECURITY FOR OBLIGATIONS. This Agreement is made by each Pledgor for the benefit of the Secured Creditors to secure:

(i) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations, liabilities and indebtedness (including, without limitation, principal, premium, interest (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Pledgor or any Subsidiary thereof at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding), reimbursement obligations under Letters of Credit, fees, costs and indemnities) of such Pledgor to the Lender Creditors, whether now existing or hereafter incurred under, arising out of, or in connection with, the Loan Documents to which such Pledgor is a party (including, in the case of each Pledgor that is a Guarantor, all such obligations, liabilities and indebtedness of such Pledgor under the Guaranty to which it is a party) and the due performance and compliance by such Pledgor with all of the terms, conditions and agreements contained in such Loan Documents (all such obligations, liabilities and indebtedness under this clause (i), except to the extent consisting of obligations, liabilities or indebtedness with respect

to Secured Hedging Agreements entitled to the benefits of this Agreement, being herein collectively called the "Loan Document Obligations");

(ii) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations, liabilities and indebtedness (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Pledgor at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding), owing by such Pledgor to the Other Creditors under, or with respect to (including, in the case of each Pledgor that is a Guarantor, all such obligations, liabilities and indebtedness of such Pledgor under its Guaranty), any Secured Hedging Agreement entitled to the benefits of this Agreement, whether such Secured Hedging Agreement is now in existence or hereafter arising, and the due performance and compliance by such Pledgor with all of the terms, conditions and agreements contained therein (all such obligations, liabilities and indebtedness described in this clause (ii) being herein collectively called the "Other Obligations");

(iii) any and all sums advanced by the Pledgee in order to preserve the Collateral (as hereinafter defined) or preserve its security interest in the Collateral;

(iv) in the event of any proceeding for the collection or enforcement of any indebtedness, obligations or liabilities of such Pledgor referred to in clauses (i) and (ii) above, after an Event of Default (which term as used herein shall mean any Event of Default under, and as defined in, the Credit Agreement or any payment default upon the expiration of any applicable grace period by Borrower under any Secured Hedging Agreement) shall have occurred and be continuing, the reasonable expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Pledgee of its rights hereunder, together with reasonable attorneys' fees and court costs;

(v) all amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement under Section 11 of this Agreement; and

(vi) all amounts owing to any Agent or any of its affiliates pursuant to any of the Loan Documents in its capacity as such;

all such indebtedness, obligations, liabilities, sums and expenses set forth in clauses (i) through (vi) of this Section 1 being herein collectively called the "Obligations", it being acknowledged and agreed that the "Obligations" shall include extensions of credit of the types described above, whether outstanding on the date of this Agreement or extended from time to time after the date of this Agreement.

2. DEFINITIONS. (a) Unless otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement shall be used herein as therein defined. Reference to singular terms shall include the plural and vice versa.

(b) The following capitalized terms used herein shall have the definitions specified below:

"Administrative Agent" has the meaning set forth in the recitals hereto.

"Adverse Claim" has the meaning given such term in Section 8-102(a)(1) of the UCC.

"Agreement" has the meaning set forth in the first paragraph hereof.

"Borrower" shall have the meaning provided in the recitals hereto.

"Certificated Security" has the meaning given such term in Section 8-102(a)(4) of the UCC.

"Class" has the meaning set forth in Section 22 hereof.

"Clearing Corporation" has the meaning given such term in Section 8-102(a)(5) of the UCC.

"Collateral" has the meaning set forth in Section 3.1 hereof.

"Collateral Accounts" means any and all accounts established and maintained by the Pledgee in the name of any Pledgor to which Collateral may be credited.

"Credit Agreement" has the meaning set forth in the recitals hereto.

"Domestic Corporation" has the meaning set forth in the definition of "Stock".

"Event of Default" has the meaning set forth in Section 1 hereof.

"Excluded Foreign Entity" means, at any time, any corporation, partnership (general or limited), limited liability company or other business entity (x) that is organized under the laws of any country, state or province other than the United States, Canada, Bermuda or any state, province or territory thereof and (y) the book value of the consolidated gross assets of which do not exceed \$1,000,000 at such time.

"Financial Asset" has the meaning given such term in Section 8-102(a)(9) of the UCC.

"Foreign Corporation" has the meaning set forth in the definition of "Stock".

"Indemnitees" has the meaning set forth in Section 11 hereof.

"Instrument" has the meaning given such term in Section 9-102(a)(47) of the UCC.

"Investment Property" has the meaning given such term in Section 9-102(a)(49) of the UCC.

"Lender Creditors" has the meaning set forth in the recitals hereto.

"Lenders" has the meaning set forth in the recitals hereto.

"Limited Liability Company Assets" means all assets, whether tangible or intangible and whether real, personal or mixed (including, without limitation, all limited liability company capital and interest in other limited liability companies), at any time owned or represented by any Limited Liability Company Interest.

"Limited Liability Company Interests" means the entire limited liability company membership interest at any time owned by any Pledgor in any limited liability company (other than an Excluded Foreign Entity); provided that the term "Limited Liability Company Interest" shall not include any limited liability company membership interest in any limited liability company that is not a Subsidiary of any Pledgor to the extent (and only for so long as) the limited liability company agreement or operating agreement for such limited liability company or applicable law prohibits the assignment of, or granting of a security interest in, the limited liability company membership interests of such limited liability company and such prohibitions are not rendered invalid by Section 9-406 or Section 9-408 of the UCC, it being understood and agreed, however, any such excluded limited liability company membership interest shall otherwise be subject to the security interests created by this Agreement (and shall become a "Limited Liability Company Interest" for all purposes of this Agreement) upon the receipt by the respective Pledgor of any necessary approvals or waivers permitting the assignment thereof or the granting of a security interest therein.

"Loan Document Obligations" has the meaning set forth in Section 1 hereof.

"Location" of any Pledgor has the meaning given such term in Section 9-307 of the UCC.

"Non-Voting Stock" means all capital stock of any Foreign Subsidiary which is not Voting Stock.

"Notes" means (x) all intercompany notes at any time issued to each Pledgor and (y) all other promissory notes from time to time issued to, or held by, each Pledgor.

"Obligations" has the meaning set forth in Section 1 hereof.

"Original Pledge Agreement" has the meaning set forth in the recitals hereto.

"Other Creditors" has the meaning set forth in the recitals hereto.

"Other Obligations" has the meaning set forth in Section 1 hereof.

"Partnership Assets" means all assets, whether tangible or intangible and whether real, personal or mixed (including, without limitation, all partnership capital and interest in other partnerships), at any time owned or represented by any Partnership Interest.

"Partnership Interest" means the entire general partnership interest or limited partnership interest at any time owned by any Pledgor in any general partnership or limited partnership (other than Excluded Foreign Entities); provided that the term "Partnership Interest" shall not include any partnership interest (general or limited) in any partnership that is not a Subsidiary of any Pledgor to the extent (and only for so long as) the partnership agreement for such partnership or applicable law prohibits the assignment of, or granting of a security interest in, the partnership interests of such partnership and such prohibitions are not rendered invalid by Section 9-406 or Section 9-408 of the UCC, it being understood and agreed, however, any such excluded partnership interest shall otherwise be subject to the security interests created by this Agreement (and shall become a "Partnership Interest" for all purposes of this Agreement) upon the receipt by the respective Pledgor of any necessary approvals or waivers permitting the assignment thereof or the granting of a security interest therein.

"Pledged Notes" means all Notes at any time pledged or required to be pledged hereunder.

"Pledgee" has the meaning set forth in the first paragraph hereof.

"Pledgor" has the meaning set forth in the first paragraph hereof.

"Proceeds" has the meaning given such term in Section 9-102(a)(64) of the UCC.

"Registered Organization" has the meaning given such term in Section 9-102(a)(70) of the UCC.

"Requisite Creditors" has the meaning set forth in Section 22 hereof.

"Requisite Lenders" has the meaning given such term in the Credit Agreement.

"Secured Creditors" has the meaning set forth in the recitals hereto.

"Secured Debt Agreements" has the meaning set forth in Section 5 hereof.

"Secured Hedging Agreement" shall have the meaning provided in the recitals of this Agreement.

"Securities Account" has the meaning given such term in Section 8-501(a) of the UCC.

"Securities Act" means the Securities Act of 1933, as amended, as in effect from time to time.

"Security" and "Securities" has the meaning given such term in Section 8-102(a)(15) of the UCC and shall in any event also include all Stock and all Notes but excludes Securities (as defined above) issued by Excluded Foreign Entities and the Excluded Special Purpose Subsidiary.

"Security Entitlement" has the meaning given such term in Section 8-102(a)(17) of the UCC.

"Specified Collateral Event" has the meaning provided in the Security Agreement.

"Stock" means (x) with respect to corporations incorporated under the laws of the United States or any State or territory thereof or the District of Columbia (other than the Excluded Special Purpose Subsidiary) (each, a "Domestic Corporation"), all of the issued and outstanding shares of capital stock of any Domestic Corporation at any time owned by any Pledgor and (y) with respect to corporations not Domestic Corporations (each, a "Foreign Corporation"), all of the issued and outstanding shares of capital stock of any Foreign Corporation at any time owned by any Pledgor .

"Termination Date" has the meaning set forth in Section 20 hereof.

"Transmitting Utility" has the meaning given such term in Section 9-102(a)(80) of the UCC.

"UCC" means the Uniform Commercial Code as in effect in the State of New York from time to time; provided that all references herein to specific sections or subsections of the UCC are references to such sections or subsections, as the case may be, of the Uniform Commercial Code as in effect in the State of New York on the date hereof.

"Uncertificated Security" has the meaning given such term in Section 8-102(a)(18) of the UCC.

"Voting Stock" means all classes of capital stock of any Foreign Corporation entitled to vote.

3. PLEDGE OF SECURITIES, ETC.

3.1 Pledge. To secure the Obligations now or hereafter owed or to be performed by such Pledgor, each Pledgor does hereby grant, pledge and assign to the Pledgee for the benefit of the Secured Creditors, and does hereby create a continuing security interest (subject to those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect) in favor of the Pledgee for the benefit of the Secured Creditors in, all of the right, title and interest in and to the following, whether now existing or hereafter from time to time acquired (collectively, the "Collateral"):

(a) each of the Collateral Accounts (to the extent a security interest therein is not created pursuant to the Security Agreement), including any and all assets of whatever type or kind deposited by such Pledgor in any such Collateral Account, whether now owned or hereafter acquired, existing or arising, including, without limitation, all Financial Assets, Investment Property, monies, checks, drafts, Instruments, Securities or interests therein of any type or nature deposited or required by the Credit Agreement or any other Secured Debt Agreement to be deposited in such Collateral Account, and all investments and all certificates and other Instruments (including depository receipts, if

any) from time to time representing or evidencing the same, and all dividends, interest, distributions, cash and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the foregoing;

(b) all Securities owned or held by such Pledgor from time to time and all options and warrants owned by such Pledgor from time to time to purchase Securities;

(c) all Limited Liability Company Interests owned by such Pledgor from time to time and all of its right, title and interest in each limited liability company to which each such Limited Liability Company Interest relates, whether now existing or hereafter acquired, including, without limitation, to the fullest extent permitted under the terms and provisions of the documents and agreements governing such Limited Liability Company Interests and applicable law:

(A) all its capital therein and its interest in all profits, income, surplus, losses, Limited Liability Company Assets and other distributions to which such Pledgor shall at any time be entitled in respect of such Limited Liability Company Interests;

(B) all other payments due or to become due to such Pledgor in respect of Limited Liability Company Interests, whether under any limited liability company agreement or otherwise, whether as contractual obligations, damages, insurance proceeds or otherwise;

(C) all of its claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under any limited liability company agreement or operating agreement, or at law or otherwise in respect of such Limited Liability Company Interests;

(D) all present and future claims, if any, of such Pledgor against any such limited liability company for monies loaned or advanced, for services rendered or otherwise;

(E) all of such Pledgor's rights under any limited liability company agreement or operating agreement or at law to exercise and enforce every right, power, remedy, authority, option and privilege of such Pledgor relating to such Limited Liability Company Interests, including any power to terminate, cancel or modify any such limited liability company agreement or operating agreement, to execute any instruments and to take any and all other action on behalf of and in the name of any of such Pledgor in respect of such Limited Liability Company Interests and any such limited liability company, to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval, together with full power and authority to demand, receive, enforce, collect or receipt for any of the foregoing or for any Limited Liability Company Asset, to enforce or execute any checks, or other instruments or orders, to file any claims and to take any action in connection with any of the foregoing; and

(F) all other property hereafter delivered in substitution for or in addition to any of the foregoing, all certificates and instruments representing or evidencing such other property and all cash, securities, interest, dividends, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof;

(d) all Partnership Interests owned by such Pledgor from time to time and all of its right, title and interest in each partnership to which each such Partnership Interest relates, whether now existing or hereafter acquired, including, without limitation, to the fullest extent permitted under the terms and provisions of the documents and agreements governing such Partnership Interests and applicable law:

(A) all its capital therein and its interest in all profits, income, surpluses, losses, Partnership Assets and other distributions to which such Pledgor shall at any time be entitled in respect of such Partnership Interests;

(B) all other payments due or to become due to such Pledgor in respect of Partnership Interests, whether under any partnership agreement or otherwise, whether as contractual obligations, damages, insurance proceeds or otherwise;

(C) all of its claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under any partnership agreement or operating agreement, or at law or otherwise in respect of such Partnership Interests;

(D) all present and future claims, if any, of such Pledgor against any such partnership for monies loaned or advanced, for services rendered or otherwise;

(E) all of such Pledgor's rights under any partnership agreement or operating agreement or at law to exercise and enforce every right, power, remedy, authority, option and privilege of such Pledgor relating to such Partnership Interests, including any power to terminate, cancel or modify any partnership agreement or operating agreement, to execute any instruments and to take any and all other action on behalf of and in the name of such Pledgor in respect of such Partnership Interests and any such partnership, to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval, together with full power and authority to demand, receive, enforce, collect or receipt for any of the foregoing or for any Partnership Asset, to enforce or execute any checks, or other instruments or orders, to file any claims and to take any action in connection with any of the foregoing (with all of the foregoing rights only to be exercisable upon the occurrence and during the continuation of an Event of Default); and

(F) all other property hereafter delivered in substitution for or in addition to any of the foregoing, all certificates and instruments representing or evi-

dencing such other property and all cash, securities, interest, dividends, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof;

(e) all Financial Assets and Investment Property owned by such Pledgor from time to time;

(f) all Security Entitlements owned by such Pledgor from time to time in any and all of the foregoing; and

(g) all Proceeds of any and all of the foregoing.

Notwithstanding anything to the contrary contained in this Section 3.1 or in Section 3.3 hereof, (x) except as otherwise provided in subsection 6.11 of the Credit Agreement, no Pledgor (to the extent that it is a Domestic Subsidiary of Holdings) shall be required at any time to pledge hereunder (and the Collateral of such Pledgor shall not include) more than 65% of the Voting Stock of any Foreign Corporation and (y) so long as it does not cause any materially adverse tax consequences to Holdings or any of its Subsidiaries, each Pledgor shall be required to pledge hereunder 100% of any Non-Voting Stock at any time and from time to time acquired by such Pledgor of any Foreign Corporation.

3.2 Procedures. (a) To the extent that any Pledgor at any time or from time to time owns, acquires or obtains any right, title or interest in any Collateral, such Collateral shall automatically (and without the taking of any action by such Pledgor) be pledged pursuant to Section 3.1 of this Agreement and, in addition thereto, such Pledgor shall (to the extent provided below) take the following actions as set forth below (as promptly as practicable and, in any event, within 30 days after it obtains such Collateral) for the benefit of the Pledgee and the other Secured Creditors:

(i) with respect to a Certificated Security (other than a Certificated Security credited on the books of a Clearing Corporation), such Pledgor shall physically deliver such Certificated Security to the Pledgee, endorsed to the Pledgee or endorsed in blank;

(ii) with respect to an Uncertificated Security (other than an Uncertificated Security credited on the books of a Clearing Corporation), upon the occurrence and continuation of a Specified Collateral Event or an Event of Default and if requested by the Collateral Agent, such Pledgor shall cause the issuer of such Uncertificated Security (or, in the case of an issuer that is not a Subsidiary of such Pledgor, will use its best efforts to cause such issuer) to duly authorize, execute and deliver to the Pledgee an agreement for the benefit of the Pledgee and the other Secured Creditors substantially in the form of Exhibit A hereto (appropriately completed to the satisfaction of the Pledgee and with such modifications, if any, as shall be satisfactory to the Pledgee) pursuant to which such issuer agrees to comply with any and all instructions originated by the Pledgee without further consent by the registered owner and not to comply with instructions regarding such Uncertificated Security (and any Partnership Interests and Limited Liability Company Interests issued by such issuer) originated by any other Person other than a court of competent jurisdiction; provided that Pledgee hereby agrees

that it will not provide any instructions to any such issuer unless and until an Event of Default has occurred and is continuing;

(iii) with respect to a Certificated Security, Uncertificated Security, Partnership Interest or Limited Liability Company Interest credited on the books of a Clearing Corporation (including a Federal Reserve Bank, Participants Trust Company or The Depository Trust Company), such Pledgor shall notify the Pledgee thereof and shall take all actions required (i) to comply with the applicable rules of such Clearing Corporation and (ii) upon the occurrence and continuation of a Specified Collateral Event or an Event of Default and if requested by the Collateral Agent, to perfect the security interest of the Pledgee under applicable law (including, in any event, under Sections 9-314(a), (b) and (c), 9-106 and 8-106(d) of the UCC). Each such Pledgor further agrees to take such actions as the Pledgee deems reasonably necessary or desirable to effect the foregoing;

(iv) with respect to a Partnership Interest or a Limited Liability Company Interest (other than a Partnership Interest or Limited Liability Company Interest credited on the books of a Clearing Corporation), (1) if such Partnership Interest or Limited Liability Company Interest is represented by a certificate and is a Security for purposes of the UCC, the procedure set forth in Section 3.2(a)(i) hereof, and (2) if such Partnership Interest or Limited Liability Company Interest is not represented by a certificate or is not a Security for purposes of the UCC, the procedure set forth in Section 3.2(a)(ii) hereof;

(v) with respect to any Note (other than, to the extent no Event of Default has occurred and is continuing, a Note that constitutes Chattel Paper or any Note evidencing an aggregate amount of outstanding Indebtedness less than \$750,000 at any time), physical delivery of such Note to the Pledgee, endorsed to the Pledgee or endorsed in blank; and

(vi) after an Event of Default has occurred and is continuing, with respect to cash, to the extent not otherwise provided in the Security Agreement, (i) establishment by the Pledgee of a cash account in the name of such Pledgor over which the Pledgee shall have exclusive and absolute control and dominion (and no withdrawals or transfers may be made therefrom by any Person except with the prior written consent of the Pledgee) and (ii) deposit of such cash in such cash account.

(b) In addition to the actions required to be taken pursuant to preceding Section 3.2(a) hereof, each Pledgor shall take the following additional actions with respect to the Securities and Collateral:

(i) with respect to all Collateral of such Pledgor whereby or with respect to which the Pledgee may obtain "control" thereof within the meaning of Section 8-106 of the UCC (or under any provision of the UCC as same may be amended or supplemented from time to time, or under the laws of any relevant State other than the State of New York), upon the occurrence and continuation of a Specified Collateral Event or an Event of Default, such Pledgor shall take all actions as may be requested from time to time by the Pledgee so that "control" of such Collateral is obtained and at all times held by the Pledgee; and

(ii) each Pledgor shall from time to time cause appropriate financing statements (on appropriate forms) under the Uniform Commercial Code as in effect in the various relevant States, in form satisfactory to the Pledgee and covering all Collateral hereunder, to be filed in the relevant filing offices so that at all times the Pledgee has a security interest in all Investment Property and other Collateral which is perfected by the filing of such financing statements (in each case to the maximum extent perfection by filing may be obtained under the laws of the relevant States, including, without limitation, Section 9-312(a) of the UCC).

3.3 Subsequently Acquired Collateral. If any Pledgor shall acquire (by purchase, stock dividend or otherwise) any additional Collateral at any time or from time to time after the date hereof, such Collateral shall automatically (and without any further action being required to be taken) be subject to the pledge and security interests created pursuant to Section 3.1 hereof and, furthermore, the Pledgor will thereafter take (or cause to be taken) all action (as promptly as practicable and, in any event, within 30 days after it obtains such Collateral) with respect to such Collateral in accordance with the procedures set forth in Section 3.2 hereof, and will promptly thereafter deliver to the Pledgee (i) a certificate executed by a senior financial officer of such Pledgor describing such Collateral and certifying that the same has been duly pledged in favor of the Pledgee (for the benefit of the Secured Creditors) hereunder and (ii) supplements to Annexes B through G hereto as are necessary to cause such annexes to be complete and accurate at such time.

3.4 Transfer Taxes. Each pledge of Collateral under Section 3.1 or Section 3.3 hereof shall be accompanied by any transfer tax stamps required in connection with the pledge of such Collateral.

3.5 Certain Representations and Warranties Regarding the Collateral. Each Pledgor represents and warrants that on the date hereof: (i) each Subsidiary of such Pledgor, and the direct ownership thereof, is listed on Annex B hereto; (ii) the Stock held by such Pledgor consists of the number and type of shares of the stock of the corporations as described in Annex C hereto; (iii) such Stock referenced in clause (ii) of this paragraph constitutes that percentage of the issued and outstanding capital stock of the issuing corporation as is set forth in Annex C hereto; (iv) the Notes held by such Pledgor consist of the promissory notes described in Annex D hereto where such Pledgor is listed as the lender; (v) the Limited Liability Company Interests held by such Pledgor consist of the number and type of interests of the Persons described in Annex E hereto; (vi) each such Limited Liability Company Interest referenced in clause (v) of this paragraph constitutes that percentage of the issued and outstanding equity interest of the issuing Person as set forth in Annex E hereto; (vii) the Partnership Interests held by such Pledgor consist of the number and type of interests of the Persons described in Annex F hereto; (viii) each such Partnership Interest referenced in clause (vii) of this paragraph constitutes that percentage or portion of the entire partnership interest of the Partnership as set forth in Annex F hereto; (ix) the exact address of each chief executive office of such Pledgor is listed on Annex G hereto; (x) the Pledgor has complied with the respective procedure set forth in Section 3.2(a) hereof with respect to each item of Collateral described in Annexes C through F hereto; and (xi) such Pledgor owns no other Securities, Limited Liability Company Interests or Partnership Interests; provided, that in respect to the representations and warranties set forth in clauses (iii), (vi) and (viii) above, to the extent that such Stock, Limited Liability Company Interest or

Partnership Interest, as applicable, is an ownership interest in a Person other than a Subsidiary or Affiliate of Holdings or any of its Subsidiaries, the applicable Pledgor shall make the aforementioned representations and warranties on the basis of its knowledge after using commercially reasonable efforts to obtain the necessary information from such Person or its officers, employees or agents.

4. APPOINTMENT OF SUB-AGENTS; ENDORSEMENTS, ETC. If and to the extent necessary to enable the Pledgee to perfect its security interest in any of the Collateral or to exercise any of its remedies hereunder, the Pledgee shall have the right to appoint one or more sub-agents for the purpose of retaining physical possession of the Collateral, which may be held (in the discretion of the Pledgee) in the name of the relevant Pledgor, endorsed or assigned in blank or in favor of the Pledgee or any nominee or nominees of the Pledgee or a sub-agent appointed by the Pledgee.

5. VOTING, ETC., WHILE NO EVENT OF DEFAULT. Unless and until there shall have occurred and be continuing an Event of Default, each Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Collateral owned by it, and to give consents, waivers or ratifications in respect thereof; provided, that, in each case, no vote shall be cast or any consent, waiver or ratification given or any action taken or omitted to be taken which would violate, result in breach of any covenant contained in, or be inconsistent with any of the terms of this Agreement, the Credit Agreement, any other Loan Document, any Secured Hedging Agreements entitled to the benefits of this Agreement (collectively, the "Secured Debt Agreements"), or which would have the effect of materially impairing the value of the Collateral or any part thereof or the position or interests of the Pledgee or any other Secured Creditor in the Collateral. All such rights of each Pledgor to vote and to give consents, waivers and ratifications shall cease in case an Event of Default has occurred and is continuing, and Section 7 hereof shall become applicable.

6. DIVIDENDS AND OTHER DISTRIBUTIONS. Unless and until there shall have occurred and be continuing an Event of Default, all cash dividends, cash distributions, cash Proceeds and other cash amounts payable in respect of the Collateral shall be paid to the respective Pledgor. The Pledgee shall be entitled to receive directly, and to retain as part of the Collateral:

(i) all other or additional stock, notes, limited liability company interests, partnership interests, instruments or other securities or property (including, but not limited to, cash dividends other than as set forth above) paid or distributed by way of dividend or otherwise in respect of the Collateral;

(ii) all other or additional stock, notes, limited liability company interests, partnership interests, instruments or other securities or property (including, but not limited to, cash) paid or distributed in respect of the Collateral by way of stock-split, spin-off, split-up, reclassification, combination of shares or similar rearrangement; and

(iii) all other or additional stock, notes, limited liability company interests, partnership interests, instruments or other securities or property (including, but not limited to, cash) which may be paid in respect of the Collateral by reason of any consoli-

ation, merger, exchange of stock, conveyance of assets, liquidation or similar corporate reorganization.

Nothing contained in this Section 6 shall limit or restrict in any way the Pledgee's right to receive proceeds of the Collateral in any form in accordance with Section 3 of this Agreement. All dividends, distributions or other payments which are received by any Pledgor contrary to the provisions of this Section 6 or Section 7 hereof shall be held for the benefit of the Pledgee, shall be segregated from other property or funds of such Pledgor and shall be forthwith paid over to the Pledgee as Collateral in the same form as so received (with any necessary endorsement).

7. REMEDIES IN CASE OF EVENT OF DEFAULT. Each Pledgor agrees that if any Event of Default shall have occurred and be continuing, then and in every such case, the Pledgee in addition to any rights now or hereafter existing under applicable law, the other provisions of this Agreement or any other Loan Document shall be entitled to exercise all of the rights, powers and remedies (whether vested in it by this Agreement, any other Secured Debt Agreement or by law) for the protection and enforcement of its rights in respect of the Collateral, and the Pledgee shall be entitled to exercise all the rights and remedies of a secured party under the Uniform Commercial Code as in effect in any relevant jurisdiction and also shall be entitled, without limitation, to exercise the following rights, which each Pledgor hereby agrees to be commercially reasonable:

(i) to receive all amounts payable in respect of the Collateral otherwise payable under Section 6 hereof to the respective Pledgor;

(ii) to transfer all or any part of the Collateral into the Pledgee's name or the name of its nominee or nominees;

(iii) to accelerate any Pledged Note which may be accelerated in accordance with its terms, and take any other lawful action to collect upon any Pledged Note (including, without limitation, to make any demand for payment thereon);

(iv) to vote all or any part of the Collateral (whether or not transferred into the name of the Pledgee) and give all consents, waivers and ratifications in respect of the Collateral and, subject to provisions of all applicable law, otherwise act with respect thereto as though it were the outright owner thereof (each Pledgor hereby irrevocably constituting and appointing the Pledgee the proxy and attorney-in-fact of such Pledgor, with full power of substitution to do so);

(v) at any time and from time to time to sell, assign and deliver, or grant options to purchase, all or any part of the Collateral, or any interest therein, at any public or private sale, without demand of performance, advertisement or notice of intention to sell or of the time or place of sale or adjournment thereof or to redeem or otherwise purchase or dispose (all of which are hereby waived by each Pledgor), for cash, on credit or for other property, for immediate or future delivery without any assumption of credit risk, and for such price or prices and on such terms as the Pledgee in its absolute discretion may determine, provided that at least 10 days' written notice of the time and place of any such sale shall be given to the respective Pledgor. The Pledgee shall not be obligated

to make any such sale of Collateral regardless of whether any such notice of sale has theretofore been given. Each purchaser at any such sale shall hold the property so sold absolutely free from any claim or right on the part of each Pledgor, and each Pledgor hereby waives and releases to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshalling the Collateral and any other security for the Obligations or otherwise and all rights, if any, of stay and/or appraisal which it now has or may at any time in the future have under rule of law or statute now existing or hereafter enacted. At any such sale, unless prohibited by applicable law, the Pledgee on behalf of the Secured Creditors may bid for and purchase all or any part of the Collateral so sold free, to the extent permitted by applicable law, from any such right or equity of redemption. Neither the Pledgee nor any other Secured Creditor shall be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing nor shall any of them be under any obligation to take any action whatsoever with regard thereto; and

(vi) to set-off any and all Collateral against any and all Obligations, and to withdraw any and all cash or other Collateral from any and all Collateral Accounts and to apply such cash and other Collateral to the payment of any and all Obligations;

provided that, it being understood that each Pledgor's obligation to so deliver the Collateral is of the essence of this Agreement and that, accordingly, upon application to a court of equity having jurisdiction, the Pledgee shall be entitled to a decree requiring specific performance by such Pledgor of said obligation.

8. REMEDIES, CUMULATIVE, ETC. Each and every right, power and remedy of the Pledgee or any other Secured Creditor provided for in this Agreement or in any other Secured Debt Agreement, or now or hereafter existing at law or in equity or by statute shall be cumulative and concurrent and shall be in addition to every other such right, power or remedy. The exercise or beginning of the exercise by the Pledgee or any other Secured Creditor of any one or more of the rights, powers or remedies provided for in this Agreement or any other Secured Debt Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Pledgee or any other Secured Creditor of all such other rights, powers or remedies, and no failure or delay on the part of the Pledgee or any other Secured Creditor to exercise any such right, power or remedy shall operate as a waiver thereof. No notice to or demand on any Pledgor in any case shall entitle it to any other or further notice or demand in similar or other circumstances or constitute a waiver of any of the rights of the Pledgee or any other Secured Creditor to any other or further action in any circumstances without notice or demand. By accepting the benefits of this Agreement and each other Collateral Document, the Secured Creditors agree that this Agreement may be enforced only by the action of the Pledgee, acting upon the instructions of the Requisite Lenders (or, after the date on which all Credit Agreement Obligations have been paid in full, the holders of at least a majority of the Other Obligations) and that no other Secured Creditor shall have any right individually to seek to enforce or to enforce this Agreement or to realize upon the security to be granted hereby, it being understood and agreed that such rights and remedies may be exercised by the Pledgee for the benefit of the Secured Creditors upon the terms of this Agreement and the other Loan Documents.

9. APPLICATION OF PROCEEDS. (a) All monies collected by the Pledgee upon any sale or other disposition of the Collateral pursuant to the terms of this Agreement, together with all other monies received by the Pledgee hereunder, shall be applied in the manner provided in Section 7.4 of the Security Agreement.

(b) It is understood and agreed that the Pledgors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral hereunder and the aggregate amount of the Obligations.

10. PURCHASERS OF COLLATERAL. Upon any sale of the Collateral by the Pledgee hereunder (whether by virtue of the power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the Pledgee or the officer making such sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold, and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Pledgee or such officer or be answerable in any way for the misapplication or nonapplication thereof.

11. INDEMNITY. Each Pledgor jointly and severally agrees (i) to indemnify, reimburse and hold harmless the Pledgee, each other Secured Creditor and their respective successors, assigns, employees, agents, affiliates and servants (individually an "Indemnitee," and collectively the "Indemnitees") from and against any and all liabilities, obligations, damages, injuries, penalties, claims, demands, actions, suits, judgments and losses of whatsoever kind or nature, and (ii) to reimburse each Indemnitee for any and all reasonable costs, expenses and disbursements, including reasonable attorneys' fees and expenses, in each case growing out of or resulting from this Agreement or the exercise by any Indemnitee of any right or remedy granted to it hereunder or under any other Secured Debt Agreement (but excluding any liabilities, obligations, damages, injuries, penalties, claims, demands, actions, suits, judgments and losses or expenses to the extent incurred by reason of gross negligence, bad faith or willful misconduct of such Indemnitee). In no event shall the Pledgee be liable, in the absence of gross negligence, bad faith or willful misconduct on its part, for any matter or thing in connection with this Agreement other than to account for monies actually received by it in accordance with the terms hereof. If and to the extent that the obligations of any Pledgor under this Section 11 are unenforceable for any reason, such Pledgor hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations which is permissible under applicable law. The indemnity obligations of each Pledgor contained in this Section 11 shall continue in full force and effect notwithstanding the full payment of all Notes issued under the Credit Agreement, the termination of all Secured Hedging Agreements and Letters of Credit, and the payment of all Obligations and notwithstanding the discharge thereof.

12. PLEDGEE NOT A PARTNER OR LIMITED LIABILITY COMPANY MEMBER. (a) Nothing herein shall be construed to make the Pledgee or any other Secured Creditor liable as a member of any limited liability company or as a partner of any partnership and neither the Pledgee nor any other Secured Creditor by virtue of this Agreement or otherwise (except as referred to in the following sentence) shall have any of the duties, obligations or liabilities of a member of any limited liability company or as a partner in any partnership. The parties hereto expressly agree that, unless the Pledgee shall become the absolute owner of Collateral consisting of a Limited Liability Company Interest or Partnership Interest pursuant hereto, this

Agreement shall not be construed as creating a partnership or joint venture among the Pledgee, any other Secured Creditor, any Pledgor and/or any other Person.

(b) Except as provided in the last sentence of paragraph (a) of this Section 12, the Pledgee, by accepting this Agreement, did not intend to become a member of any limited liability company or a partner of any partnership or otherwise be deemed to be a co-venturer with respect to any Pledgor, or any limited liability company or partnership either before or after an Event of Default shall have occurred. The Pledgee shall have only those powers set forth herein and the Secured Parties shall assume none of the duties, obligations or liabilities of a member of any limited liability company or as a partner of any partnership or any Pledgor except as provided in the last sentence of paragraph (a) of this Section 12.

(c) The Pledgee and the other Secured Parties shall not be obligated to perform or discharge any obligation of any Pledgor as a result of the pledge hereby effected.

(d) The acceptance by the Pledgee of this Agreement, with all the rights, powers, privileges and authority so created, shall not at any time or in any event obligate the Pledgee or any other Secured Creditor to appear in or defend any action or proceeding relating to the Collateral to which it is not a party, or to take any action hereunder or thereunder, or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Collateral.

13. FURTHER ASSURANCES; POWER-OF-ATTORNEY. (a) Each Pledgor agrees to execute and deliver to the Pledgee such financing statements, in form reasonably acceptable to the Pledgee, as the Pledgee may from time to time reasonably request or as are reasonably necessary or desirable in the opinion of the Pledgee to establish and maintain a valid, enforceable, perfected security interest in the Collateral as provided herein. Each Pledgor will pay any applicable filing fees, recordation taxes and related expenses relating to the perfection of Pledgee's security interest in its Collateral. Each Pledgor hereby authorizes the Pledgee to file any such financing statements without the signature of such Pledgor where permitted by law.

(b) Each Pledgor hereby constitutes and appoints the Pledgee its true and lawful attorney, irrevocably, with full power after the occurrence of and during the continuance of an Event of Default (in the name of such Pledgor or otherwise) to act, require, demand, receive and give acquittance for any and all monies and claims for monies due or to become due to such Pledgor under or arising out of the Collateral, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Pledgee may deem to be necessary or advisable to protect the interests of the Secured Parties, which appointment as attorney is coupled with an interest.

14. THE PLEDGEE AS COLLATERAL AGENT. The Pledgee will hold in accordance with this Agreement all items of the Collateral at any time received under this Agreement. It is expressly understood and agreed by each Secured Creditor that by accepting the benefits of this Agreement each such Secured Creditor acknowledges and agrees that the obligations of the Pledgee as holder of the Collateral and interests therein and with respect to the disposition thereof, and otherwise under this Agreement, are only those expressly set forth in this

Agreement and in Section 9 of the Credit Agreement. The Pledgee shall act hereunder on the terms and conditions set forth herein and in Section 9 of the Credit Agreement.

15. TRANSFER BY THE PLEDGORS. No Pledgor will sell or otherwise dispose of, grant any option with respect to, or mortgage, pledge or otherwise encumber any of the Collateral or any interest therein (except as may be permitted in accordance with the terms of the Credit Agreement).

16. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PLEDGORS. (a) Each Pledgor represents, warrants and covenants that:

(i) it is the legal, beneficial and record owner of, and has good and marketable title to, all of its Collateral and that it has sufficient interest in all of its Collateral in which a security interest is purported to be created hereunder for such security interest to attach (subject, in each case, to no pledge, lien, mortgage, hypothecation, security interest, charge, option, Adverse Claim or other encumbrance whatsoever, except the liens and security interests created by this Agreement or permitted under the Secured Debt Agreements);

(ii) it has full power, authority and legal right to pledge all the Collateral pledged by it pursuant to this Agreement;

(iii) this Agreement has been duly authorized, executed and delivered by such Pledgor and constitutes a legal, valid and binding obligation of such Pledgor enforceable against such Pledgor in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law);

(iv) except to the extent already obtained or made, no consent of any other party (including, without limitation, any stockholder, partner, member or creditor of such Pledgor or any of its Subsidiaries) and no consent, license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required to be obtained by such Pledgor in connection with (a) the execution, delivery or performance of this Agreement by such Pledgor, (b) the validity or enforceability of this Agreement against such Pledgor (except as set forth in clause (iii) above), (c) the perfection or enforceability of the Pledgee's security interest in such Pledgor's Collateral or (d) except for compliance with or as may be required by applicable securities laws, the exercise by the Pledgee of any of its rights or remedies provided herein;

(v) the execution, delivery and performance of this Agreement by such Pledgor will not violate any provision of any applicable law or regulation or of any order, judgment, writ, award or decree of any court, arbitrator or governmental authority, domestic or foreign, applicable to such Pledgor, or of the certificate of incorporation, operating agreement, limited liability company agreement, partnership agreement or by-laws of such Pledgor or of any securities issued by such Pledgor or any of its

Subsidiaries, or of any mortgage, deed of trust, indenture, lease, loan agreement, credit agreement or other material contract, agreement or instrument or undertaking to which such Pledgor or any of its Subsidiaries is a party or which purports to be binding upon such Pledgor or any of its Subsidiaries or upon any of their respective assets and will not result in the creation or imposition of (or the obligation to create or impose) any lien or encumbrance on any of the assets of such Pledgor or any of its Subsidiaries except as contemplated by this Agreement (other than the Liens created by the Collateral Documents);

(vi) all of such Pledgor's Collateral (consisting of Securities, Limited Liability Company Interests or Partnership Interests) has been duly and validly acquired, is fully paid and non-assessable and is subject to no options to purchase or similar rights;

(vii) each of such Pledgor's Pledged Notes, in respect of which any Subsidiary or Affiliate of Holdings is the obligor thereof, constitutes, or when executed by the obligor thereof will constitute, the legal, valid and binding obligation of such obligor, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law);

(viii) the pledge, collateral assignment and delivery to the Pledgee of such Pledgor's Collateral consisting of Certificated Securities and Pledged Notes pursuant to this Agreement creates a valid and perfected first priority security interest in such Certificated Securities and Pledged Notes, and the proceeds thereof, subject to no prior Lien or encumbrance or to any agreement purporting to grant to any third party a Lien or encumbrance on the property or assets of such Pledgor which would include the Securities (other than those Liens permitted to exist with respect to the Collateral pursuant to the terms of the Secured Debt Agreements then in effect) and the Pledgee is entitled to all the rights, priorities and benefits afforded by the UCC or other relevant law as enacted in any relevant jurisdiction to perfect security interests in respect of such Collateral; and

(ix) "control" (as defined in Section 8-106 of the UCC) has been obtained by the Pledgee over all of such Pledgor's Collateral consisting of Securities (including, without limitation, Notes which are Securities) with respect to which such "control" may be obtained pursuant to Section 8-106 of the UCC, except to the extent that the obligation of the applicable Pledgor to provide the Pledgee with "control" of such Collateral has not yet arisen under this Agreement; provided that in the case of the Pledgee obtaining "control" over Collateral consisting of a Security Entitlement, such Pledgor shall have taken all steps in its control so that the Pledgee obtains "control" over such Security Entitlement.

(b) Each Pledgor covenants and agrees that it will defend the Pledgee's right, title and security interest in and to the Securities and the proceeds thereof against the claims and demands of all persons whomsoever; and each Pledgor covenants and agrees that it will have like title to and right to pledge any other property at any time hereafter pledged to the Pledgee by

such Pledgor as Collateral hereunder and will likewise defend the right thereto and security interest therein of the Pledgee and the other Secured Parties.

(c) Each Pledgor covenants and agrees that it will take no action which would violate any of the terms of any Loan Document.

17. LEGAL NAMES; TYPE OF ORGANIZATION (AND WHETHER A REGISTERED ORGANIZATION AND/OR A TRANSMITTING UTILITY); JURISDICTION OF ORGANIZATION; LOCATION; ORGANIZATIONAL IDENTIFICATION NUMBERS; CHANGES THERETO; ETC. The exact legal name of each Pledgor, the type of organization of such Pledgor, whether or not such Pledgor is a Registered Organization, the jurisdiction of organization of such Pledgor, such Pledgor's Location, the organizational identification number (if any) of each Pledgor, and whether or not such Pledgor is a Transmitting Utility, is listed on Annex A hereto for such Pledgor. No Pledgor shall change its legal name, its type of organization, its status as a Registered Organization (in the case of a Registered Organization), its status as a Transmitting Utility or as a Person which is not a Transmitting Utility, as the case may be, its jurisdiction of organization, its Location, or its organizational identification number (if any), except that any such changes shall be permitted (so long as not in violation of the applicable requirements of the Secured Debt Agreements and so long as same do not involve (x) a Registered Organization ceasing to constitute same or (y) any Pledgor changing its jurisdiction of organization or Location from the United States or a State thereof to a jurisdiction of organization or Location, as the case may be, outside the United States or a State thereof) if (i) it shall have given to the Collateral Agent not less than 15 days' prior written notice of each change to the information listed on Annex A (as adjusted for any subsequent changes thereto previously made in accordance with this sentence), together with a supplement to Annex A which shall correct all information contained therein for such Pledgor, and (ii) in connection with the respective such change or changes, it shall have taken all action reasonably requested by the Collateral Agent to maintain the security interests of the Collateral Agent in the Collateral intended to be granted hereby at all times fully perfected and in full force and effect. In addition, to the extent that any Pledgor does not have an organizational identification number on the date hereof and later obtains one, such Pledgor shall promptly thereafter deliver a notification of the Collateral Agent of such organizational identification number and shall take all actions reasonably satisfactory to the Collateral Agent to the extent necessary to maintain the security interest of the Collateral Agent in the Collateral intended to be granted hereby fully perfected and in full force and effect.

18. PLEDGORS' OBLIGATIONS ABSOLUTE, ETC. The obligations of each Pledgor under this Agreement shall be absolute and unconditional and shall remain in full force and effect without regard to, and shall not be released, suspended, discharged, terminated or otherwise affected by, any circumstance or occurrence whatsoever (other than termination of this Agreement pursuant to Section 20 hereof), including, without limitation: (i) any renewal, extension, amendment or modification of or addition or supplement to or deletion from any Secured Debt Agreement (other than this Agreement in accordance with its terms) or any other instrument or agreement referred to therein, or any assignment or transfer of any thereof; (ii) any waiver, consent, extension, indulgence or other action or inaction under or in respect of any such agreement or instrument including, without limitation, this Agreement (other than a waiver, consent or extension with respect to this Agreement in accordance with its terms); (iii) any

furnishing of any additional security to the Pledgee or its assignee or any acceptance thereof or any release of any security by the Pledgee or its assignee; (iv) any limitation on any party's liability or obligations under any such instrument or agreement or any invalidity or unenforceability, in whole or in part, of any such instrument or agreement or any term thereof; or (v) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to any Pledgor or any Subsidiary of any Pledgor, or any action taken with respect to this Agreement by any trustee or receiver, or by any court, in any such proceeding, whether or not such Pledgor shall have notice or knowledge of any of the foregoing.

19. REGISTRATION, ETC. If at any time when the Pledgee shall determine to exercise its right to sell all or any part of the Collateral consisting of Securities, Limited Liability Company Interests or Partnership Interests pursuant to Section 7 hereof, and such Collateral or the part thereof to be sold shall not, for any reason whatsoever, be effectively registered under the Securities Act, as then in effect, the Pledgee may, in its sole and absolute discretion, sell such Collateral, as the case may be, or part thereof by private sale in such manner and under such circumstances as the Pledgee may deem necessary or advisable in order that such sale may legally be effected without such registration. Without limiting the generality of the foregoing, in any such event the Pledgee, in its sole and absolute discretion (i) may proceed to make such private sale notwithstanding that a registration statement for the purpose of registering such Collateral or part thereof shall have been filed under such Securities Act, (ii) may approach and negotiate with a single possible purchaser to effect such sale, and (iii) may restrict such sale to a purchaser who will represent and agree that such purchaser is purchasing for its own account, for investment, and not with a view to the distribution or sale of such Collateral or part thereof. In the event of any such sale, the Pledgee shall incur no responsibility or liability for selling all or any part of the Collateral at a price which the Pledgee, in its sole and absolute discretion, in good faith deems reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might be realized if the sale were deferred until after registration as aforesaid.

20. TERMINATION; RELEASE. (a) On the Termination Date, this Agreement shall terminate (provided that all indemnities set forth herein including, without limitation, in Section 11 hereof shall survive any such termination) and the Pledgee, at the request and expense of the respective Pledgor, will promptly execute and deliver to such Pledgor a proper instrument or instruments (including Uniform Commercial Code termination statements) acknowledging the satisfaction and termination of this Agreement, and will duly assign, transfer and deliver to such Pledgor (without recourse and without any representation or warranty) such of the Collateral as may be in the possession of the Pledgee and as has not theretofore been sold or otherwise applied or released pursuant to this Agreement, together with any moneys at the time held by the Pledgee or any of its sub-agents hereunder and, with respect to any Collateral consisting of an Uncertificated Security (other than an Uncertificated Security credited on the books of a Clearing Corporation), a Partnership Interest or a Limited Liability Company Interest, a termination of the agreement relating thereto executed and delivered by the issuer of such Uncertificated Security pursuant to Section 3.2(a)(ii) or by the respective partnership or limited liability company pursuant to Section 3.2(a)(iv). As used in this Agreement, "Termination Date" shall mean the date upon which the Commitments under the Credit Agreement have been terminated and all Secured Hedging Agreements entitled to the benefits of this Agreement have been terminated, no Note, Loan or Letter of Credit is outstanding and all other Obligations (other than indemnities

described in Section 11 hereof and described in Section 10.3 of the Credit Agreement, and any other indemnities set forth in any other Collateral Documents, in each case which are not then due and payable) then due and payable have been paid in full in cash.

(b) In the event that any part of the Collateral is sold or otherwise disposed of (x) at any time prior to the time at which all Loan Document Obligations have been paid in full and all Commitments and Letters of Credit under the Credit Agreement have been terminated, in connection with a sale or disposition permitted by subsection 7.7 of the Credit Agreement or is otherwise released at the direction of the Required Lenders (or all the Lenders if required by subsection 10.6 of the Credit Agreement) or (y) at any time thereafter, to the extent permitted by the other Secured Debt Agreements, and in the case of clauses (x) and (y), the proceeds of such sale or disposition (or from such release) are applied in accordance with the terms of the Credit Agreement or such other Secured Debt Agreement, as the case may be, to the extent required to be so applied, the Pledgee, at the request and expense of such Pledgor, will duly release from the security interest created hereby (and will execute and deliver such documentation, including termination or partial release statements and the like in connection therewith) and assign, transfer and deliver to such Pledgor (without recourse and without any representation or warranty) such of the Collateral as is then being (or has been) so sold or released and as may be in the possession of the Pledgee (or, in the case of Collateral held by any sub-agent designated pursuant to Section 4 hereof, such sub-agent) and has not theretofore been released pursuant to this Agreement.

(c) At any time that any Pledgor desires that Collateral be released as provided in the foregoing Section 20(a) or (b), it shall deliver to the Pledgee (and the relevant sub-agent, if any, designated pursuant to Section 4 hereof) a certificate signed by an authorized officer of such Pledgor stating that the release of the respective Collateral is permitted pursuant to Section 20(a) or (b) hereof. If reasonably requested by the Pledgee (although the Pledgee shall have no obligation to make any such request), the relevant Pledgor shall furnish appropriate legal opinions (from counsel reasonably acceptable to the Pledgee) to the effect set forth in the immediately preceding sentence.

(d) The Pledgee shall have no liability whatsoever to any other Secured Creditor as the result of any release of Collateral by it in accordance with (or which the Pledgee in the absence of gross negligence and willful misconduct believes to be in accordance with) this Section 20.

21. NOTICES, ETC. Except as otherwise specified herein, all notices, requests, demands or other communications to or upon the respective parties hereto shall be sent or delivered by mail, telegraph, telex, telecopy, cable or courier service and all such notices and communications shall, when mailed, telegraphed, telexed, telecopied or cabled or sent by courier, be effective when deposited in the mails, delivered to the telegraph company, cable company or overnight courier, as the case may be, or sent by telex or telecopier, except that notices and communications to the Pledgee or any Pledgor shall not be effective until received by the Collateral Agent or such Pledgor, as the case may be. All notices and other communications shall be in writing addressed as follows:

(a) if to any Pledgor, at its address set forth opposite its signature below;

(b) if to the Pledgee, at:

JPMorgan Chase Bank
270 Park Avenue
New York, New York 10017
Attention: Ms. Teri Streusand, Vice-President
Telephone No.: (212) 270-9803
Telecopier No.: (212) 270-5646;

(c) if to any Lender Creditor, either (x) to the Administrative Agent, at the address of the Administrative Agent specified in the Credit Agreement, or (y) at such address as such Lender Creditor shall have specified in the Credit Agreement;

(d) if to any Other Creditor, at such address as such Other Creditor shall have specified in writing to the Pledgors and the Pledgee;

or at such other address as shall have been furnished in writing by any Person described above to the party required to give notice hereunder.

22. WAIVER; AMENDMENT. Except as contemplated in Section 31 hereof, none of the terms and conditions of this Agreement may be changed, waived, modified or varied in any manner whatsoever unless in writing signed by each Pledgor directly affected thereby and the Pledgee (with the written consent of either (x) the Requisite Lenders (or all of the Lenders to the extent required by subsection 10.6 of the Credit Agreement) at all times prior to the time at which all Loan Document Obligations have been paid in full or (y) the holders of at least a majority of the outstanding Other Obligations at all times after the time at which all Loan Document Obligations have been paid in full); provided, that any change, waiver, modification or variance affecting the rights and benefits of a single Class (as defined below) of Secured Creditors (and not all Secured Creditors in a like or similar manner) shall also require the written consent of the Requisite Creditors (as defined below) of such affected Class. For the purpose of this Agreement, the term "Class" shall mean each class of Secured Creditors, i.e., whether (i) the Lender Creditors as holders of the Loan Document Obligations or (ii) the Other Creditors as the holders of the Other Obligations. For the purpose of this Agreement, the term "Requisite Creditors" of any Class shall mean each of (i) with respect to the Loan Document Obligations, the Requisite Lenders (or, to the extent provided in subsection 10.6 of the Credit Agreement, each of the Lenders) and (ii) with respect to the Other Obligations, the holders of at least a majority of all Other Obligations outstanding from time to time.

23. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon each Pledgor and its successors and assigns (although no Pledgor may assign its rights and obligations hereunder except in accordance with the provisions of the Secured Debt Agreements) and shall inure to the benefit of the Pledgee and the other Secured Creditors and their respective successors and assigns. All agreements, statements, representations and warranties made by each Pledgor herein or in any certificate or other instrument delivered by such Pledgor or on its behalf under this Agreement shall be considered to have been relied upon by the Secured Creditors and shall survive the execution and delivery of this Agreement and the other Secured

Debt Agreements regardless of any investigation made by the Secured Creditors or on their behalf.

24. HEADINGS DESCRIPTIVE. The headings of the several Sections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

25. GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE; WAIVER OF JURY TRIAL. (a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PLEDGOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH PLEDGOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH PLEDGOR, AND AGREES NOT TO PLEAD OR CLAIM IN ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT BROUGHT IN ANY OF THE AFORESAID COURTS THAT ANY SUCH COURT LACKS PERSONAL JURISDICTION OVER SUCH PLEDGOR. EACH PLEDGOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ANY SUCH PLEDGOR AT ITS ADDRESS FOR NOTICES AS PROVIDED IN SECTION 21 ABOVE, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH MAILING. EACH PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER CREDIT DOCUMENT THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE PLEDGEE UNDER THIS AGREEMENT, OR ANY SECURED CREDITOR, TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PLEDGOR IN ANY OTHER JURISDICTION.

(b) EACH PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY

SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

26. PLEDGOR'S DUTIES. It is expressly agreed, anything herein contained to the contrary notwithstanding, that each Pledgor shall remain liable to perform all of the obligations, if any, assumed by it with respect to the Collateral and the Pledgee shall not have any obligations or liabilities with respect to any Collateral by reason of or arising out of this Agreement, except for the safekeeping of Collateral actually in Pledgor's possession, nor shall the Pledgee be required or obligated in any manner to perform or fulfill any of the obligations of any Pledgor under or with respect to any Collateral.

27. COUNTERPARTS. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A set of counterparts executed by all the parties hereto shall be lodged with each Pledgor and the Pledgee.

28. SEVERABILITY. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

29. RECOURSE. This Agreement is made with full recourse to each Pledgor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Pledgor contained herein and in the other Secured Debt Agreements and otherwise in writing in connection herewith or therewith.

30. ADDITIONAL PLEDGORS. It is understood and agreed that any Subsidiary of Holdings that is required to execute a counterpart of this Agreement after the date hereof pursuant to the requirements of the Credit Agreement or any other Loan Document, shall automatically become a Pledgor hereunder by executing a counterpart hereof and delivering the same to the Pledgee. Each of Holdings and Borrower hereby agrees that it shall and shall cause any of its respective Subsidiaries that becomes a Pledgor hereunder to (i) deliver supplements to Annexes A through G, inclusive, hereto, as are necessary to cause such Annexes to be complete and accurate with respect to such additional Pledgor on such date and (ii) take all actions as specified in this Agreement as would have been taken by such Pledgor had it been an original party to this Agreement, in each case with all documents required above to be delivered to the Pledgee and with all documents and actions required above to be taken to the reasonable satisfaction of the Pledgee.

31. RELEASE OF PLEDGORS. If at any time all of the Equity Interests of any Pledgor owned by Borrower or any of its Subsidiaries are sold (to a Person other than Borrower or any Subsidiary Guarantor) in a transaction permitted pursuant to the Credit Agreement (and which does not violate the terms of any other Secured Debt Agreement then in effect), then, such Pledgor shall be released as a Pledgor pursuant to this Agreement without any further action hereunder (it being understood that the sale of all of the Equity Interests in any Person that owns, directly or indirectly, all of the Equity Interests in any Pledgor shall be deemed to be a sale of all of the Equity Interests in such Pledgor for purposes of this Section), and the Pledgee is authorized and directed to execute and deliver such instruments of release as are reasonably satisfactory to it. At any time that Holdings desires that a Pledgor be released from this Agreement as provided in this Section 31, Holdings shall deliver to the Pledgee a certificate signed by a principal executive officer of Holdings stating that the release of such Pledgor is permitted pursuant to this Section 31. If requested by Pledgee (although the Pledgee shall have no obligation to make any such request), Holdings shall furnish legal opinions (from counsel acceptable to the Pledgee) to the effect set forth in the immediately preceding sentence. The Pledgee shall have no liability whatsoever to any other Secured Creditor as a result of the release of any Pledgor by it in accordance with, or which it believes to be in accordance with, this Section 31.

32. AMENDMENT AND RESTATEMENT. Each of the Collateral Agent and each of the Pledgors hereby acknowledges and agrees that from and after the Restatement Effective Date, this Agreement amends, restates and supersedes the Original Pledge Agreement in its entirety.

IN WITNESS WHEREOF, each Pledgor and the Pledgee have caused this Agreement to be executed by their duly elected officers duly authorized as of the date first above written.

Addresses:

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S, INC., as a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

TISM, INC., as a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S PIZZA LLC, as a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S PIZZA INTERNATIONAL, INC.,
as a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S PIZZA GOVERNMENT SERVICES
DIVISION, INC., as a Pledgor

By: /s/ Nathaniel J. Betts

Name: Nathaniel J. Betts
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S PIZZA INTERNATIONAL
PAYROLL SERVICES, INC., as a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S PIZZA PMC, INC., as a
Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Telephone: 734-930-3030
Telecopy: 734-747-6210
Attention: Chief Financial Officer

DOMINO'S FRANCHISE HOLDING CO., as
a Pledgor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

Accepted and Agreed to:

JPMORGAN CHASE BANK,
as Collateral Agent and Pledgee

By: /s/ Teri Streusand

Name: Teri Streusand
Title: Vice President

=====

SECURITY AGREEMENT

among

DOMINO'S, INC.,
TISM, INC.
AND CERTAIN OF
THEIR RESPECTIVE SUBSIDIARIES

and

JPMORGAN CHASE BANK,
as COLLATERAL AGENT

Dated as of July 29, 2002 and
amended and restated as of June 25, 2003

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[FORM OF SECURITY AGREEMENT]

SECURITY AGREEMENT

SECURITY AGREEMENT, dated as of July 29, 2002 and amended and restated as of June 25, 2003, made by each of the undersigned assignors (each, an "Assignor" and, together with any other entity that becomes an assignor hereunder pursuant to Section 10.12 hereof, the "Assignors") in favor of JPMorgan Chase Bank, as Collateral Agent (together with any successor Collateral Agent, the "Collateral Agent"), for the benefit of the Secured Creditors (as defined below). Certain capitalized terms as used herein are defined in Article IX hereof. Except as otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement (as defined below) shall be used herein as therein defined.

WITNESSETH:

WHEREAS, Domino's, Inc., a Delaware corporation ("Borrower"), TISM, Inc., a Michigan corporation, the Lenders from time to time party thereto, J.P. Morgan Securities Inc. and Citigroup Global Markets Inc., as joint lead arrangers (in such capacity, the "Joint Lead Arrangers"), JPMorgan Chase Bank, as administrative agent for Lenders (in such capacity and together with any successor administrative agent, "Administrative Agent"), Citicorp North America, Inc., as syndication agent (in such capacity and together with any successor syndication agent, the "Syndication Agent"), and Bank One, NA, as documentation agent (in such capacity and together with any successor documentation agent, the "Documentation Agent"), have entered into a Credit Agreement, dated as of July 29, 2002 and amended and restated as of June 25, 2003 (as so amended and restated and as the same may be further amended, restated, supplemented and/or otherwise modified from time to time, the "Credit Agreement"), providing for the making of Loans to Borrower, and the issuance of Letters of Credit for the account of Borrower, in each case as contemplated therein (the Lenders, the Joint Lead Arrangers, the Administrative Agent, the Documentation Agent, the Syndication Agent, each Issuing Lender, the Collateral Agent and the Pledgee are herein called the "Lender Creditors");

WHEREAS, Borrower or any Subsidiary thereof may at any time and from time to time enter into or maintain one or more Interest Rate Agreements and Currency Agreements (collectively, together with the Existing Swap Agreements in effect at any time, the "Secured Hedging Agreements") with one or more Lenders or any affiliate thereof (each such Lender or affiliate, even if the respective Lender subsequently ceases to be a Lender under the Credit Agreement for any reason, together with each financial institution party to an Existing Swap Agreement at any time and each such Lender's, affiliate's or other financial institution's successors and assigns, are herein called the "Other Creditors," and, together with the Lender Creditors, are herein called the "Secured Creditors");

WHEREAS, pursuant to the Subsidiaries Guaranty, each Subsidiary Guarantor has jointly and severally guaranteed to the Secured Creditors the payment when due of all Guaranteed Obligations as described therein;

WHEREAS, pursuant to the Holdings Guaranty, Holdings has unconditionally guaranteed to the Guaranteed Creditors the payment when due of all Guaranteed Obligations as described therein;

WHEREAS, the Assignors have heretofore entered into a Security Agreement, dated as of July 29, 2002 (as amended, supplemented or otherwise modified to but not including the date hereof, the "Original Security Agreement");

WHEREAS, it is a condition precedent to the making and continuation of Loans and the issuance of Letters of Credit under the Credit Agreement and the maintaining of Secured Hedge Agreements that each Assignor shall have executed and delivered to the Collateral Agent this Agreement;

WHEREAS, each Assignor desires to execute this Agreement to satisfy the condition described in the preceding paragraph and to amend and restate the Original Security Agreement in the form of this Agreement; and

WHEREAS, each Assignor will obtain benefits from the incurrence and continuation of Loans by, and the issuance of, and participation in, Letters of Credit under the Credit Agreement and the entering into and maintaining of Secured Hedging Agreements and, accordingly, each Assignor desires to enter into this Agreement in order to satisfy the condition described in the preceding paragraph;

NOW, THEREFORE, in consideration of the benefits accruing to each Assignor, the receipt and sufficiency of which are hereby acknowledged, each Assignor hereby makes the following representations and warranties to the Collateral Agent for the benefit of the Secured Creditors and hereby covenants and agrees with the Collateral Agent for the benefit of the Secured Creditors as follows:

ARTICLE I

SECURITY INTERESTS

1.1 Grant of Security Interests. (a) As security for the prompt and complete payment and performance when due of all of its Obligations, each Assignor does hereby assign and transfer unto the Collateral Agent, and does hereby pledge and grant to the Collateral Agent, for the benefit of the Secured Creditors, a continuing security interest in all of the right, title and interest of such Assignor in, to and under all of the following personal property and fixtures (and all rights therein) of such Assignor, or in which or to which such Assignor has any rights, in each case whether now existing or hereafter from time to time acquired:

- (i) each and every Account;
- (ii) all cash;
- (iii) the Cash Collateral Account and all monies, securities, Instruments and other investments deposited or required to be deposited in the Cash Collateral Account;

- (iv) all Chattel Paper (including without limitation all Tangible Chattel Paper and all Electronic Chattel Paper);
- (v) all Commercial Tort Claims;
- (vi) all computer programs of such Assignor and all intellectual property rights therein and all other proprietary information of such Assignor, including but not limited to Domain Names and Trade Secret Rights;
- (vii) all Contracts, together with all Contract Rights arising thereunder;
- (viii) all Copyrights;
- (ix) all Equipment;
- (x) all Deposit Accounts and all other demand, deposit, time, savings, cash management, passbook and similar accounts maintained by such Assignor with any Person and all monies, securities, Instruments and other investments deposited or required to be deposited in any of the foregoing;
- (xi) all Documents;
- (xii) all General Intangibles;
- (xiii) all Goods;
- (xiv) all Instruments;
- (xv) all Inventory;
- (xvi) all Investment Property;
- (xvii) all Letter-of-Credit Rights (whether or not the respective letter of credit is evidenced by a writing);
- (xviii) all Marks, together with the registrations and right to all renewals thereof, and the goodwill of the business of such Assignor symbolized by the Marks;
- (xix) all Patents;
- (xx) all Permits;
- (xxi) all Software and all Software licensing rights, all writings, plans, specifications and schematics, all engineering drawings, customer lists, goodwill and licenses, and all recorded data of any kind or nature, regardless of the medium of recording;
- (xxii) all Supporting Obligations; and

(xxiii) all Proceeds and products of any and all of the foregoing (all of the above, the "Collateral").

(b) The security interest of the Collateral Agent under this Agreement extends to all Collateral which any Assignor may acquire, or with respect to which any Assignor may obtain rights, at any time during the term of this Agreement.

(c) Notwithstanding clauses (a) and (b) of this Section 1.1, the payment and performance of the Obligations shall not be secured by:

(i) any contract, license, permit or franchise that validly prohibits, restricts or requires the consent of a third party for the creation by such Assignor of a security interest in such contract, license, permit or franchise (or in any rights or property obtained by such Assignor under such contract, license, permit or franchise) except to the extent provided by Sections 9-406, 9-407, 9-408 and 9-409 of the UCC; or

(ii) any rights or property to the extent that any valid and enforceable law, statute or regulation applicable to such rights or property prohibits, restricts or requires the consent of a third party for the creation of a security interest therein except to the extent provided by Sections 9-406, 9-407, 9-408 and 9-409 of the UCC;

provided, that, notwithstanding the foregoing in this subsection 1.1(c), (x) any such contract, license, permit, franchise, rights and property described above shall be excluded from the Collateral only to the extent and for so long as such prohibition, restriction or third party consent requirement continues validly to prohibit, restrict or require the consent of a third party for the creation of such security interest, and upon the expiration, termination or other lifting of such prohibition, restriction or third party consent requirement, the contracts, licenses, permits, franchises, rights and properties and the rights therein shall automatically be included in the Collateral, without further action on the part of any Assignor, the Collateral Agent or any other Secured Creditor and (y) any right to payment or other monies due under any such contract, license, permit, franchise, rights or property described above shall not be excluded from the Collateral and shall at all times be subject to the security interest created pursuant to this Agreement.

1.2 Power of Attorney. Each Assignor hereby constitutes and appoints the Collateral Agent its true and lawful attorney, irrevocably, with full power after the occurrence of and during the continuance of an Event of Default (in the name of such Assignor or otherwise) to act, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due or to become due to such Assignor under or arising out of the Collateral, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Collateral Agent may deem to be necessary or advisable to protect the interests of the Secured Creditors, which appointment as attorney is coupled with an interest.

ARTICLE II

GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

Each Assignor represents, warrants and covenants, which representations, warranties and covenants shall survive execution and delivery of this Agreement, as follows:

2.1 Necessary Filings. Except with respect to Collateral (i) having a fair market value, in the aggregate, equal to or less than \$5,000,000 and (ii) in which the security interest granted to the Collateral Agent is not at that time required to be perfected by the Collateral Documents and except by reason of the failure of Collateral Agent, Administrative Agent or any Lender to take any action within its exclusive control as contemplated by the Collateral Documents, all filings, registrations, recordings and other actions necessary or appropriate to create, preserve and perfect the security interest granted by such Assignor to the Collateral Agent hereby in respect of the Collateral have been accomplished and the security interest granted to the Collateral Agent pursuant to this Agreement in and to the Collateral creates (or, in the case of (u) Patents, Copyrights, Marks and Domain Names, upon the filing in the appropriate filing office of the instruments to be delivered by the applicable Assignor pursuant to Section 4.6 and 5.6 hereof, (v) Instruments and money not on deposit at a banking institution, upon the delivery of such Instruments or money to the Collateral Agent, (w) deposit accounts (and monies therein), upon the completion of the actions described in Section 3.9 hereof, (x) Commercial Tort Claims, upon the completion of the actions described in Section 3.11 hereof, (y) letter-of-credit rights that do not constitute Supporting Obligations, upon the completion of the actions described in Section 3.10 hereof and (z) Electronic Chattel Paper, upon the Collateral Agent obtaining "control" thereof as described in Section 3.12 hereof) a valid and, together with all such filings, registrations, recordings and other actions, a perfected security interest therein prior to the rights of all other Persons therein and subject to no other Liens (other than those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect) and is entitled to all the rights, priorities and benefits afforded by the Uniform Commercial Code or other relevant law as enacted in any relevant jurisdiction to perfected security interests, in each case to the extent that the Collateral consists of the type of property in which a security interest may be perfected by possession or control (within the meaning of the UCC as in effect on the date hereof in the State of New York), (x) by filing a financing statement under the Uniform Commercial Code as enacted in any relevant jurisdiction or (y) by a filing of a Grant of Security Interest in the respective form attached hereto in the United States Patent and Trademark Office or in the United States Copyright Office.

2.2 No Liens. Such Assignor is, and as to all Collateral acquired by it from time to time after the date hereof such Assignor will be, the owner of all Collateral free from any Lien, security interest, encumbrance or other right, title or interest of any Person (other than those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect), and such Assignor shall defend the Collateral against all claims and demands of all Persons at any time claiming the same or any interest therein adverse to the Collateral Agent.

2.3 Other Financing Statements. As of the date hereof, there is no financing statement (or similar statement or instrument of registration under the law of any jurisdiction) covering or purporting to cover any interest of any kind in the Collateral (other than financing statements filed in respect of (x) those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect and (y) those Liens to be terminated as of the date hereof which were created pursuant to the Existing Credit Agreement and the Collateral Documents (as defined in the Existing Credit Agreement)), and so long as the Termination Date has not occurred, such Assignor will not execute or authorize to be filed in any public office any financing statement (or similar statement or instrument of registration under the law of any jurisdiction) or statements relating to the Collateral, except financing statements filed or to be filed in respect of and covering the security interests granted hereby by such Assignor or in connection with those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect.

2.4 Chief Executive Office, Record Locations. The chief executive office of such Assignor is, on the date of this Agreement, located at the address indicated on Annex A hereto for such Assignor. During the period of the four calendar months preceding the date of this Agreement, the chief executive office of such Assignor has not been located at any address other than that indicated on Annex A in accordance with the immediately preceding sentence, in each case unless each such other address is also indicated on Annex A hereto for such Assignor.

2.5 Legal Names; Type of Organization (and Whether a Registered Organization and/or a Transmitting Utility); Jurisdiction of Organization; Location; Organizational Identification Numbers; Changes Thereto; Etc. The exact legal name of each Assignor, the type of organization of such Assignor, whether or not such Assignor is a Registered Organization, the jurisdiction of organization of such Assignor, such Assignor's Location, the organizational identification number (if any) of each Assignor, and whether or not such Assignor is a Transmitting Utility, is listed on Annex C hereto for such Assignor. No Assignor shall change its legal name, its type of organization, its status as a Registered Organization (in the case of a Registered Organization), its status as a Transmitting Utility or as a Person which is not a Transmitting Utility, as the case may be, its jurisdiction of organization, its Location, or its organizational identification number (if any) from that used on Annex C hereto, except that any such changes shall be permitted (so long as not in violation of the applicable requirements of the Secured Debt Agreements and so long as same do not involve (x) a Registered Organization ceasing to constitute same or (y) any Assignor changing its jurisdiction of organization or Location from the United States or a State thereof to a jurisdiction of organization or Location, as the case may be, outside the United States or a State thereof) if (i) it shall have given to the Collateral Agent not less than 15 days' prior written notice of each change to the information

listed on Annex C (as adjusted for any subsequent changes thereto previously made in accordance with this sentence), together with a supplement to Annex C which shall correct all information contained therein for the respective Assignor, and (ii) in connection with the respective such change or changes, it shall have taken all action reasonably requested by the Collateral Agent to maintain the security interests of the Collateral Agent in the Collateral intended to be granted hereby at all times fully perfected and in full force and effect. In addition, to the extent that any Assignor does not have an organizational identification number on the date hereof and later obtains one, such Assignor shall promptly thereafter notify the Collateral Agent of such organizational identification number and shall take all actions reasonably satisfactory to the Collateral Agent to the extent necessary to maintain the security interest of the Collateral Agent in the Collateral intended to be granted hereby fully perfected and in full force and effect.

2.6 Trade Names; Etc. No Assignor has or operates in any jurisdiction under, or in the preceding five years has had or has operated in any jurisdiction under, any trade names, fictitious names or other names except its legal name as specified in Annex C and such other trade or fictitious names as are listed on Annex D hereto for such Assignor.

2.7 Certain Significant Transactions. During the one year period preceding the date of this Agreement, no Person shall have merged or consolidated with or into any Assignor, and no Person shall have liquidated into, or transferred all or substantially all of its assets to, any Assignor, in each case except as described in Annex E hereto. With respect to any transactions so described in Annex E hereto, the respective Assignor shall have furnished such information with respect to the Person (and the assets of the Person and locations thereof) which merged with or into or consolidated with such Assignor, or was liquidated into or transferred all or substantially all of its assets to such Assignor, and shall have furnished to the Collateral Agent such UCC lien searches as may have been requested with respect to such Person and its assets, to establish that no security interest (excluding those Liens permitted to exist with respect to the Collateral pursuant to the terms of all Secured Debt Agreements then in effect) continues perfected on the date hereof with respect to any Person described above (or the assets transferred to the respective Assignor by such Person), including without limitation pursuant to Section 9-316(a)(3) of the UCC.

2.8 Collateral in the Possession of a Bailee. Upon the occurrence and continuation of a Specified Collateral Event or an Event of Default, if any Inventory or other Goods are at any time in the possession of a bailee, the respective Assignor shall promptly notify the Collateral Agent thereof and, if requested by the Collateral Agent, shall use its reasonable best efforts to promptly obtain an acknowledgment from such bailee, in form and substance reasonably satisfactory to the Collateral Agent, that the bailee holds such Collateral for the benefit of the Collateral Agent and shall act upon the instructions of the Collateral Agent, without the further consent of the respective Assignor. The Collateral Agent agrees with the Assignors that the Collateral Agent shall not give any such instructions unless an Event of Default has occurred and is continuing or would occur after taking into account any action by the respective Assignor with respect to any such bailee.

2.9 Recourse. This Agreement is made with full recourse to each Assignor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of

such Assignor contained herein, in the Secured Debt Agreements and otherwise in writing in connection herewith or therewith.

ARTICLE III

SPECIAL PROVISIONS CONCERNING ACCOUNTS; CONTRACT RIGHTS; INSTRUMENTS; CHATTEL PAPER AND CERTAIN OTHER COLLATERAL

3.1 Additional Representations and Warranties. As of the time when each of its Accounts arises, each Assignor shall be deemed to have represented and warranted that each such Account, and all records, papers and documents relating thereto (if any) are genuine and what they purport to be, and that all papers and documents (if any) relating thereto (i) will, to the knowledge of such Assignor, represent the genuine, legal, valid and binding obligation of the account debtor evidencing indebtedness unpaid and owed by the respective account debtor arising out of the performance of labor or services or the sale or lease and delivery of the merchandise listed therein, or both, (ii) will be the only original writings evidencing and embodying such obligation of the account debtor named therein (other than copies created for general accounting purposes), (iii) will, to the knowledge of such Assignor, evidence true and valid obligations, enforceable in accordance with their respective terms, and (iv) will be in compliance and will conform in all material respects with all applicable federal, state and local laws and applicable laws of any relevant foreign jurisdiction.

3.2 Maintenance of Records. Each Assignor will keep and maintain at its own cost and expense accurate records of its Accounts and Contracts, including, but not limited to, originals of all documentation (including each Contract) with respect thereto, records of all payments received, all credits granted thereon, all merchandise returned and all other dealings therewith, and such Assignor will make the same available on such Assignor's premises to the Collateral Agent for inspection, at such Assignor's own cost and expense, at any and all reasonable times upon reasonable prior notice to such Assignor and otherwise in accordance with the Credit Agreement. Upon the occurrence and during the continuance of an Event of Default and at the request of the Collateral Agent, such Assignor shall, at its own cost and expense, deliver all tangible evidence of its Accounts and Contract Rights (including, without limitation, all documents evidencing the Accounts and all Contracts) and such books and records to the Collateral Agent or to its representatives (copies of which evidence and books and records may be retained by such Assignor). Upon the occurrence and during the continuance of an Event of Default and if the Collateral Agent so directs, such Assignor shall legend, in form and manner satisfactory to the Collateral Agent, the Accounts and the Contracts, as well as books, records and documents (if any) of such Assignor evidencing or pertaining to such Accounts and Contracts with an appropriate reference to the fact that such Accounts and Contracts have been assigned to the Collateral Agent and that the Collateral Agent has a security interest therein.

3.3 Direction to Account Debtors; Contracting Parties; Etc. Upon the occurrence and during the continuance of an Event of Default, if the Collateral Agent so directs any Assignor, such Assignor agrees (x) to cause all payments on account of the Accounts and Contracts to be made directly to the Cash Collateral Account, (y) that the Collateral Agent may, at its option, directly notify the obligors with respect to any Accounts and/or under any Contracts to make payments with respect thereto as provided in the preceding clause (x), and (z) that the

Collateral Agent may enforce collection of any such Accounts and Contracts and may adjust, settle or compromise the amount of payment thereof, in the same manner and to the same extent as such Assignor. Without notice to or assent by any Assignor, the Collateral Agent may, upon the occurrence and during the continuance of an Event of Default, apply any or all amounts then in, or thereafter deposited in, the Cash Collateral Account toward the payment of the Obligations in the manner provided in Section 7.4 of this Agreement. The reasonable costs and expenses of collection (including reasonable attorneys' fees), whether incurred by an Assignor or the Collateral Agent, shall be borne by the relevant Assignor. The Collateral Agent shall deliver a copy of each notice referred to in the preceding clause (y) to the relevant Assignor, provided that (x) the failure by the Collateral Agent to so notify such Assignor shall not affect the effectiveness of such notice or the other rights of the Collateral Agent created by this subsection 3.3 and (y) no such notice shall be required if an Event of Default of the type described in subsections 8.6 and 8.7 of the Credit Agreement has occurred and is continuing.

3.4 Modification of Terms; Etc. Except in accordance with such Assignor's ordinary course of business and consistent with reasonable business judgment, no Assignor shall rescind or cancel any indebtedness evidenced by any Account or under any Contract, or modify any material term thereof or make any material adjustment with respect thereto, or extend or renew the same, or compromise or settle any material dispute, claim, suit or legal proceeding relating thereto, or sell any Account or Contract, or interest therein, without the prior written consent of the Collateral Agent. No Assignor will do anything to adversely affect the right, title and interest of the Collateral Agent in the Accounts or Contracts, except as permitted this Section 3.4 and Section 3.5.

3.5 Collection. Each Assignor shall endeavor in accordance with reasonable business practices to cause to be collected from the account debtor named in each of its Accounts or obligor under any Contract, as and when due (including, without limitation, amounts which are delinquent, such amounts to be collected in accordance with generally accepted lawful collection procedures) any and all amounts owing under or on account of such Account or Contract, and apply forthwith upon receipt thereof all such amounts as are so collected to the outstanding balance of such Account or under such Contract. Except as otherwise directed by the Collateral Agent after the occurrence and during the continuation of an Event of Default, any Assignor may allow in the ordinary course of business as adjustments to amounts owing under its Accounts and Contracts (i) an extension or renewal of the time or times of payment, or settlement for less than the total unpaid balance, which such Assignor finds appropriate in accordance with reasonable business judgment and (ii) a refund or credit due as a result of returned or damaged merchandise or improperly performed services or for other reasons which such Assignor finds appropriate in accordance with reasonable business judgment. The reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) of collection, whether incurred by an Assignor or the Collateral Agent, shall be borne by the relevant Assignor.

3.6 Instruments. If any Assignor owns or acquires any Instrument in excess of \$750,000 constituting Collateral (other than checks and other payment instruments received and collected in the ordinary course of business), such Assignor will within 30 Business Days notify the Collateral Agent thereof, and upon request by the Collateral Agent will promptly deliver such Instrument to the Collateral Agent appropriately endorsed to the order of the Collateral Agent.

3.7 Assignors Remain Liable Under Accounts. Anything herein to the contrary notwithstanding, the Assignors shall remain liable under each of the Accounts to observe and perform all of the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to such Accounts. Neither the Collateral Agent nor any other Secured Creditor shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Collateral Agent or any other Secured Creditor of any payment relating to such Account pursuant hereto, nor shall the Collateral Agent or any other Secured Creditor be obligated in any manner to perform any of the obligations of any Assignor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by them or as to the sufficiency of any performance by any party under any Account (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

3.8 Assignors Remain Liable Under Contracts. Anything herein to the contrary notwithstanding, the Assignors shall remain liable under each of the Contracts to observe and perform all of the conditions and obligations to be observed and performed by them thereunder, all in accordance with and pursuant to the terms and provisions of each Contract. Neither the Collateral Agent nor any other Secured Creditor shall have any obligation or liability under any Contract by reason of or arising out of this Agreement or the receipt by the Collateral Agent or any other Secured Creditor of any payment relating to such Contract pursuant hereto, nor shall the Collateral Agent or any other Secured Creditor be obligated in any manner to perform any of the obligations of any Assignor under or pursuant to any Contract, to make any payment, to make any inquiry as to the nature or the sufficiency of any performance by any party under any Contract, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to them or to which they may be entitled at any time or times.

3.9 Deposit Accounts; Etc. (a) No Assignor maintains, or at any time after the Restatement Effective Date shall establish or maintain, any demand, time, savings, passbook or similar account, except for such accounts maintained with a bank (as defined in Section 9-102 of the UCC) whose jurisdiction (determined in accordance with Section 9-304 of the UCC) is within a State of the United States. Annex F hereto accurately sets forth, as of the date of this Agreement, for each Assignor, each Deposit Account maintained by such Assignor (including a description thereof and the respective account number), the name of the respective bank with which such Deposit Account is maintained, and the jurisdiction of the respective bank with respect to such Deposit Account. For each Subject Deposit Account, the respective Assignor shall cause the bank with which such Subject Deposit Account is maintained to execute and deliver to the Collateral Agent, within 30 days after the Restatement Effective Date, a "control agreement" in the form of Annex G hereto (appropriately completed), with such changes thereto as may be reasonably acceptable to the Collateral Agent. If any bank with which a Subject Deposit Account is maintained refuses to, or does not, enter into such a "control agreement", then the respective Assignor shall promptly (and in any event within 30 days after the Restatement Effective Date) close the respective Subject Deposit Account and transfer all balances therein to (x) the Cash Collateral Account, (y) another Subject Deposit Account subject

to a "control agreement" and meeting the requirements of this Section 3.9(a) or (z) another Deposit Account subject to a "control agreement" and meeting the requirements of this Section 3.9(a) as if such Deposit Account were a Subject Deposit Account (each such Deposit Account referred to in this clause (z), an "Alternate Perfected Deposit Account"). If any bank with which a Subject Deposit Account is maintained refuses to subordinate all its claims with respect to such Subject Deposit Account to the Collateral Agent's security interest therein on terms reasonably satisfactory to the Collateral Agent, then the Collateral Agent, at its option, may (x) require that such Subject Deposit Account be terminated in accordance with the immediately preceding sentence or (y) agree to a "control agreement" without such subordination, provided that in such event the Collateral Agent may at any time, at its option, subsequently require that such Subject Deposit Account be terminated (within 30 days after notice from the Collateral Agent) in accordance with the requirements of the immediately preceding sentence. If any Assignor intends to close a Subject Deposit Account in accordance with the terms of the respective "control agreement" for such Subject Deposit Account, then the respective Assignor shall, immediately prior to closing such Subject Deposit Account, transfer all balances therein to the Cash Collateral Account, another Subject Deposit Account or an Alternate Perfected Deposit Account.

(b) After the Restatement Effective Date, no Assignor shall establish any new demand, time, savings, passbook or similar account, except for Deposit Accounts established and maintained with banks and meeting the requirements of the first sentence of preceding clause (a). At the time any such Deposit Account is established, the respective Assignor shall furnish to the Collateral Agent a supplement to Annex F hereto containing the relevant information with respect to the respective Deposit Account and the bank with which same is established.

(c) Each Assignor covenants and agrees to transfer, by the close of business on each Business Day (in the city where the respective Deposit Account is maintained), any and all Cash and other funds on deposit in each Deposit Account of such Assignor to a Subject Deposit Account or an Alternate Perfected Deposit Account, provided that, in the case of a Deposit Account that is an Excluded Local Deposit Account, all Cash and other funds on deposit in such Excluded Local Deposit Account shall be transferred, by the close of business on the Business Day (in the city where the respective Excluded Local Deposit Account is maintained) following the date of initial deposit of such Cash and other funds in such Excluded Local Deposit Account, to a Subject Deposit Account or an Alternate Perfected Deposit Account.

(d) Each Assignor represents, warrants, covenants and agrees that (x) any and all monies that are (x) received by such Assignor (i) from Franchisees, (ii) as a result of ordinary course sales of product and inventory or (iii) pursuant to existing contracts and (y) directed to a Subject Deposit Account as of the Restatement Effective Date shall (to the extent similarly derived in the future) continue to be directed to, and deposited in, a Subject Deposit Account or an Alternate Perfected Deposit Account, (y) no Deposit Account is subject to an agreement with any Person (other than the Collateral Agent (in its capacity as such)) pursuant to which the bank with which such Deposit Account is maintained is obligated to comply with instructions from such other Person as to the disposition of funds from such Deposit Account or other dealings with such Deposit Account and (z) such Assignor has not otherwise entered into any agreement to permit any Person (other than the Collateral Agent (in its capacity as such)) to establish "control" (as defined in Section 9-104 of the UCC) over any Deposit Account.

3.10 Letter-of-Credit Rights. If any Assignor is at any time a beneficiary under a letter of credit with a stated amount of \$1,000,000 or more, such Assignor shall promptly notify the Collateral Agent thereof and, at the request of the Collateral Agent, such Assignor shall, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, use its reasonable best efforts to (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to the Collateral Agent of the proceeds of any drawing under such letter of credit or (ii) arrange for the Collateral Agent to become the transferee beneficiary of such letter of credit, with the Collateral Agent agreeing, in each case, that the proceeds of any drawing under the letter of credit are to be applied as provided in this Agreement after the occurrence and during the continuance of an Event of Default, provided, that any Letters of Credit constituting Supporting Obligations shall be excluded from the requirements of this Section 3.10.

3.11 Commercial Tort Claims. All Commercial Tort Claims of each Assignor in existence on the date of this Agreement are described in Annex H hereto. If any Assignor shall at any time after the date of this Agreement acquire a Commercial Tort Claim in an amount (taking the greater of the aggregate claimed damages thereunder or the reasonably estimated value thereof) of \$1,000,000 or more, such Assignor shall within 30 days thereof notify the Collateral Agent thereof in a writing signed by such Assignor and describing the details thereof and shall grant to the Collateral Agent in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to the Collateral Agent.

3.12 Chattel Paper. Upon the request of the Collateral Agent made at any time or from time to time, each Assignor shall within 30 days furnish to the Collateral Agent a list of all Electronic Chattel Paper held or owned by such Assignor. Furthermore, if requested by the Collateral Agent, upon the occurrence and continuation of a Specified Collateral Event or an Event of Default, each Assignor shall promptly take all actions which are reasonably practicable so that the Collateral Agent has "control" of all Electronic Chattel Paper in accordance with the requirements of Section 9-105 of the UCC. Each Assignor will promptly (and in any event within 30 days) following any request by the Collateral Agent made in accordance with the foregoing sentence, deliver all of its Tangible Chattel Paper to the Collateral Agent.

3.13 Further Actions. Each Assignor will, at its own expense, make, execute, endorse, acknowledge, file and/or deliver to the Collateral Agent from time to time such vouchers, invoices, schedules, confirmatory assignments, conveyances, financing statements, transfer endorsements, certificates, reports and other assurances or instruments and take such further steps, including any and all actions as may be necessary or required under the Federal Assignment of Claims Act, relating to its Accounts, Contracts, Instruments and other property or rights covered by the security interest hereby granted, as the Collateral Agent may reasonably require.

ARTICLE IV

SPECIAL PROVISIONS CONCERNING TRADEMARKS AND DOMAIN NAMES

4.1 Additional Representations and Warranties. Each Assignor represents and warrants that it is the true and lawful owner of or otherwise has the right to use the registered Marks and Domain Names listed in Annex I hereto for such Assignor and that said listed Marks and Domain Names include all United States marks and applications for United States marks registered in the United States Patent and Trademark Office and all Domain Names that such Assignor owns or uses in connection with its business as of the date hereof. Each Assignor represents and warrants that it owns, is licensed to use or otherwise has the right to use, all material Marks and Domain Names that it uses. Each Assignor further warrants that it has no knowledge of any third party claim received by it that any aspect of such Assignor's present or contemplated business operations infringes or will infringe any trademark, service mark or trade name of any other Person other than as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each Assignor represents and warrants that it is the true and lawful owner of or otherwise has the right to use all material U.S. trademark registrations and applications and Domain Name registrations listed in Annex I hereto and that said registrations are valid, subsisting, have not been canceled and that such Assignor is not aware of any third-party claim that any of said registrations is invalid or unenforceable, and is not aware that there is any reason that any of said registrations is invalid or unenforceable. Each Assignor hereby grants to the Collateral Agent an absolute power of attorney to sign, upon the occurrence and during the continuance of an Event of Default, any document which may be required by the United States Patent and Trademark Office or similar registrar in order to effect an absolute assignment of all right, title and interest in each Mark and/or Domain Name, and record the same.

4.2 Licenses and Assignments. Except as otherwise permitted by the Secured Debt Agreements, each Assignor hereby agrees not to divest itself of any right under any Mark or Domain Name which is material to such Assignor's business, absent prior written approval of the Collateral Agent.

4.3 Infringements. Each Assignor agrees, promptly upon learning thereof, to notify the Collateral Agent in writing of the name and address of, and to furnish such pertinent information that may be available with respect to, any party who such Assignor believes is, or may be, infringing or diluting or otherwise violating any of such Assignor's rights in and to any Mark or Domain Name in any manner that could reasonably be expected to have a Material Adverse Effect, or with respect to any party claiming that such Assignor's use of any Mark or Domain Name material to such Assignor's business violates in any material respect any property right of that party. Each Assignor further agrees to prosecute in accordance with reasonable business practices any Person infringing any Mark or Domain Name in any manner that could reasonably be expected to have a Material Adverse Effect.

4.4 Preservation of Marks and Domain Names. Each Assignor agrees to use its Marks and Domain Names which are material to such Assignor's business in interstate commerce during the time in which this Agreement is in effect and to take all such other actions as are reasonably necessary to preserve such Marks as trademarks or service marks under the laws of the United States (other than any such Marks which are no longer used or useful in its business or operations).

4.5 Maintenance of Registration. Each Assignor shall, at its own expense, diligently process all documents reasonably required to maintain all Mark and/or Domain Name registrations, including but not limited to affidavits of use and applications for renewals of registration in the United States Patent and Trademark Office for all of its material registered Marks, and shall pay all fees and disbursements in connection therewith and shall not abandon any such filing of affidavit of use or any such application of renewal prior to the exhaustion of all administrative and judicial remedies without prior written consent of the Collateral Agent (other than with respect to registrations and applications deemed by such Assignor in its reasonable business judgment to be no longer prudent to pursue).

4.6 Future Registered Marks and Domain Names. If any Mark or Domain Name registration that is material to its business is issued hereafter to any Assignor as a result of any application now or hereafter pending before the United States Patent and Trademark Office or any Domain Name is registered by Assignor, within 30 days of receipt of such certificate or similar indicia of ownership, such Assignor shall deliver to the Collateral Agent a copy of such certificate or similar indicia of ownership, and a grant of a security interest in such Mark and/or Domain Name, to the Collateral Agent and at the expense of such Assignor, confirming grant of a security interest in such Mark and/or Domain Name to the Collateral Agent hereunder, the form of such security to be substantially in the form of Annex L hereto or in such other form as may be reasonably satisfactory to the Collateral Agent.

4.7 Remedies. If an Event of Default shall occur and be continuing, the Collateral Agent may, by written notice to the relevant Assignor, take any or all of the following actions, subject to the limitations of the Uniform Commercial Code in the applicable jurisdictions: (i) declare the entire right, title and interest of such Assignor in and to each of the Marks and Domain Names, together with all trademark rights and rights of protection to the same, vested in the Collateral Agent for the benefit of the Secured Creditors, in which event such rights, title and interest shall immediately vest, in the Collateral Agent for the benefit of the Secured Creditors, and the Collateral Agent shall be entitled to exercise the power of attorney referred to in Section 4.1 hereof to execute, cause to be acknowledged and notarized and record said absolute assignment with the applicable agency; (ii) take and use or sell the Marks or Domain Names and the goodwill of such Assignor's business symbolized by the Marks or Domain Names and the right to carry on the business and use the assets of such Assignor in connection with which the Marks or Domain Names have been used; and (iii) direct such Assignor to refrain, in which event such Assignor shall refrain, from using the Marks or Domain Names in any manner whatsoever, directly or indirectly, and such Assignor shall execute such further documents that the Collateral Agent may reasonably request to further confirm this and to transfer ownership of the Marks or Domain Names and registrations and any pending trademark application in the United States Patent and Trademark Office or applicable Domain Name registrar to the Collateral Agent.

ARTICLE V

SPECIAL PROVISIONS CONCERNING PATENTS, COPYRIGHTS AND TRADE SECRETS

5.1 Additional Representations and Warranties. Each Assignor represents and warrants that it is the true and lawful owner of all rights in (i) all material United States trade

secrets and proprietary information necessary to operate the business of the Assignor (the "Trade Secret Rights"), (ii) the Patents listed in Annex J hereto for such Assignor and that said Patents include all the United States patents and applications for United States patents that such Assignor owns as of the date hereof and (iii) the Copyrights listed in Annex K hereto for such Assignor and that said Copyrights constitute all the United States copyrights registered with the United States Copyright Office and applications for United States copyrights that such Assignor owns as of the date hereof. Each Assignor further warrants that it has no knowledge of any third party claim that any aspect of such Assignor's present or contemplated business operations infringes or will infringe any patent of any other Person or such Assignor has misappropriated any trade secret or proprietary information which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Each Assignor hereby grants to the Collateral Agent an absolute power of attorney to sign, upon the occurrence and during the continuance of any Event of Default, any document which may be required by the United States Patent and Trademark Office in order to effect an absolute assignment of all right, title and interest in each Patent, and to record the same.

5.2 Licenses and Assignments. Except as otherwise permitted by the Secured Debt Agreements, each Assignor hereby agrees not to divest itself of any right under any Patent or Copyright absent prior written approval of the Collateral Agent.

5.3 Infringements. Each Assignor agrees, promptly upon learning thereof, to furnish the Collateral Agent in writing with all pertinent information available to such Assignor with respect to any infringement, contributing infringement or active inducement to infringe in any Patent or Copyright or to any claim that the practice of any Patent or use of any Copyright violates any property right of a third party, or with respect to any misappropriation of any Trade Secret Right or any claim that practice of any Trade Secret Right violates any property right of a third party, in each case, in any manner which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Each Assignor further agrees, absent direction of the Collateral Agent to the contrary, to diligently prosecute, in accordance with its reasonable business judgment, any Person infringing any Patent or Copyright or any Person misappropriating any Trade Secret Right, in each case to the extent that such infringement or misappropriation, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.4 Maintenance of Patents or Copyrights. At its own expense, each Assignor shall make timely payment of all post-issuance fees required pursuant to 35 U.S.C. Section 41 to maintain in force its rights under each Patent or Copyright, absent prior written consent of the Collateral Agent (other than any such Patents or Copyrights which are no longer used or are deemed by such Assignor in its reasonable business judgment to no longer be useful in its business or operations).

5.5 Prosecution of Patent or Copyright Applications. At its own expense, each Assignor shall diligently prosecute all material applications for (i) United States Patents listed in Annex J hereto and (ii) Copyrights listed on Annex K hereto, in each case for such Assignor and shall not abandon any such application prior to exhaustion of all administrative and judicial remedies (other than applications that are deemed by such Assignor in its reasonable business judgment to no longer be prudent to pursue), absent written consent of the Collateral Agent.

5.6 Other Patents and Copyrights. Within 30 days of the acquisition or issuance of a United States Patent, registration of a Copyright, or acquisition of a registered Copyright, or of filing of an application for a United States Patent or Copyright, the relevant Assignor shall deliver to the Collateral Agent a copy of said Copyright or Patent, or certificate or registration of, or application therefor, as the case may be, with a grant of a security interest as to such Patent or Copyright, as the case may be, to the Collateral Agent and at the expense of such Assignor, confirming the grant of a security interest, the form of such grant of a security interest to be substantially in the form of Annex M or N hereto, as appropriate, or in such other form as may be reasonably satisfactory to the Collateral Agent.

5.7 Remedies. If an Event of Default shall occur and be continuing, the Collateral Agent may, by written notice to the relevant Assignor, take any or all of the following actions, subject to the limitations of the Uniform Commercial Code in the applicable jurisdictions: (i) declare the entire right, title, and interest of such Assignor in each of the Patents and Copyrights vested in the Collateral Agent for the benefit of the Secured Creditors, in which event such right, title, and interest shall immediately vest in the Collateral Agent for the benefit of the Secured Creditors, in which case the Collateral Agent shall be entitled to exercise the power of attorney referred to in Section 5.1 hereof to execute, cause to be acknowledged and notarized and to record said absolute assignment with the applicable agency; (ii) take and practice or sell the Patents and Copyrights; and (iii) direct such Assignor to refrain, in which event such Assignor shall refrain, from practicing the Patents and using the Copyrights directly or indirectly, and such Assignor shall execute such further documents as the Collateral Agent may reasonably request further to confirm this and to transfer ownership of the Patents and Copyrights to the Collateral Agent for the benefit of the Secured Creditors.

ARTICLE VI

PROVISIONS CONCERNING ALL COLLATERAL

6.1 Protection of Collateral Agent's Security. Except as otherwise permitted by the Secured Debt Agreements, each Assignor will do nothing to adversely affect the right, title and interest of the Collateral Agent in the Collateral. Each Assignor will at all times maintain insurance, at such Assignor's own expense to the extent and in the manner provided in the Secured Debt Agreements. Except to the extent otherwise permitted to be retained by such Assignor or applied by such Assignor pursuant to the terms of the Secured Debt Agreements, the Collateral Agent shall, at the time any proceeds of such insurance are distributed to the Secured Creditors, apply such proceeds in accordance with Section 7.4 hereof. Each Assignor assumes all liability and responsibility in connection with the Collateral acquired by it and the liability of such Assignor to pay the Obligations shall in no way be affected or diminished by reason of the fact that such Collateral may be lost, destroyed, stolen, damaged or for any reason whatsoever unavailable to such Assignor.

6.2 Warehouse Receipts Non-negotiable. To the extent practicable, each Assignor agrees that if any warehouse receipt or receipt in the nature of a warehouse receipt is issued with respect to any of its Inventory such Assignor shall notify the Collateral Agent of the existence of such receipt within 30 days of the issuance thereof and upon the occurrence and continuation of a Specified Collateral Event or an Event of Default, upon the request of the

Collateral Agent, such Assignor shall request that such warehouse receipt or receipt in the nature thereof shall not be "negotiable" (as such term is used in Section 7-104 of the Uniform Commercial Code as in effect in any relevant jurisdiction or under other relevant law).

6.3 Additional Information. Each Assignor will, at its own expense, from time to time upon the reasonable request of the Collateral Agent, promptly (and in any event within 10 days after its receipt of the respective request) furnish to the Collateral Agent such information with respect to the Collateral (including the identity of the Collateral or such components thereof as may have been requested by the Collateral Agent, the value and location of such Collateral, etc.) as may be requested by the Collateral Agent. Without limiting the forgoing, each Assignor agrees that it shall promptly (and in any event within 10 business days after its receipt of the respective request) furnish to the Collateral Agent such updated Annexes hereto as may from time to time be reasonably requested by the Collateral Agent.

6.4 Further Actions. Each Assignor will, at its own expense and upon the reasonable request of the Collateral Agent, make, execute, endorse, acknowledge, file and/or deliver to the Collateral Agent from time to time such lists, descriptions and designations of its Collateral, warehouse receipts, receipts in the nature of warehouse receipts, bills of lading, documents of title, vouchers, invoices, schedules, confirmatory assignments, conveyances, financing statements, transfer endorsements, certificates, reports and other assurances or instruments and take such further steps relating to the Collateral and other property or rights covered by the security interest hereby granted, which the Collateral Agent deems reasonably appropriate or advisable to perfect, preserve or protect its security interest in the Collateral.

6.5 Financing Statements. Each Assignor agrees to execute and deliver to the Collateral Agent such financing statements, in form reasonably acceptable to the Collateral Agent, as the Collateral Agent may from time to time reasonably request or as are reasonably necessary or desirable in the opinion of the Collateral Agent to establish and maintain a valid, enforceable, perfected security interest in the Collateral as provided herein and the other rights and security contemplated hereby. Each Assignor will pay any applicable filing fees, recordation taxes and related expenses relating to its Collateral. Each Assignor hereby authorizes the Collateral Agent to file any such financing statements and amendments thereto without the signature of such Assignor where permitted by law (and such authorization includes describing the Collateral as "all assets" of such Assignor).

ARTICLE VII

REMEDIES UPON OCCURRENCE OF AN EVENT OF DEFAULT

7.1 Remedies; Obtaining the Collateral Upon Default. Each Assignor agrees that, if any Event of Default shall have occurred and be continuing, then and in every such case, the Collateral Agent, in addition to any rights now or hereafter existing under applicable law and under the other provisions of this Agreement, shall have all rights as a secured creditor under any UCC, and such additional rights and remedies to which a secured creditor is entitled under the laws in effect in all relevant jurisdictions and may to the fullest extent permitted by applicable law:

(i) personally, or by agents or attorneys, immediately take possession of the Collateral or any part thereof, from such Assignor or any other Person who then has possession of any part thereof with or without notice or process of law, and for that purpose may enter upon such Assignor's premises where any of the Collateral is located and remove the same and use in connection with such removal any and all services, supplies, aids and other facilities of such Assignor;

(ii) instruct the obligor or obligors on any agreement, instrument or other obligation (including, without limitation, the Accounts and the Contracts) constituting the Collateral to make any payment required by the terms of such agreement, instrument or other obligation directly to the Collateral Agent and may exercise any and all remedies of such Assignor in respect of such Collateral;

(iii) instruct all banks which have entered into a control agreement with the Collateral Agent to transfer all monies, securities and instruments held by such depository bank to the Cash Collateral Account;

(iv) sell, assign or otherwise liquidate any or all of the Collateral or any part thereof in accordance with Section 7.2 hereof, or direct the relevant Assignor to sell, assign or otherwise liquidate any or all of the Collateral or any part thereof, and, in each case, take possession of the proceeds of any such sale or liquidation;

(v) take possession of the Collateral or any part thereof, by directing the relevant Assignor in writing to deliver the same to the Collateral Agent at any reasonable place or places designated by the Collateral Agent, in which event such Assignor shall at its own expense:

(x) forthwith cause the same to be moved to the place or places so designated by the Collateral Agent and there delivered to the Collateral Agent;

(y) store and keep any Collateral so delivered to the Collateral Agent at such place or places pending further action by the Collateral Agent as provided in Section 7.2 hereof; and

(z) while the Collateral shall be so stored and kept, provide such security and maintenance services as shall be reasonably necessary to protect the same and to preserve and maintain it in good condition;

(vi) license or sublicense, whether on an exclusive or nonexclusive basis, any Marks, Domain Names, Patents or Copyrights included in the Collateral for such term and on such conditions and in such manner as the Collateral Agent shall in its sole judgment determine;

(vii) apply any monies constituting Collateral or proceeds thereof in accordance with the provisions of Section 7.4; and

(viii) take any other action as specified in clauses (1) through (5), inclusive, of Section 9-607 of the UCC;

it being understood that each Assignor's obligation so to deliver the Collateral is of the essence of this Agreement and that, accordingly, upon application to a court of equity having jurisdiction, the Collateral Agent shall be entitled to a decree requiring specific performance by such Assignor of said obligation. By accepting the benefits of this Agreement and each other Collateral Document, the Secured Creditors expressly acknowledge and agree that this Agreement and each other Collateral Document may be enforced only by the action of the Collateral Agent acting upon the instructions of the Required Secured Creditors and that no other Secured Creditor shall have any right individually to seek to enforce this Agreement or any other Collateral Document or to realize upon the security to be granted hereby or thereby, it being understood and agreed that such rights and remedies may be exercised by the Collateral Agent for the benefit of the Secured Creditors upon the terms of this Agreement and the other Collateral Documents.

7.2 Remedies; Disposition of the Collateral. If any Event of Default shall have occurred and be continuing, then any Collateral repossessed by the Collateral Agent under or pursuant to Section 7.1 hereof and any other Collateral whether or not so repossessed by the Collateral Agent, may be sold, assigned, leased or otherwise disposed of under one or more contracts or as an entirety, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner, at such time or times, at such place or places and on such terms as the Collateral Agent may, in compliance with any mandatory requirements of applicable law, determine to be commercially reasonable. Any of the Collateral may be sold, leased or otherwise disposed of, in the condition in which the same existed when taken by the Collateral Agent or after any overhaul or repair at the expense of the relevant Assignor which the Collateral Agent shall determine to be commercially reasonable. Any such sale, lease or other disposition may be effected by means of a public disposition or private disposition, effected in accordance with the applicable requirements (in each case if and to the extent applicable) of Sections 9-610 through 9-613 of the UCC and/or such other mandatory requirements of applicable law as may apply to the respective disposition, provided that at least 10 days written notice of the time and place of any such sale shall be given to the respective Assignor. The Collateral Agent may, without notice or publication, adjourn any public or private disposition or cause the same to be adjourned from time to time by announcement at the time and place fixed for the disposition, and such disposition may be made at any time or place to which the disposition may be so adjourned. To the extent permitted by any such requirement of law, the Collateral Agent may bid for and become the purchaser (and may pay all or any portion of the purchase price by crediting Obligations against the purchase price) of the Collateral or any item thereof, offered for disposition in accordance with this Section 7.2 without accountability to the relevant Assignor. If, under applicable law, the Collateral Agent shall be permitted to make disposition of the Collateral within a period of time which does not permit the giving of notice to the relevant Assignor as hereinabove specified, the Collateral Agent need give such Assignor only such notice of disposition as shall be required by such applicable law. Each Assignor agrees to do or cause to be done all such other acts and things as may be reasonably necessary to make such disposition or dispositions of all or any portion of the Collateral valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental instrumentalities, domestic or foreign, having jurisdiction over any such sale or sales, all at such Assignor's expense.

7.3 Waiver of Claims. Except as otherwise provided in this Agreement, EACH ASSIGNOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NOTICE AND JUDICIAL HEARING IN CONNECTION WITH THE COLLATERAL AGENT'S TAKING POSSESSION OR THE COLLATERAL AGENT'S DISPOSITION OF ANY OF THE COLLATERAL, INCLUDING, WITHOUT LIMITATION, ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES, and each Assignor hereby further waives, to the extent permitted by law:

(i) all damages occasioned by such taking of possession or any such disposition except any damages which are the direct result of the Collateral Agent's gross negligence, bad faith or willful misconduct;

(ii) all other requirements as to the time, place and terms of sale or other requirements with respect to the enforcement of the Collateral Agent's rights hereunder; and

(iii) all rights of redemption, appraisalment, valuation, stay, extension or moratorium now or hereafter in force under any applicable law in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Collateral or any portion thereof, and each Assignor, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws.

Any sale of, or the grant of options to purchase, or any other realization upon, any Collateral shall operate to divest all right, title, interest, claim and demand, either at law or in equity, of the relevant Assignor therein and thereto, and shall be a perpetual bar both at law and in equity against such Assignor and against any and all Persons claiming or attempting to claim the Collateral so sold, optioned or realized upon, or any part thereof, from, through and under such Assignor.

7.4 Application of Proceeds. (a) All moneys collected by the Collateral Agent (or, to the extent the Pledge Agreement or any other Collateral Document requires proceeds of collateral under such other Collateral Document to be applied in accordance with the provisions of this Agreement, the Pledgee or Collateral Agent under such other Collateral Document) upon any sale or other disposition of the Collateral, together with all other moneys received by the Collateral Agent hereunder, shall be applied as follows:

(i) first, to the payment of all amounts owing the Collateral Agent of the type described in clauses (iii), (iv) and (v) of the definition of "Obligations";

(ii) second, to the extent proceeds remain after the application pursuant to the preceding clause (i), to the payment of all amounts owing to any Agent of the type described in clauses (v) and (vi) of the definition of "Obligations";

(iii) third, to the extent proceeds remain after the application pursuant to the preceding clauses (i) and (ii), an amount equal to the outstanding Primary Obligations shall be paid to the Secured Creditors as provided in Section 7.4(e) hereof, with each Secured Creditor receiving an amount equal to its outstanding Primary Obligations or, if the proceeds are insufficient to pay in full all such Primary Obligations, its Pro Rata Share of the amount remaining to be distributed;

(iv) fourth, to the extent proceeds remain after the application pursuant to the preceding clauses (i) through (iii), inclusive, an amount equal to the outstanding Secondary Obligations shall be paid to the Secured Creditors as provided in Section 7.4(e) hereof, with each Secured Creditor receiving an amount equal to its outstanding Secondary Obligations or, if the proceeds are insufficient to pay in full all such Secondary Obligations, its Pro Rata Share of the amount remaining to be distributed; and

(v) fifth, to the extent proceeds remain after the application pursuant to the preceding clauses (i) through (iv), inclusive, and following the termination of this

Agreement pursuant to Section 10.8(a) hereof, to the relevant Assignor or to whomever may be lawfully entitled to receive such surplus.

(b) For purposes of this Agreement, (x) "Pro Rata Share" shall mean, when calculating a Secured Creditor's portion of any distribution or amount, that amount (expressed as a percentage) equal to a fraction the numerator of which is the then unpaid amount of such Secured Creditor's Primary Obligations or Secondary Obligations, as the case may be, and the denominator of which is the then outstanding amount of all Primary Obligations or Secondary Obligations, as the case may be, (y) "Primary Obligations" shall mean (i) in the case of the Loan Document Obligations, all principal of, premium, fees and interest on, all Loans, all amounts of unreimbursed drawings under Letters of Credit, the stated amount of all outstanding Letters of Credit and all fees with respect to Letters of Credit and (ii) in the case of the Other Obligations, all amounts due under such Secured Hedging Agreements (other than indemnities, fees (including, without limitation, attorneys' fees) and similar obligations and liabilities) and (z) "Secondary Obligations" shall mean all Obligations other than Primary Obligations.

(c) When payments to Secured Creditors are based upon their respective Pro Rata Shares, the amounts received by such Secured Creditors hereunder shall be applied (for purposes of making determinations under this Section 7.4 only) (i) first, to their Primary Obligations and (ii) second, to their Secondary Obligations. If any payment to any Secured Creditor of its Pro Rata Share of any distribution would result in overpayment to such Secured Creditor, such excess amount shall instead be distributed in respect of the unpaid Primary Obligations or Secondary Obligations, as the case may be, of the other Secured Creditors, with each Secured Creditor whose Primary Obligations or Secondary Obligations, as the case may be, have not been paid in full to receive an amount equal to such excess amount multiplied by a fraction the numerator of which is the unpaid Primary Obligations or Secondary Obligations, as the case may be, of such Secured Creditor and the denominator of which is the unpaid Primary Obligations or Secondary Obligations, as the case may be, of all Secured Creditors entitled to such distribution.

(d) Each of the Secured Creditors, by their acceptance of the benefits hereof and of the other Collateral Documents, agrees and acknowledges that if the Lender Creditors receive a distribution on account of undrawn amounts with respect to Letters of Credit issued under the Credit Agreement (which shall only occur after all outstanding Revolving Loans under the Credit Agreement and unreimbursed drawings under Letters of Credit have been paid in full), such amounts shall be paid to the Administrative Agent under the Credit Agreement and held by it, for the equal and ratable benefit of the Lender Creditors, as cash security for the repayment of Obligations owing to the Lender Creditors as such. If any amounts are held as cash security pursuant to the immediately preceding sentence, then upon the termination of all outstanding Letters of Credit under the Credit Agreement, and after the application of all such cash security to the repayment of all Obligations owing to the Lender Creditors after giving effect to the termination of all such Letters of Credit, if there remains any excess cash, such excess cash shall be returned by the Administrative Agent to the Collateral Agent for distribution in accordance with Section 7.4(a) hereof.

(e) All payments required to be made hereunder shall be made (x) if to the Lender Creditors, to the Administrative Agent for the account of the Lender Creditors and (y) if to the Other Creditors, to the trustee, paying agent or other similar representative (each, a

"Representative") for the Other Creditors or, in the absence of such a Representative, directly to the Other Creditors.

(f) For purposes of applying payments received in accordance with this Section 7.4, the Collateral Agent shall be entitled to rely upon (i) the Administrative Agent and (ii) the Representative or, in the absence of such a Representative, upon the Other Creditors for a determination (which the Administrative Agent, each Representative and the Other Creditors agree (or shall agree) to provide upon request of the Collateral Agent) of the outstanding Primary Obligations and Secondary Obligations owed to the Lender Creditors or the Other Creditors, as the case may be. Unless it has received written notice from a Lender Creditor or an Other Creditor to the contrary, the Administrative Agent and each Representative, in furnishing information pursuant to the preceding sentence, and the Collateral Agent, in acting hereunder, shall be entitled to assume that no Secondary Obligations are outstanding. Unless it has written notice from an Other Creditor to the contrary, the Collateral Agent, in acting hereunder, shall be entitled to assume that no Secured Hedging Agreements are in existence.

(g) This Agreement is made with full recourse to each Assignor (including, without limitation, with full recourse to all assets of such Assignor) and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Assignor contained herein, in the other Secured Debt Agreements and otherwise in writing in connection herewith or therewith. It is understood that the Assignors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral and the aggregate amount of the Obligations.

7.5 Remedies Cumulative. Each and every right, power and remedy hereby specifically given to the Collateral Agent shall be in addition to every other right, power and remedy specifically given to the Collateral Agent under this Agreement, the other Secured Debt Agreements or now or hereafter existing at law, in equity or by statute and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time or simultaneously and as often and in such order as may be deemed expedient by the Collateral Agent. All such rights, powers and remedies shall be cumulative and the exercise or the beginning of the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Collateral Agent in the exercise of any such right, power or remedy and no renewal or extension of any of the Obligations shall impair any such right, power or remedy or shall be construed to be a waiver of any Potential Event of Default or Event of Default or an acquiescence thereof. No notice to or demand on any Assignor in any case shall entitle it to any other or further notice or demand in similar or other circumstances or constitute a waiver of any of the rights of the Collateral Agent to any other or further action in any circumstances without notice or demand. In the event that the Collateral Agent shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Collateral Agent may recover reasonable expenses, including reasonable attorneys' fees, and the amounts thereof shall be included in such judgment.

7.6 Discontinuance of Proceedings. In case the Collateral Agent shall have instituted any proceeding to enforce any right, power or remedy under this Agreement by foreclosure, sale, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Collateral Agent, then and in every such

case the relevant Assignor, except to the extent otherwise prohibited by such determination, the Collateral Agent and each holder of any of the Obligations shall be restored to their former positions and rights hereunder with respect to the Collateral subject to the security interest created under this Agreement, and all rights, remedies and powers of the Collateral Agent shall continue as if no such proceeding had been instituted.

ARTICLE VIII

INDEMNITY

8.1 Indemnity. (a) Each Assignor jointly and severally agrees to indemnify, reimburse and hold the Collateral Agent, each other Secured Creditor and their respective successors, assigns, employees, affiliates and agents (hereinafter in this Section 8.1 referred to individually as "Indemnatee," and collectively as "Indemnitees") harmless from any and all liabilities, obligations, damages, injuries, penalties, claims, demands, actions, suits, judgments and any and all reasonable costs, expenses or disbursements (including reasonable attorneys' fees and expenses) (for the purposes of this Section 8.1 the foregoing are collectively called "expenses") of whatsoever kind and nature imposed on, asserted against or incurred by any of the Indemnitees in any way relating to or arising out of this Agreement, any other Secured Debt Agreement or any other document executed in connection herewith or therewith or in any other way connected with the administration of the transactions contemplated hereby or thereby or the enforcement of any of the terms of, or the preservation of any rights under any thereof, or in any way relating to or arising out of the manufacture, ownership, ordering, purchase, delivery, control, acceptance, lease, financing, possession, operation, condition, sale, return or other disposition, or use of the Collateral (including, without limitation, latent or other defects, whether or not discoverable), the violation of the laws of any country, state or other governmental body or unit, any tort (including, without limitation, claims arising or imposed under the doctrine of strict liability, or for or on account of injury to or the death of any Person (including any Indemnatee), or property damage), or contract claim; provided that no Indemnatee shall be indemnified pursuant to this Section 8.1(a) for losses, damages or liabilities to the extent caused by the gross negligence, bad faith or willful misconduct of such Indemnatee. Each Assignor agrees that upon written notice by any Indemnatee of the assertion of such a liability, obligation, damage, injury, penalty, claim, demand, action, suit or judgment, the relevant Assignor shall assume full responsibility for the defense thereof. Each Indemnatee agrees to use its best efforts to promptly notify the relevant Assignor of any such assertion of which such Indemnatee has knowledge.

(b) Without limiting the application of Section 8.1(a) hereof, each Assignor agrees, jointly and severally, to pay or reimburse the Collateral Agent for any and all reasonable fees, costs and expenses of whatever kind or nature incurred in connection with the creation, preservation or protection of the Collateral Agent's Liens on, and security interest in, the Collateral, including, without limitation, all fees and taxes in connection with the recording or filing of instruments and documents in public offices, payment or discharge of any taxes or Liens upon or in respect of the Collateral, premiums for insurance with respect to the Collateral and all other fees, costs and expenses in connection with protecting, maintaining or preserving the Collateral and the Collateral Agent's interest therein, whether through judicial proceedings or

otherwise, or in defending or prosecuting any actions, suits or proceedings arising out of or relating to the Collateral.

(c) Without limiting the application of Section 8.1(a) or (b) hereof, each Assignor agrees, jointly and severally, to pay, indemnify and hold each Indemnitee harmless from and against any loss, reasonable costs, damages and reasonable expenses which such Indemnitee may suffer, expend or incur in consequence of or growing out of any misrepresentation by any Assignor in this Agreement, any other Secured Debt Agreement or in any writing contemplated by or made or delivered pursuant to or in connection with this Agreement or any other Secured Debt Agreement.

(d) If and to the extent that the obligations of any Assignor under this Section 8.1 are unenforceable for any reason, such Assignor hereby agrees to make the maximum contribution to the payment and satisfaction of such obligations which is permissible under applicable law.

8.2 Indemnity Obligations Secured by Collateral; Survival. Any amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement shall constitute Obligations secured by the Collateral. The indemnity obligations of each Assignor contained in this Article VIII shall continue in full force and effect notwithstanding the full payment of all of the other Obligations and notwithstanding the full payment of all the Notes issued, and Loans made, under the Credit Agreement, the termination of all Letters of Credit issued under the Credit Agreement, the termination of all Secured Hedging Agreements entered into with the Other Creditors and the payment of all other Obligations and notwithstanding the discharge thereof and the occurrence of the Termination Date.

ARTICLE IX

DEFINITIONS

The following terms shall have the meanings herein specified. Such definitions shall be equally applicable to the singular and plural forms of the terms defined.

"Account" shall mean any "account" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York, and in any event shall include but shall not be limited to, all rights to payment of any monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to operate the game by a State or governmental unit of a State. Without limiting the foregoing, the term "account" shall include all Health-Care-Insurance Receivables.

"Administrative Agent" shall have the meaning provided in the recitals of this Agreement.

"Agreement" shall mean this amended and restated Security Agreement as so amended and restated and as the same may be further amended, supplemented, restated, and/or otherwise modified from time to time in accordance with its terms.

"Alternate Perfected Deposit Account" shall have the meaning provided in Section 3.9(a) of this Agreement.

"As-Extracted Collateral" shall mean "as-extracted collateral" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Assignor" shall have the meaning provided in the first paragraph of this Agreement.

"Borrower" shall have the meaning provided in the recitals of this Agreement.

"Cash Collateral Account" shall mean a cash collateral account maintained with, and in the sole dominion and control of, the Collateral Agent for the benefit of the Secured Creditors.

"Chattel Paper" shall mean "chattel paper" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York. Without limiting the foregoing, the term "Chattel Paper" shall in any event include all Tangible Chattel Paper and all Electronic Chattel Paper.

"Class" shall have the meaning provided in Section 10.2 of this Agreement.

"Collateral" shall have the meaning provided in Section 1.1(a) of this Agreement.

"Collateral Agent" shall have the meaning provided in the first paragraph of this Agreement.

"Commercial Tort Claims" shall mean "commercial tort claims" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Contract Rights" shall mean all rights of any Assignor under each Contract, including, without limitation, (i) any and all rights to receive and demand payments under any or all Contracts, (ii) any and all rights to receive and compel performance under any or all Contracts and (iii) any and all other rights, interests and claims now existing or in the future arising in connection with any or all Contracts.

"Contracts" shall mean all contracts between any Assignor and one or more additional parties (including, without limitation, any Secured Hedging Agreements, licensing

agreements and any partnership agreements, joint venture agreements and limited liability company agreements).

"Copyrights" shall mean any United States copyright owned by any Assignor, including any registrations of any copyrights, in the United States Copyright Office or any foreign equivalent office, as well as any application for a copyright registration now or hereafter made with the United States Copyright Office or any foreign equivalent office by any Assignor.

"Credit Agreement" shall have the meaning provided in the recitals of this Agreement.

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

"Deposit Accounts" shall mean all "deposit accounts" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Documents" shall mean "documents" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Domain Names" shall mean all Internet domain names and associated URL addresses in or to which any Assignor now or hereafter has any right, title or interest.

"Electronic Chattel Paper" shall mean "electronic chattel paper" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Equipment" shall mean any "equipment" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York, and in any event, shall include, but shall not be limited to, all machinery, equipment, furnishings, fixtures and vehicles now or hereafter owned by any Assignor and any and all additions, substitutions and replacements of any of the foregoing and all accessions thereto, wherever located, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto.

"Event of Default" shall mean any Event of Default under, and as defined in, the Credit Agreement and shall in any event include, without limitation, any payment default on any of the Obligations after the expiration of any applicable grace period.

"Excluded Local Deposit Account" shall mean each Deposit Account listed on Annex F hereto and designated as an "Excluded Local Deposit Account" thereon (which shall, in any such case, be a local deposit account (and not a mid-tier concentration account)).

"General Intangibles" shall mean "general intangibles" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Goods" shall mean "goods" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Health-Care-Insurance Receivable" shall mean any "health-care-insurance receivable" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Indemnitee" shall have the meaning provided in Section 8.1(a) of this Agreement.

"Instrument" shall mean "instruments" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Inventory" shall mean merchandise, inventory and goods, and all additions, substitutions and replacements thereof and all accessions thereto, wherever located, together with all goods, supplies, incidentals, packaging materials, labels, materials and any other items used or usable in manufacturing, processing, packaging or shipping same, in all stages of production from raw materials through work in process to finished goods, and all products and proceeds of whatever sort and wherever located any portion thereof which may be returned, rejected, reclaimed or repossessed by the Collateral Agent from any Assignor's customers, and shall specifically include all "inventory" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Investment Property" shall mean "investment property" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Lender Creditors" shall have the meaning provided in the recitals of this Agreement.

"Lenders" shall have the meaning provided in the recitals of this Agreement.

"Letter-of-Credit Rights" shall mean "letter-of-credit rights" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Liens" shall mean any security interest, mortgage, pledge, lien, claim, charge, encumbrance, title retention agreement, lessor's interest in a financing lease or analogous instrument, in, of, or on any Assignor's property.

"Loan Document Obligations" shall have the meaning provided in the definition of "Obligations" in this Article IX.

"Location" of any Assignor, shall mean such Assignor's "location" as determined pursuant to Section 9-307 of the UCC.

"Marks" shall mean all right, title and interest in and to any trademarks, service marks and trade names now held or hereafter acquired by any Assignor, including any registration or application for registration of any trademarks and service marks now held or hereafter acquired by any Assignor, which are registered or filed in the United States Patent and Trademark Office or the equivalent thereof in any state of the United States or any equivalent foreign office or agency, as well as any unregistered trademarks and service marks used by an

Assignor and any trade dress including logos, designs, fictitious business names and other business identifiers used by any Assignor.

"Material Adverse Effect" shall mean (i) a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Holdings and its Subsidiaries, taken as a whole or (ii) the impairment of the legal ability of any Credit Agreement Party to perform, or of Administrative Agent, Collateral Agent or Lenders to enforce, the Obligations.

"Obligations" shall mean and include all of the following:

(i) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations, liabilities and indebtedness (including, without limitation, principal, premium, interest (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Assignor at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding), reimbursement obligations under Letters of Credit, fees, costs and indemnities) of each Assignor to the Lender Creditors, whether now existing or hereafter incurred under, arising out of, or in connection with, each Loan Document to which such Assignor is a party (including, in the case of each Assignor that is a Guarantor, all such obligations, liabilities and indebtedness of such Assignor under its Guaranty) and the due performance and compliance by such Assignor with all of the terms, conditions and agreements contained in each such Loan Document (all such obligations, liabilities and indebtedness under this clause (i), except to the extent consisting of obligations or indebtedness with respect to Secured Hedging Agreements, being herein collectively called the "Loan Document Obligations");

(ii) the full and prompt payment when due (whether at the stated maturity, by acceleration or otherwise) of all obligations, liabilities and indebtedness (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Assignor at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding) owing by such Assignor to the Other Creditors under, or with respect to (including, in the case of each Assignor that is a Guarantor, all such obligations, liabilities and indebtedness of such Assignor under its Guaranty), each Secured Hedging Agreement, whether such Secured Hedging Agreement is now in existence or hereafter arising, and the due performance and compliance by such Assignor with all of the terms, conditions and agreements contained therein (all such obligations, liabilities and indebtedness described in this clause (ii) being herein collectively called the "Other Obligations");

(iii) any and all sums advanced by the Collateral Agent in order to preserve the Collateral or preserve its security interest in the Collateral;

(iv) in the event of any proceeding for the collection or enforcement of any indebtedness, obligations, or liabilities of such Assignor referred to in clauses (i) and (ii)

above, after an Event of Default shall have occurred and be continuing, the reasonable expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Collateral Agent of its rights hereunder, together with reasonable attorneys' fees and court costs;

(v) all amounts paid by any Indemnitee as to which such Indemnitee has the right to reimbursement under Section 8.1 of this Agreement; and

(vi) all amounts owing to any Agent pursuant to any of the Loan Documents in its capacity as such;

it being acknowledged and agreed that the "Obligations" shall include extensions of credit of the types described above, whether outstanding on the date of this Agreement or extended from time to time after the date of this Agreement.

"Original Security Agreement" shall have the meaning provided in the recitals of this Agreement.

"Other Creditors" shall have the meaning provided in the recitals of this Agreement.

"Other Obligations" shall have the meaning provided in the definition of "Obligations" in this Article IX.

"Patents" shall mean any patent to which any Assignor now or hereafter has any right, title or interest therein, and any divisions, continuations (including, but not limited to, continuations-in-parts) and improvements thereof, as well as any application for a patent now or hereafter made by any Assignor.

"Permits" shall mean, to the extent permitted to be assigned by the terms thereof or by applicable law, all licenses, permits, rights, orders, variances, franchises or authorizations of or from any governmental authority or agency.

"Primary Obligations" shall have the meaning provided in Section 7.4(b) of this Agreement.

"Pro Rata Share" shall have the meaning provided in Section 7.4(b) of this Agreement.

"Proceeds" shall mean all "proceeds" as such term is defined in the Uniform Commercial Code as in effect in the State of New York on the date hereof and, in any event, shall also include, but not be limited to, (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Collateral Agent or any Assignor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to any Assignor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental authority (or any person acting under color of governmental authority) and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"Registered Organization" shall have the meaning provided in the Uniform Commercial Code as in effect in the State of New York.

"Representative" shall have the meaning provided in Section 7.4(e) of this Agreement.

"Required Secured Creditors" shall mean (i) at any time when any Loan Document Obligations are outstanding or any Commitments under the Credit Agreement exist, the Requisite Lenders (or, to the extent provided in subsection 10.6 of the Credit Agreement, each of the Lenders) and (ii) at any time after all of the Loan Document Obligations have been paid in full in cash and all Commitments under the Credit Agreement have been terminated and no further Commitments may be provided thereunder, the holders of a majority of the Other Obligations.

"Requisite Creditors" shall have the meaning provided in Section 10.2 of this Agreement.

"Secondary Obligations" shall have the meaning provided in Section 7.4(b) of this Agreement.

"Secured Creditors" shall have the meaning provided in the recitals of this Agreement.

"Secured Debt Agreements" shall mean and include this Agreement, the other Loan Documents and the Secured Hedging Agreements entered into with any Other Creditor.

"Secured Hedging Agreements" shall have the meaning provided in the recitals of this Agreement.

"Software" shall mean "software" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Specified Collateral Event" shall mean the failure of Borrower and its Subsidiaries to maintain a rating of at least "BB-" from Standard & Poor's Ratings Group or at least "Ba3" from Moody's Investors Service, Inc..

"Subject Deposit Account" shall mean each Deposit Account listed on Annex F hereto and designated as a "Subject Deposit Account" thereon.

"Supporting Obligations" shall mean any "supporting obligation" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York, now or hereafter owned by any Assignor, or in which any Assignor has any rights, and, in any event, shall include, but shall not be limited to all of such Assignor's rights in any Letter-of-Credit Right or secondary obligation that supports the payment or performance of, and all security for, any Account, Chattel Paper, Document, General Intangible, Instrument or Investment Property.

"Tangible Chattel Paper" shall mean "tangible chattel paper" as such term is defined in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Termination Date" shall have the meaning provided in Section 10.8(a) of this Agreement.

"Timber-to-be-Cut" shall mean "timber-to-be-cut" as such term is used in the Uniform Commercial Code as in effect on the date hereof in the State of New York.

"Trade Secrets" shall mean any secretly held existing engineering or other data, information, production procedures and other know-how relating to the design, manufacture, assembly, installation, use, operation, marketing, sale and/or servicing of any products or business of an Assignor worldwide, whether written or not.

"Trade Secret Rights" shall have the meaning provided in Section 5.1 of this Agreement. "Transmitting Utility" shall have the meaning given such term in Section 9-102(a)(80) of the UCC.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the relevant jurisdiction.

ARTICLE X

MISCELLANEOUS

10.1 Notices. Except as otherwise specified herein, all notices, requests, demands or other communications to or upon the respective parties hereto shall be sent or delivered by mail, telegraph, telex, telecopy, cable or courier service and all such notices and communications shall, when mailed, telegraphed, telexed, telecopied, or cabled or sent by courier, be effective when deposited in the mails, delivered to the telegraph company, cable company or overnight courier, as the case may be, or sent by telex or telecopier, except that notices and communications to the Collateral Agent or any Assignor shall not be effective until received by the Collateral Agent or such Assignor, as the case may be. All notices and other communications shall be in writing and addressed as follows:

(a) if to any Assignor, c/o:

Domino's, Inc.
30 Frank Lloyd Wright Drive
Ann Arbor, MI 48106
Attention: Joe Donovan, Treasurer
Telephone No.: (734) 930-3111
Telecopier No.: (800) 472-2062

(b) if to the Collateral Agent, at:

JPMorgan Chase Bank
270 Park Avenue
New York, NY 10017
Attention: Ms. Teri Streusand, Vice President
Telephone No.: (212) 270-9803
Telecopier No.: (212) 270-6637

(c) if to any Lender Creditor other than the Collateral Agent, at such address as such Lender Creditor shall have specified in the Credit Agreement;

(d) if to any Other Creditor, at such address as such Other Creditor shall have specified in writing to each Assignor and the Collateral Agent;

or at such other address or addressed to such other individual as shall have been furnished in writing by any Person described above to the party required to give notice hereunder.

10.2 Waiver; Amendment. Except as provided in Sections 10.8 and 10.12, none of the terms and conditions of this Agreement may be changed, waived, modified or varied in any manner whatsoever unless in writing duly signed by each Assignor directly affected thereby and the Collateral Agent (with the written consent of either (x) the Requisite Lenders (or all of the Lenders to the extent required by Section 10.6 of the Credit Agreement) at all times prior to the time at which all Loan Document Obligations have been paid in full or (y) the holders of at least a majority of the outstanding Other Obligations at all times after the time at which all Loan

Document Obligations have been paid in full); provided, however, that any change, waiver, modification or variance affecting the rights and benefits of a single Class of Secured Creditors (and not all Secured Creditors in a like or similar manner) also shall require the written consent of the Requisite Creditors of such affected Class. For the purpose of this Agreement, the term "Class" shall mean each class of Secured Creditors, i.e., whether (x) the Lender Creditors as holders of the Loan Document Obligations or (y) the Other Creditors as the holders of the Other Obligations. For the purpose of this Agreement, the term "Requisite Creditors" of any Class shall mean each of (x) with respect to the Loan Document Obligations, the Requisite Lenders (or, to the extent provided in subsection 10.6 of the Credit Agreement, each of the Lenders), and (y) with respect to the Other Obligations, the holders of at least a majority of all Other Obligations outstanding from time to time.

10.3 Obligations Absolute. The obligations of each Assignor hereunder shall remain in full force and effect without regard to, and shall not be impaired by, (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of such Assignor; (b) any exercise or non-exercise, or any waiver of, any right, remedy, power or privilege under or in respect of this Agreement or any other Secured Debt Agreement; or (c) any amendment to or modification of any Secured Debt Agreement or any security for any of the Obligations; whether or not such Assignor shall have notice or knowledge of any of the foregoing.

10.4 Successors and Assigns. This Agreement shall be binding upon each Assignor and its successors and assigns (although no Assignor may assign its rights and obligations hereunder except in accordance with the provisions of the Secured Debt Agreements) and shall inure to the benefit of the Collateral Agent and the other Secured Creditors and their respective successors and assigns. All agreements, statements, representations and warranties made by each Assignor herein or in any certificate or other instrument delivered by such Assignor or on its behalf under this Agreement shall be considered to have been relied upon by the Secured Creditors and shall survive the execution and delivery of this Agreement and the other Secured Debt Agreements regardless of any investigation made by the Secured Creditors or on their behalf.

10.5 Headings Descriptive. The headings of the several sections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

10.6 GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE; WAIVER OF JURY TRIAL. (a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID

COURTS. EACH ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK JURISDICTION OVER SUCH ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM IN ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN ANY OF THE AFORESAID COURTS THAT ANY SUCH COURT LACKS JURISDICTION OVER SUCH ASSIGNOR. EACH ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ANY SUCH ASSIGNOR AT ITS ADDRESS FOR NOTICES AS PROVIDED IN SECTION 10.1 ABOVE, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH MAILING. EACH ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER LOAN DOCUMENT THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE COLLATERAL AGENT UNDER THIS AGREEMENT, OR ANY SECURED CREDITOR, TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY ASSIGNOR IN ANY OTHER JURISDICTION.

(b) EACH ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

10.7 Assignor's Duties. It is expressly agreed, anything herein contained to the contrary notwithstanding, that each Assignor shall remain liable to perform all of the obligations, if any, assumed by it with respect to the Collateral and the Collateral Agent shall not have any obligations or liabilities with respect to any Collateral by reason of or arising out of this Agreement (provided, that the Collateral Agent shall be liable for the safekeeping of the Collateral already in its possession), nor shall the Collateral Agent be required or obligated in any manner to perform or fulfill any of the obligations of any Assignor under or with respect to any Collateral.

10.8 Termination; Release. (a) On the Termination Date, this Agreement shall terminate (provided that all indemnities set forth herein including, without limitation in Section

8.1 hereof, shall survive such termination) and the Collateral Agent, at the request and expense of the respective Assignor, will promptly execute and deliver to such Assignor a proper instrument or instruments (including Uniform Commercial Code termination statements) acknowledging the satisfaction and termination of this Agreement, and will duly assign, transfer and deliver to such Assignor (without recourse and without any representation or warranty) such of the Collateral as may be in the possession of the Collateral Agent and as has not theretofore been sold or otherwise applied or released pursuant to this Agreement. As used in this Agreement, "Termination Date" shall mean the date upon which the Commitments under the Credit Agreement have been terminated and all Secured Hedging Agreements entered into with any Other Creditor have been terminated, no Note, Loan or Letter of Credit is outstanding and all other Obligations (other than indemnities described in Section 11 hereof and described in Section 10.3 of the Credit Agreement, and any other indemnities set forth in any other Collateral Documents, in each case which are not then due and payable) then due and payable have been paid in full in cash.

(b) In the event that any part of the Collateral is sold, transferred or otherwise disposed of (x) at any time prior to the time at which all Loan Document Obligations have been paid in full and all Commitments and Letters of Credit under the Credit Agreement have been terminated, in connection with a sale or disposition permitted by subsection 7.7 of the Credit Agreement or is otherwise released at the direction of the Required Lenders (or all the Lenders if required by subsection 10.6 of the Credit Agreement) or (y) at any time thereafter, to the extent permitted by the other Secured Debt Agreements, and in the case of clauses (x) and (y), the proceeds of such sale or disposition (or from such release) are applied in accordance with the terms of the Credit Agreement or such other Secured Debt Agreement, as the case may be, to the extent required to be so applied, such Collateral will be sold, transferred or otherwise disposed of free and clear of the Liens created by this Agreement and the Collateral Agent, at the request and expense of the relevant Assignor, will duly and promptly assign, transfer and deliver to such Assignor (without recourse and without any representation or warranty) such of the Collateral as is then being (or has been) so sold, transferred or otherwise disposed of, or released, and as may be in the possession of the Collateral Agent and has not theretofore been released pursuant to this Agreement. Furthermore, upon the release of any Guarantor from the Subsidiaries Guaranty in accordance with the provisions thereof, such Assignor (and the Collateral at such time assigned by the respective Assignor pursuant hereto) shall be released from this Agreement.

(c) At any time that an Assignor desires that the Collateral Agent take any action to acknowledge or give effect to any release of Collateral pursuant to the foregoing Section 10.8(a) or (b), such Assignor shall deliver to the Collateral Agent a certificate signed by a senior officer of such Assignor stating that the release of the respective Collateral is permitted pursuant to such Section 10.8(a) or (b). At any time that Borrower or the respective Assignor desires that a Subsidiary of Borrower which has been released from the Subsidiaries Guaranty be released hereunder as provided in the last sentence of Section 10.8(b), it shall deliver to the Collateral Agent a certificate signed by a principal executive officer of Borrower and the respective Assignor stating that the release of the respective Assignor (and its Collateral) is permitted pursuant to such Section 10.8(b).

(d) The Collateral Agent shall have no liability whatsoever to any other Secured Creditor as the result of any release of Collateral by it in accordance with (or which the

Collateral Agent in the absence of gross negligence and willful misconduct believes to be in accordance with) this Section 10.8.

10.9 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A set of counterparts executed by all the parties hereto shall be lodged with each Assignor and the Collateral Agent.

10.10 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.11 The Collateral Agent and the other Secured Creditors. The Collateral Agent will hold in accordance with this Agreement all items of the Collateral at any time received under this Agreement. It is expressly understood and agreed that the obligations of the Collateral Agent as holder of the Collateral and interests therein and with respect to the disposition thereof, and otherwise under this Agreement, are only those expressly set forth in this Agreement and in Section 9 of the Credit Agreement. The Collateral Agent shall act hereunder on the terms and conditions set forth herein and in Section 9 of the Credit Agreement.

10.12 Additional Assignors. It is understood and agreed that any Subsidiary of Holdings that desires to become an Assignor hereunder, or is required to execute a counterpart of this Agreement after the date hereof pursuant to the requirements of the Credit Agreement or any other Loan Document, shall become an Assignor hereunder by executing a counterpart hereof and delivering same to the Collateral Agent, (y) delivering supplements to Annexes A through F, inclusive, and H through K, inclusive, hereto as are necessary to cause such Annexes to be complete and accurate with respect to such additional Assignor on such date and (z) taking all actions as specified in this Agreement as would have been taken by such Assignor had it been an original party to this Agreement, in each case with all documents required above to be delivered to the Collateral Agent and with all documents and actions required above to be taken to the reasonable satisfaction of the Collateral Agent.

10.13 Amendment and Restatement. Each of the Collateral Agent and each of the Assignors hereby acknowledges and agrees that from and after the Restatement Effective Date, this Agreement amends, restates and supersedes the Original Security Agreement in its entirety.

[Remainder of this page intentionally left blank; signature page follows]

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

DOMINO'S, INC., as an Assignor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

TISM, INC., as an Assignor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA LLC, as an Assignor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL, INC.,
as an Assignor

By: /s/ Harry J. Silverman

Name: Harry J. Silverman
Title: Vice President

DOMINO'S PIZZA GOVERNMENT
SERVICES DIVISION, INC., as an Assignor

By: /s/ Nathaniel J. Betts

Name: Nathaniel J. Betts
Title: Vice President

DOMINO'S PIZZA INTERNATIONAL
PAYROLL SERVICES, INC., as an Assignor

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S PIZZA PMC, INC.,
as an Assignor

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

DOMINO'S FRANCHISE HOLDING CO.,
as an Assignor

By: /s/ Joseph P. Donovan

Name: Joseph P. Donovan
Title: Treasurer

Accepted and Agreed to:

JPMORGAN CHASE BANK,
as Collateral Agent

By: /s/ Teri Streusand

Name: Teri Streusand
Title: Vice President

AMENDED AND RESTATED
EMPLOYMENT AGREEMENT

This Amended and Restated Employment Agreement is made as of June 1, 2003 by TISM, Inc., a Michigan corporation (the "Company"), Domino's, Inc., a Delaware corporation and Domino's Pizza, LLC, a Michigan limited liability company (together with Domino's, Inc., the "Principal Subsidiaries") with David A. Brandon (the "Executive").

Recitals

1. The operations of the Company and its Affiliates are a complex matter requiring direction and leadership in a variety of areas.
2. The Executive has experience and expertise that qualify him to provide the direction and leadership required by the Company and its Affiliates.
3. The Company and the Principal Subsidiaries entered into an Employment Agreement with the Executive dated as of March 31, 1999 (the "Original Agreement") and, subject to the terms and conditions hereinafter set forth, the Company wishes to continue to employ the Executive as its Chief Executive Officer and the Executive wishes to accept such employment.
4. The Company, the Principal Subsidiaries and the Executive desire to amend and restate the terms and provisions of the Original Agreement.

Agreement

Now, therefore, the parties hereto hereby agree that the Original Agreement is hereby amended and restated to read in its entirety as follows:

1. Employment. Subject to the terms and conditions set forth in this Agreement, the Company hereby offers and the Executive hereby accepts employment, effective as of January 1, 2003 (the "Effective Date").
2. Term. Subject to earlier termination as hereafter provided, the Executive shall be employed hereunder for a term commencing on the Effective Date and ending on December 31, 2008. The term of the Executive's employment under this Agreement is hereafter referred to as "the term of this Agreement" or "the term hereof".
3. Capacity and Performance.
 - 3.1. Offices. During the term hereof, the Executive shall serve the Company in the offices of Chairman and Chief Executive Officer. In such capacity, the Executive

will be responsible for the Company's operations and financial performance and the coordination of the Company's strategic direction. In addition, for so long as the Executive is employed by the Company and without further compensation, the Executive shall serve as a member of the Company's Board of Directors (the "Board") and as a director and officer of the Principal Subsidiaries and of one or more of the Company's other Affiliates if so elected or appointed from time to time. The Executive shall be subject to the direction of the Board and shall have such other powers, duties and responsibilities consistent with the Executive's position as Chairman and Chief Executive Officer as may from time to time be prescribed by the Board.

3.2. Performance. During the term hereof, the Executive shall be employed by the Company on a full-time basis and shall perform and discharge, faithfully, diligently and to the best of his ability, his duties and responsibilities hereunder. During the term hereof, the Executive shall devote his full business time exclusively to the advancement of the business and interests of the Company and its Affiliates and to the discharge of his duties and responsibilities hereunder. The Executive shall not engage in any other business activity or serve in any industry, trade, professional, governmental, political, charitable or academic position during the term of this Agreement, except for such directorships or other positions which he currently holds and has disclosed to the Company on Exhibit 3.2 hereof and except as otherwise may be approved in advance by the Board, which approval shall not be unreasonably withheld.

4. Compensation and Benefits. As compensation for all services performed by the Executive under this Agreement and subject to performance of the Executive's duties and obligations to the Company and its Affiliates, pursuant to this Agreement or otherwise:

4.1. Base Salary. During the term hereof, the Company shall pay the Executive a base salary at the rate of \$600,000 per year, payable in accordance with the payroll practices of the Company for its executives and subject to increase from time to time by the Board in its sole discretion. Such base salary, as from time to time increased, is hereafter referred to as the "Base Salary".

4.2. Bonus Compensation. During the term hereof, the Company shall pay the Executive an annual bonus (the "Bonus") the amount of which shall be determined by the Board based on the Executive's achievement of performance objectives for each year, as established by the Board in consultation with the Executive. The maximum amount of the Bonus (prior to any proration) is 200% of Base Salary. Whenever any Bonus payable to the Executive is stated in this Agreement to be prorated for any period of service less than a full year, such Bonus shall be prorated by multiplying (x) the amount of the Bonus otherwise payable for the applicable fiscal year in accordance with this Section 4.2 by (y) a fraction, the denominator of which shall be 365 and the numerator of which shall be the number of days during the applicable fiscal year for which the Executive was employed by the Company. Any compensation paid to the Executive as Bonus shall be in addition to the Base Salary, but shall be in lieu of participation in any other incentive, stock

option, stock purchase, profit sharing, deferred compensation, bonus compensation or severance program which the Company or one of the Principal Subsidiaries, as applicable, may adopt or continue from time to time (other than the Executive's purchased stock and options in accordance with Section 4.3).

4.3. Stock/Options.

4.3.1. Stock/Options Purchased or Granted Prior to January 1, 2003. Reference is made to the following shares of Company Stock purchased by the Executive or options to purchase stock granted to the Executive prior to January 1, 2003:

(a) Purchased Shares. (i) 400,000 shares of Class A-3 Common Stock purchased by the Executive on June 15, 1999 for \$0.50 per share; and (ii) 44,444 shares of Class L Common Stock purchased by the Executive on June 15, 1999 for \$40.50 per share (collectively, the "Purchased Shares").

(b) Options. (a) Brandon Basic Class A Option Agreement dated March 31, 1999 granting the Executive the right to purchase 756,258 shares of Class A-3 Common Stock for \$0.50 per share; (b) Brandon 4X Class A Option Agreement dated March 31, 1999 granting the Executive the right to purchase 756,258 shares of Class A-3 Common Stock for \$0.50 per share; and (c) Brandon Basic Class A Option Agreement dated January 1, 2002 granting the Executive the right to purchase 250,000 shares of Class A-3 Common Stock for \$3.50 per share (collectively, the "Outstanding Options").

Each of the above-referenced Purchased Shares shall remain outstanding and each of the above-referenced Outstanding Options shall continue for such period or periods and in accordance with such terms as are set out in the subscription agreement, option agreement or other governing documents relating to such purchase or grant and shall not be affected by the terms of this Agreement except as otherwise expressly provided herein. As of the Effective Date, the outstanding shares of the Company's Class A Common Stock and Class L Common Stock (collectively, the "Common Stock") and all options to purchase Common Stock are held as set forth on Exhibit A-1 hereto.

4.3.2. Recapitalization. As of the date hereof, the Company has proposed a recapitalization of the Company pursuant to which the Company and the Principal Subsidiaries will enter into a series of transactions in which the Company will enter into a new senior secured credit facility and issue new senior subordinated notes due 2011 in order to repay all outstanding indebtedness under its existing senior secured credit facility, repurchase its outstanding senior

subordinated notes due 2009, redeem its outstanding 11.5% cumulative preferred stock and pay a dividend on its outstanding common stock (the "Recapitalization"). The Recapitalization is scheduled to close on or about June 25, 2003. Upon the consummation of the Recapitalization, the vesting of all Outstanding Options shall accelerate and any performance requirements on Outstanding Options shall be deemed satisfied, so that all Outstanding Options become exercisable in full. If the Recapitalization is not consummated during the term hereof, all Outstanding Options shall vest and become exercisable in accordance with the applicable option agreement or other governing document.

4.3.3. New Stock Awards. Upon the consummation of the Recapitalization, the Company shall grant to the Executive, pursuant to the Company's stock option plan for management and employees of the Company and its Affiliates attached hereto as Exhibit A-2, as from time to time in effect (the "Plan"), options to purchase a total of 440,000 shares of Class A Common Stock at an exercise price per share equal to the fair market value of the Company's Class A Common Stock on the date of grant, as determined by the Board (the "New Options"). The New Options shall be granted pursuant to the option agreement substantially in the form of Exhibit A-3 hereto.

4.3.4. Prior to issuing any shares or options to the Executive, the Company may require that the Executive provide such representations regarding the Executive's sophistication and investment intent and other such matters as the Company may reasonably request. None of the Company's securities will be registered under applicable securities laws for the indefinite future and there will be substantial restrictions on resale imposed by the Company's corporate charter, the stockholders agreement and applicable law. The Purchased Shares, the Outstanding Options, the New Options and any shares issued upon exercise of the Outstanding Options or the New Options shall be subject to the terms of the stockholders agreement dated as of December 21, 1998 among the Company and certain of its stockholders, as from time to time in effect (the "Stockholders Agreement"), a copy of which is attached hereto as Exhibit A-4.

4.4. Vacations. During the term hereof, the Executive shall be entitled to four (4) weeks of vacation per annum, to be taken at such times and intervals as shall be determined by the Executive, subject to the reasonable business needs of the Company. The Executive may not accumulate or carry over from one calendar year to another any unused, accrued vacation time. The Executive shall not be entitled to compensation for vacation time not taken.

4.5. Other Benefits.

4.5.1. During the term hereof and subject to any contribution therefor generally required of executives of the Company or one of the Principal

Subsidiaries, as applicable, the Executive shall be entitled to participate in all employee benefit plans, including without limitation any 401(k) plan, from time to time adopted by the Board and in effect for executives of the Company or one of the Principal Subsidiaries, as applicable, generally (except to the extent such plans are in a category of benefit otherwise provided the Executive hereunder and in any event excluding any incentive, stock option, stock purchase, profit sharing, deferred compensation, bonus compensation or severance programs). Such participation shall be subject to (i) the terms of the applicable plan documents and (ii) generally applicable policies of the Company or one of the Principal Subsidiaries, as applicable. Any of the Company and the Principal Subsidiaries may alter, modify, add to or delete their employee benefit plans at any time as the Board, in its sole judgment, determines to be appropriate.

4.5.2. Notwithstanding anything set forth in Section 4.5.1, during the term hereof and subject to any contribution therefor generally required of executives of the Company or one of the Principal Subsidiaries, as applicable, Executive and his spouse will be entitled to participate in the Company's health plan in accordance with the terms of the applicable plan documents. Following termination of the Executive's employment for any reason (including the expiration of the term of this Agreement), other than by the Company for Cause pursuant to Section 5.3 or by the Executive without Good Reason pursuant to Section 5.6, the Company will furnish to the Executive during his lifetime, and to the Executive's spouse during her lifetime, medical coverage at least equivalent to that being provided by the Company at the time of termination (the "Health Benefit"). To the extent that the Company either is unable to provide the Health Benefit through the Company's medical plan or is unable to provide non-discriminatory group medical coverage to the Executive equal to the Health Benefit, it will reimburse the Executive annually for the cost of individual medical coverage providing the Health Benefit to the Executive and his spouse, or if such individual coverage is unavailable, the Company will reimburse the Executive for actual medical expenditures covered by the Health Benefit. When the Executive and his spouse, as applicable, become eligible for Medicare, the coverage or reimbursement provided by the Company will be limited to the cost of supplemental Medicare insurance to provide the Health Benefit or the reimbursement for medical expenditures in excess of supplemental Medicare insurance coverage necessary to provide the Health Benefit, as applicable. For purposes of this Section, "spouse" shall mean Executive's spouse during the term hereof and, with respect to benefits to be provided following termination of the Executive's employment, "spouse" shall mean Executive's spouse at the time of termination of the Executive's employment.

4.6. Business Expenses. The Company shall pay or reimburse the Executive for all reasonable business expenses, including without limitation the cost of first class air travel, incurred or paid by the Executive in the performance of his duties and

responsibilities hereunder, subject to (i) any expense policy of the Company or one of the Principal Subsidiaries, as applicable, set by the Board from time to time, other than with respect to first class air travel, and (ii) such reasonable substantiation and documentation requirements as may be specified by the Board from time to time.

4.7. Miscellaneous.

4.7.1. The Company shall pay or reimburse the Executive for the Executive's World Presidents Organization/Detroit Presidents Organization dues and expenses, of approximately \$11,000 per year, with Board approval of any material increase in cost above such amount.

4.7.2. The Company will provide the Executive with directors and officers insurance and personal liability protection described on Exhibit B.

4.7.3. The Executive will be permitted personal use of the Company plane at a usage level and cost to be negotiated with the Board of Directors from time to time at rates in accordance with Standard Industrial Fare Level rates stipulated by the U.S. Department of Transportation or in the Time Sharing Agreement dated December 2, 2002 between Executive and Domino's Pizza, LLC. The use by Executive of the Company plane may be curtailed or terminated by the Company if the Board in good faith determines after consultation with the Executive that the Company's financial performance or condition indicates that it is advisable to do so.

4.7.4. The Company shall pay or reimburse the Executive for his reasonable legal fees and expenses incurred in connection with the review of this Agreement and other agreements referred to herein in an aggregate amount not to exceed \$10,000.

5. Termination of Employment and Severance Benefits. Notwithstanding the provisions of Section 2 hereof, the Executive's employment hereunder shall terminate prior to the expiration of the term of this Agreement under the following circumstances:

5.1. Retirement or Death. In the event of the Executive's retirement or death during the term hereof, the Executive's employment hereunder shall immediately and automatically terminate. In the event of the Executive's retirement after the age of sixty-five with the prior consent of the Board or death during the term hereof, the Company shall pay to the Executive (or in the case of death, the Executive's designated beneficiary or, if no beneficiary has been designated by the Executive, to his estate) any Base Salary earned but unpaid through the date of such retirement or death, any Bonus for the fiscal year preceding the year in which such retirement or death occurs that was earned but has not yet been paid and, at the times the Company pays its executives bonuses in accordance with its general payroll policies, an amount equal to that portion of any Bonus

earned but unpaid during the fiscal year of such retirement or death (pro-rated in accordance with Section 4.2).

5.2. Disability.

5.2.1. The Company may terminate the Executive's employment hereunder, upon notice to the Executive, in the event that the Executive becomes disabled during his employment hereunder through any illness, injury, accident or condition of either a physical or psychological nature and, as a result, is unable to perform substantially all of his duties and responsibilities hereunder for an aggregate of one hundred twenty (120) days during any period of three hundred and sixty-five (365) consecutive calendar days.

5.2.2. The Board may designate another employee to act in the Executive's place during any period of the Executive's disability. Notwithstanding any such designation, the Executive shall continue to receive the Base Salary in accordance with Section 4.1 and to receive benefits in accordance with Section 4.5, to the extent permitted by the then-current terms of the applicable benefit plans, until the Executive becomes eligible for disability income benefits under any disability income plan maintained by the Company or one of the Principal Subsidiaries, as applicable, or until the termination of his employment, whichever shall first occur. Upon becoming so eligible, or upon such termination, whichever shall first occur, the Company shall pay to the Executive any Base Salary earned but unpaid through the date of such eligibility or termination and any Bonus for the fiscal year preceding the year of such eligibility or termination that was earned but unpaid. During the eighteen month period from such date, the Company shall pay the Executive, at its regular pay periods, an amount equal to the difference between the Base Salary and the amounts of disability income benefits that the Executive receives pursuant to the above-referenced disability income plan in respect of such period. At the times the Company pays its executives bonuses generally, the Company shall pay the Executive an amount equal to that portion of any Bonus earned but unpaid during the fiscal year of such eligibility or termination (pro-rated in accordance with Section 4.2).

5.2.3. Except as provided in Section 5.2.2, while receiving disability income payments under any disability income plan maintained by the Company or one of the Principal Subsidiaries, as applicable, the Executive shall not be entitled to receive any Base Salary under Section 4.1 or Bonus payments under Section 4.2 but shall continue to participate in benefit plans of the Company or one of the Principal Subsidiaries, as applicable, in accordance with Section 4.5 and the terms of such plans, until the termination of his employment and, solely with respect to benefits provided under Section 4.5.2, thereafter.

5.2.4. If any question shall arise as to whether during any period the Executive is disabled through any illness, injury, accident or condition of either a physical or psychological nature so as to be unable to perform substantially all of his duties and responsibilities hereunder, the Executive may, and at the request of the Company shall, submit to a medical examination by a physician selected by the Company to whom the Executive or his duly appointed guardian, if any, has no reasonable objection to determine whether the Executive is so disabled and such determination shall for the purposes of this Agreement be conclusive of the issue. If such question shall arise and the Executive shall fail to submit to such medical examination, the Board's determination of the issue shall be binding on the Executive.

5.3. By the Company for Cause. The Company may terminate the Executive's employment hereunder for Cause at any time upon notice to the Executive setting forth in reasonable detail the nature of such Cause. The following events or conditions shall constitute "Cause" for termination: (i) the Executive's willful failure to perform (other than by reason of disability), or gross negligence in the performance of, his duties to the Company or any of its Affiliates, and the Executive does not cure such failure or negligence within the 25-day period immediately following his receipt of such written allegations from the Board, (ii) the commission of fraud, embezzlement or theft by the Executive with respect to the Company or any of its Affiliates; or (iii) the conviction of the Executive of, or plea by the Executive of nolo contendere to, any felony or any other crime involving dishonesty or moral turpitude. Upon the giving of notice of termination of the Executive's employment hereunder for Cause, the Company shall have no further obligation or liability to the Executive hereunder, other than for Base Salary earned but unpaid through the date of termination. Without limiting the generality of the foregoing, the Executive shall not be entitled to receive any Bonus amounts which have not been paid prior to the date of termination.

5.4. By the Company other than for Cause. The Company may terminate the Executive's employment hereunder other than for Cause at any time upon notice to the Executive. In the event of such termination, then the Company shall pay the Executive (i) Base Salary earned but unpaid through the date of termination, plus (ii) twenty-four (24) monthly severance payments, each in an amount equal to the Executive's monthly base compensation in effect at the time of such termination (i.e., 1/12th of the Base Salary), plus (iii) any unpaid portion of any Bonus for the fiscal year preceding the year in which such termination occurs that was earned but has not been paid, plus (iv) at the times the Company pays its executives bonuses generally, an amount equal to that portion of any Bonus earned but unpaid during the fiscal year of such termination (pro-rated in accordance with Section 4.2).

5.5. By the Executive for Good Reason. The Executive may terminate his employment hereunder for Good Reason, upon notice to the Company setting forth in reasonable detail the nature of such Good Reason. The following shall constitute "Good

Reason" for termination by the Executive: (i) failure of the Company to continue the Executive in the position of Chairman and Chief Executive Officer; (ii) material diminution in the nature and scope of the Executive's responsibilities, duties or authority, including without limitation the failure to continue the Executive as a member of the board of directors of the Company or either of the Principal Subsidiaries; provided, however, that the failure to so continue the Executive shall not constitute Good Reason if such failure occurs in connection with the sale or other disposition of the corporation as to which he has ceased to have board membership; and provided, further, that the Company's failure to continue the Executive's appointment or election as a director or officer of any of its Affiliates (exclusive of the Principal Subsidiaries) and any diminution of the business of the Company or any of its Affiliates shall not constitute Good Reason; (iii) material failure of the Company to provide the Executive the Base Salary and benefits (including Company-sponsored fringe benefits) in accordance with the terms of Section 4 hereof; or (iv) relocation of the Executive's office to an area outside a 50-mile radius of the Company's current headquarters in Ann Arbor, Michigan. In the event of termination in accordance with this Section 5.5, then the Company shall pay the Executive the amounts specified in Section 5.4.

5.6. By the Executive Other than for Good Reason. The Executive may terminate his employment hereunder at any time upon ninety (90) days' notice to the Company. In the event of termination of the Executive pursuant to this Section 5.6, the Board may elect to waive the period of notice, or any portion thereof. The Company will pay the Executive his Base Salary for the notice period, except to the extent so waived by the Board. Upon the giving of notice of termination of the Executive's employment hereunder pursuant to this Section 5.6, the Company shall have no further obligation or liability to the Executive, other than (i) payment to the Executive of his Base Salary for the period (or portion of such period) indicated above and (ii) at the times the Company pays its executives bonuses generally, an amount equal to that portion of any Bonus earned but unpaid during the fiscal year of such termination (pro-rated in accordance with Section 4.2).

5.7. Post-Agreement Employment. In the event the Executive remains in the employ of the Company or any of its Affiliates following termination of this Agreement, by the expiration of the term hereof or otherwise, then such employment shall be at will.

6. Effect of Termination. The provisions of this Section 6 shall apply in the event of termination due to the expiration of the term, pursuant to Section 5 or otherwise.

6.1. Payment in Full. Payment by the Company of any Base Salary, Bonus or other specified amounts that are due the Executive under the applicable termination provision of Section 5 shall constitute the entire obligation of the Company and its Affiliates to the Executive, except that nothing in this Section 6.1 is intended or shall be construed to affect the rights and obligations of the Company and its Affiliates, on the one hand, and the Executive, on the other, with respect to any option plans, option

agreements, subscription agreements, stockholders agreements or other agreements to the extent said rights or obligations survive termination of employment under the provision of documents relating thereto.

6.2. Termination of Benefits. Except for continued medical insurance coverage provided pursuant to Sections 4.5.2 or 5.2 hereof and any right of continuation of health coverage at the Executive's cost to the extent provided by Sections 601 through 608 of ERISA, benefits shall terminate pursuant to the terms of the applicable benefit plans based on the date of termination of the Executive's employment without regard to any continuation of Base Salary or other payments to the Executive following termination of his employment.

6.3. Survival of Certain Provisions. Provisions of this Agreement shall survive any termination if so provided herein or if necessary or desirable fully to accomplish the purpose of other surviving provisions, including, without limitation, the obligations of the Executive under Sections 7 and 8 hereof. The obligation of the Company to make payments to or on behalf of the Executive under Sections 5.2, 5.4 or 5.5 hereof is expressly conditioned upon the Executive's continued full performance of obligations under Sections 7 and 8 hereof. The Executive recognizes that, except as expressly provided in Section 5.2, 5.4 or 5.5, no compensation is earned after termination of employment.

7. Confidential Information; Intellectual Property.

7.1. Confidentiality. The Executive acknowledges that the Company and its Affiliates continually develop Confidential Information; that the Executive may develop Confidential Information for the Company or its Affiliates and that the Executive may learn of Confidential Information during the course of employment. The Executive will comply with the policies and procedures of the Company and its Affiliates for protecting Confidential Information and shall never use or disclose to any Person (except as required by applicable law or for the proper performance of his duties and responsibilities to the Company and its Affiliates) any Confidential Information obtained by the Executive incident to his employment or other association with the Company or any of its Affiliates. The Executive understands that this restriction shall continue to apply after his employment terminates, regardless of the reason for such termination.

7.2. Return of Documents. All documents, records, tapes and other media of every kind and description relating to the business, present or otherwise, of the Company or its Affiliates and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by the Executive, shall be the sole and exclusive property of the Company and its Affiliates. The Executive shall safeguard all Documents and shall surrender to the Company at the time his employment terminates, or at such earlier time or times as the Board or its designee may specify, all Documents then in the Executive's possession or control.

7.3. Assignment of Rights to Intellectual Property. The Executive shall promptly and fully disclose all Intellectual Property to the Company. The Executive hereby assigns and agrees to assign to the Company (or as otherwise directed by the Company) the Executive's full right, title and interest in and to all Intellectual Property. The Executive agrees to execute any and all applications for domestic and foreign patents, copyrights or other proprietary rights and to do such other acts (including without limitation the execution and delivery of instruments of further assurance or confirmation) requested by the Company to assign the Intellectual Property to the Company and to permit the Company to enforce any patents, copyrights or other proprietary rights to the Intellectual Property. The Executive will not charge the Company for time spent in complying with these obligations. All copyrightable works that the Executive creates shall be considered "work made for hire".

8. Restricted Activities.

8.1. Agreement not to Compete with the Company. The Executive agrees that during the Executive's employment hereunder and for a period of twenty-four months following the date of termination thereof (the "Non-Competition Period"), he will not, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or be connected as an officer, employee, partner, director, principal, consultant, agent or otherwise with, or have any financial interest in, or aid or assist anyone else in the conduct of, any business, venture or activity which competes with, any business, venture or activity being conducted or actively being planned to be conducted by the Company or being conducted or known by the Executive to be actively being planned to be conducted by a group or division of the Company or by any of its Affiliates, at or prior to the date (the "Date of Termination") on which the Executive's employment under this Agreement is terminated, in the United States or any other geographic area where such business is being conducted or actively being planned to be conducted at or prior to the Date of Termination. Notwithstanding the foregoing, ownership of not more than five percent of any class of equity security of any publicly held corporation shall not, of itself, constitute a violation of this Section 8.

8.2. Agreement Not to Solicit Employees or Customers of the Company. The Executive agrees that during employment and during the Non-Competition Period he will not, directly or indirectly, (a) recruit or hire or otherwise seek to induce any employees of the Company or any of the Company's Affiliates to terminate their employment or violate any agreement with or duty to the Company or any of the Company's Affiliates, or (b) solicit or encourage any franchisee or vendor of the Company or of any of the Company's Affiliates to terminate or diminish its relationship with any of them or to violate any agreement with any of them, or, in the case of a franchisee, to conduct with any Person any business or activity that such franchisee conducts or could conduct with the Company or any of the Company's Affiliates.

9. Enforcement of Covenants. The Executive acknowledges that he has carefully read and considered all the terms and conditions of this Agreement, including without limitation the restraints imposed upon him pursuant to Sections 7 and 8 hereof. The Executive agrees that said restraints are necessary for the reasonable and proper protection of the Company and its Affiliates and that each and every one of the restraints is reasonable in respect to subject matter, length of time and geographic area. The Executive further acknowledges that, were he to breach any of the covenants or agreements contained in Sections 7 or 8 hereof, the damage to the Company and its Affiliates could be irreparable. The Executive therefore agrees that the Company and its Affiliates, in addition to any other remedies available to it, shall be entitled to preliminary and permanent injunctive relief against any breach or threatened breach by the Executive of any of said covenants or agreements. The parties further agree that in the event that any provision of Section 7 or 8 hereof shall be determined by any Court of competent jurisdiction to be unenforceable by reason of its being extended over too great a time, too large a geographic area or too great a range of activities, such provision shall be deemed to be modified to permit its enforcement to the maximum extent permitted by law.

10. Conflicting Agreements. The Executive hereby represents and warrants that the execution of this Agreement and the performance of his obligations hereunder will not breach or be in conflict with any other agreement to which or by which the Executive is a party or is bound and that the Executive is not now subject to any covenants against competition or solicitation or similar covenants or other obligations that would affect the performance of his obligations hereunder. The Executive will not disclose to or use on behalf of the Company or any of its Affiliates any proprietary information of a third party without such party's consent.

11. Definitions. Words or phrases which are initially capitalized or are within quotation marks shall have the meanings provided in this Section 11 and as provided elsewhere herein. For purposes of this Agreement, the following definitions apply:

11.1. Affiliates. "Affiliates" shall mean the Principal Subsidiaries and all other persons and entities controlling, controlled by or under common control with the Company, where control may be by management authority or equity interest.

11.2. Confidential Information. "Confidential Information" means any and all information of the Company and its Affiliates that is not generally known by others with whom they compete or do business, or with whom they plan to compete or do business, and any and all information the disclosure of which would otherwise be adverse to the interests of the Company or any of its Affiliates. Confidential Information includes without limitation such information relating to (i) the products and services sold or offered by the Company or any of its Affiliates (including without limitation recipes, production processes and heating technology), (ii) the costs, sources of supply, financial performance and strategic plans of the Company and its Affiliates, (iii) the identity of the suppliers of the Company and its Affiliates and (iv) the people and organizations with whom the Company and its Affiliates have business relationships and those relationships. Confidential Information also includes information that the Company or any of its

Affiliates have received belonging to others with any understanding, express or implied, that it would not be disclosed.

11.3. ERISA. "ERISA" means the federal Employee Retirement Income Security Act of 1974 or any successor statute, and the rules and regulations thereunder, and, in the case of any referenced section thereof, any successor section thereto, collectively and as from time to time amended and in effect.

11.4. Intellectual Property. "Intellectual Property" means inventions, discoveries, developments, methods, processes, compositions, works, concepts, recipes and ideas (whether or not patentable or copyrightable or constituting trade secrets or trade marks or service marks) conceived, made, created, developed or reduced to practice by the Executive (whether alone or with others, whether or not during normal business hours or on or off Company premises) during the Executive's employment that relate to either the Business or any prospective activity of the Company or any of its Affiliates.

11.5. Person. "Person" means an individual, a corporation, an association, a partnership, a limited liability company, an estate, a trust and any other entity or organization.

12. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

13. Miscellaneous.

13.1. Assignment. Neither the Company nor the Principal Subsidiaries nor the Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that the Company or any of the Principal Subsidiaries may assign its rights and obligations under this Agreement without the consent of the Executive in the event that the Company or such Principal Subsidiary shall hereafter affect a reorganization, consolidate with, or merge into, any other Person or transfer all or substantially all of its properties or assets to any other Person, in which event such other Person shall be deemed the "Company" or a "Principal Subsidiary" hereunder, as applicable, for all purposes of this Agreement; provided, further, that nothing contained herein shall be construed to place any limitation or restriction on the transfer of the Company's Common Stock in addition to any restrictions set forth in any stockholder agreement applicable to the holders of such shares. This Agreement shall inure to the benefit of and be binding upon the Company, the Principal Subsidiaries and the Executive, and their respective successors, executors, administrators, heirs and permitted assigns.

13.2. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the application of such provision in such circumstances shall be deemed modified to permit

its enforcement to the maximum extent permitted by law, and both the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable and the remainder of this Agreement shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13.3. Waiver; Amendment. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of either party to require the performance of any term or obligation of this Agreement, or the waiver by either party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach. This Agreement may be amended or modified only by a written instrument signed by the Executive and any expressly authorized representative of the Company and the Principal Subsidiaries.

13.4. Notices. Any and all notices, requests, demands and other communications provided for by this Agreement shall be in writing and shall be effective when delivered in person or deposited in the United States mail, postage prepaid, registered or certified, and addressed (a) in the case of the Executive, to:

Mr. David A. Brandon
660 Barton Shore Drive
Ann Arbor, MI 48105

with a copy to:

Ms. Margaret A. Hunter
Dykema Gossett PLLC
400 Renaissance Center
Detroit, MI 48243-1668

or, (b) in the case of the Company, at its principal place of business and to the attention of Board of Directors, with a copy to: Ropes & Gray, One International Place, Boston, MA 02110-1617, Attention: R. Newcomb Stillwell; or to such other address as either party may specify by notice to the other actually received.

13.5. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior communications, agreements and understandings, written or oral, with the Company, its Affiliates or any of their predecessors, with respect to the terms and conditions of the Executive's employment.

13.6. Headings. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement.

13.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

13.8. Joint and Several Liability. The Company and the Principal Subsidiaries shall be jointly and severally liable for all payment obligations of the Company pursuant to this Agreement.

13.9. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic substantive laws of the State of Michigan without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

13.10. Consent to Jurisdiction. Each of the Company and the Executive by its or his execution hereof, (i) hereby irrevocably submits to the jurisdiction of the state courts of the State of Michigan for the purpose of any claim or action arising out of or based upon this Agreement or relating to the subject matter hereof and (ii) hereby waives, to the extent not prohibited by applicable law, and agrees not to assert by way of motion, as a defense or otherwise, in any such claim or action, any claim that it or he is not subject personally to the jurisdiction of the above-named courts, that its or his property is exempt or immune from attachment or execution, that any such proceeding brought in the above-named courts is improper, or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each of the Company and the Executive hereby consents to service of process in any such proceeding in any manner permitted by Michigan law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 13.4 hereof is reasonably calculated to give actual notice.

IN WITNESS WHEREOF, this Agreement has been executed by the Company, by its duly authorized representative, and by the Executive, as of the date first above written.

THE COMPANY:

TISM, INC.

By: /s/ Harry J. Silverman

Harry J. Silverman
Vice President

PRINCIPAL SUBSIDIARIES:

DOMINO'S, INC.

By: /s/ Harry J. Silverman

Harry J. Silverman
Vice President

DOMINO'S PIZZA, LLC

By: /s/ Harry J. Silverman

Harry J. Silverman
Vice President

THE EXECUTIVE:

By: /s/ David A. Brandon

David A. Brandon

Exhibit 3.2

DAVID A. BRANDON

CURRENT ACTIVITIES

(June 2003)

I. FOR PROFIT CORPORATION BOARDS:

- A. The TJX Companies, Inc. (Director)
- B. Edwards Brothers (Director)

II. NOT-FOR-PROFIT CORPORATION BOARDS:

- A. Institute for Preventative Medicine (Advisory Board)
- B. America's Thanksgiving Day Parade Co. (Director)
- C. Purple Rose Theater (Director)
- D. St. Jude Hospital (Advisory Board)
- E. David A. Brandon Foundation (Director)
- F. Detroit Renaissance Board (Director)

III. UNIVERSITY OF MICHIGAN INVOLVEMENT:

- A. Regent
- B. Business School Visiting Committee
- C. Mott's Childrens Hospital - Advisory Board
- D. Michigan Urologic Center, Executive Advisory Board (Chairman)

IV. CONSULTING AGREEMENT:

- A. Valassis Communications, Inc.

V. POLITICAL ACTIVITIES:

Republican Party

- 1. Precinct Delegate
- 2. State Committee Member

Exhibit A-1

OUTSTANDING COMMON STOCK

400,000 Shares of TISM Class A-3 Common Shares
44,444 Shares of TISM Class L Common Shares

Options to purchase 1,762,516 Class A-3 Common Shares

Exhibit A-2

OPTION PLAN

Exhibit A-3

FORM OF OPTION AGREEMENT

Exhibit A-4

STOCKHOLDERS AGREEMENT

Exhibit B

D&O INSURANCE AND PERSONAL LIABILITY PROTECTION

The Company will provide the Executive with the coverage described in this Exhibit B or such other coverage as the Company shall from time to time select that shall be not substantially less favorable to the Executive than the coverage described herein.

TISM, INC.

FOURTH AMENDED AND RESTATED STOCK OPTION PLAN

(AS AMENDED AND RESTATED EFFECTIVE JUNE 25, 2003)

WHEREAS, TISM, Inc. (the "Company") adopted a stock option plan known as the TISM, Inc. Stock Option Plan (the "Plan") for the benefit of eligible employees as determined from time to time by its Board of Directors; and

WHEREAS, the Company has amended and restated the Plan before; and

WHEREAS, the Company desires to further amend and restate the Plan, effective June 25, 2003.

NOW, THEREFORE, the Plan is hereby amended and restated in its entirety effective June 25, 2003.

1. PURPOSE

The purpose of this Stock Option Plan (the "Plan") is to advance the interests of TISM, Inc., a Michigan corporation (the "Company"), by enhancing the ability of the Company and its subsidiaries (if any) to attract and retain able employees and directors of the Company and its subsidiaries; to reward such individuals for their contributions; and to encourage such individuals to take into account the long-term interests of the Company and its subsidiaries through interests in shares of the Company's Common Stock, \$.001 par value per share (the "Stock"). Any employee or director selected to receive an award under the Plan is referred to as a "participant."

2. ADMINISTRATION

The Plan shall be administered by the Board of Directors (the "Board") of the Company. Subject to the applicable law, the Board shall have discretionary authority, not inconsistent with the express provisions of the Plan, (a) to grant option awards to such eligible persons as the Board may select; (b) to determine the time or times when awards shall be granted and the number of shares of Stock subject to each award; (c) to determine the terms and conditions of each award; (d) to prescribe the form or forms of any instruments evidencing awards and any other instruments required under the Plan and to change such forms from time to time; (e) to adopt, amend, and rescind rules and regulations for the administration of the Plan; and (f) to interpret the Plan and to decide any questions and settle all controversies and disputes that may arise in connection with the Plan. Such determinations of the Board shall be conclusive and shall bind all parties. Subject to Section 9, the Board shall also have the authority, both generally and in particular instances, to waive compliance by a participant with any obligation to be performed by him or her under an award, to waive any condition or provision of an award, and to amend or cancel any award (and if an award is canceled, to grant a new award on such terms as the Board shall specify), except that the Board may not take any action with respect to an outstanding award that would adversely affect the rights of the participant under such award without such participant's consent. Nothing in the preceding sentence shall be construed as limiting the power of the Board to make adjustments required by Section 4(c) and Section 6(g).

The Board may, in its discretion, delegate some or all of its powers with respect to the Plan to a committee (the "Committee"), in which event all references (as appropriate) to the Board hereunder shall be deemed to refer to the Committee. The Committee, if one is appointed, shall consist of at least two directors. A majority of the members of the Committee shall constitute a quorum, and all determinations of the committee shall be made by a majority of its members. Any determination of the Committee under the Plan may be made without notice or meeting of the Committee by a writing signed by a majority of the Committee members. On and after registration of the Stock under the Securities Exchange Act of 1934, as amended (the "1934 Act"), the Board shall delegate the power to select directors and officers to receive awards under the Plan and the timing, pricing, and amount of such awards to a Committee, all members of which shall be "non-employee directors" within the meaning of Rule 16b-3 under the 1934 Act and "outside directors" within the meaning of Section 162(m)(4)(c)(i) of the Internal Revenue Code of 1986, as amended (the "Code"), in which event all references (as appropriate) to the Board hereunder shall be deemed to refer to the Committee.

3. EFFECTIVE DATE AND TERM OF PLAN

The Plan became effective on December 21, 1998, and was approved by the stockholders of the Company. Grants of awards under the Plan made prior to that date (but after Board adoption of the Plan), were subject to approval of the Plan by the stockholders.

No awards shall be granted under the Plan after the completion of 10 years from the date on which the Plan was initially adopted by the Board, but awards previously granted may extend beyond that date.

4. SHARES SUBJECT TO THE PLAN

(a) Number of Shares. Subject to adjustment as provided in Section 4(c), the aggregate number of shares of Stock that may be the subject of awards granted under the Plan shall be 9,836,739 shares of Class A-3 Common Stock and 62,576 shares of Class L Common Stock. If any award granted under the Plan terminates without having been exercised in full, or upon exercise is satisfied other than by delivery of Stock, the number of shares of Stock as to which such award was not exercised shall be available for future grants.

(b) Shares to be Delivered. Shares delivered under the Plan shall be authorized but unissued Stock, or if the Board so decides in its sole discretion, previously issued Stock acquired by the Company and held in its treasury. No fractional shares of Stock shall be delivered under the Plan.

(c) Changes in Stock. In the event of a stock dividend, stock split or combination of shares, recapitalization, or other transaction or event that affects the Company's capital stock, the number and kind of shares of stock or securities of the Company subject to awards then outstanding or subsequently granted under the Plan, the exercise price of such awards, the maximum number of shares or securities that may be delivered under the Plan, and other relevant provisions shall be appropriately adjusted to prevent enlargement or dilution of benefits intended to be made available under the Plan by the Board, whose determination shall be binding on all persons.

The Board may in good faith also adjust the number of shares subject to outstanding awards, the exercise price of outstanding awards, and the terms of outstanding awards, to take into consideration material changes in accounting practices or principles, extraordinary dividends,

consolidations or mergers (except those described in Section 6(g)), acquisitions or dispositions of stock or property, or any other event if it is determined by the Board that such adjustment is appropriate to avoid distortion in the operation of the Plan.

5. ELIGIBILITY AND PARTICIPATION

Persons eligible to receive awards under the Plan shall be those persons who, in the opinion of the Board, are in a position to make a significant contribution to the success of the Company and its subsidiaries. A subsidiary for purposes of the Plan shall be a corporation in which the company owns, directly or indirectly, stock possessing 50% or more of the total combined voting power of all classes of stock.

6. TERMS AND CONDITIONS

(a) Exercise Price of Options. The exercise price of each option shall be determined by the Board, but the exercise price shall not be less, in the case of an original issue of authorized stock, than par value.

(b) Duration of Options. An option shall be exercisable during such period or periods as the Board may specify. The latest date on which an option may be exercised (the "Expiration Date") shall be the date that is 10 years from the date the option was granted or such earlier date as may be specified by the Board at the time the option is granted.

(c) Exercise of Options.

(1) An option shall become exercisable at such time or times and upon such conditions as the Board shall specify. In the case of an option not immediately exercisable in full, the Board may at any time accelerate the time at which all or any part of the option may be exercised.

(2) Any exercise of an option shall be in writing by the proper person and furnished to the Company, accompanied by (A) such documents as may be required by the Board and (B) payment in full as specified below in Section 6(d) for the number of shares for which the option is exercised.

(3) The Board shall have the right to require that the participant exercising the option remit to the Company an amount sufficient to satisfy any federal, state, or local withholding tax requirements (or make other arrangements satisfactory to the Company with regard to such taxes) prior to the delivery of any Stock pursuant to the exercise of the option. If permitted by the Board, either at the time of the grant of the option or in connection with exercise, the participant may elect, at such time and in such manner as the Board may prescribe, to satisfy such withholding obligation by (A) delivering to the Company Stock owned by such individual having a fair market value equal to such withholding obligation, or (B) requesting that the Company withhold from the shares of Stock to be delivered upon the exercise a number of shares of Stock having a fair market value equal to such withholding obligation.

In addition, if at the time the option is exercised the Board determines that under applicable law and regulations the Company could be liable for the withholding of any federal or state tax with respect to a disposition of the Stock received upon exercise, the Board may require as a condition of exercise that the participant exercising the option agree to give such security as the Board deems adequate to meet the potential liability of the Company for the withholding of tax, and to augment such security from time to time in any amount reasonably deemed necessary by the Board to preserve the adequacy of such security.

(4) If an option is exercised by the executor or administrator of a deceased participant, or by the person or persons to whom the option has been transferred by the participant's will or the applicable laws of descent and distribution, the Company shall be under no obligation to deliver Stock pursuant to such exercise until the Company is satisfied as to the authority of the person or persons exercising the option.

(d) Payment for and Delivery of Stock. Stock purchased upon exercise of an option under the Plan shall be paid for as follows: (1) in cash, check acceptable to the Company (determined in accordance with such guidelines as the Board may prescribe), or money order payable to the order of the Company; (2) by the Company retaining from the shares of Stock to be delivered upon exercise of the Option that number of shares of Stock having a fair market value on the date of exercise equal to the option price of the number of shares of Stock with respect to which the participant or other eligible person exercises the option, or (3) if so permitted by the Board, (A) through the delivery of shares of Stock (which, in the case of Stock acquired from the Company, shall have been held for at least 6 months unless the Board specifies a shorter period) having a fair market value on the last business day preceding the date of exercise equal to the purchase price, or (B) by delivery of a promissory note of the participant to the Company, such note to be payable on such terms as are specified by the Board, or (C) by delivery of an unconditional and irrevocable undertaking by a broker to deliver promptly to the Company sufficient funds to pay the exercise price, or (D) by any combination of the permissible forms of payment; provided, that if the Stock delivered upon exercise of the option is an original issue of authorized Stock, at least so much of the exercise price as represents par value of such Stock shall be paid other than with a personal check or promissory note of the person exercising the option.

(e) Delivery of Stock. A participant shall not have the rights of a stockholder with regard to awards under the Plan except as to Stock actually received by him under the Plan.

The Company shall not be obligated to deliver any shares of Stock (1) until, in the opinion of the Company's counsel, all applicable federal and state laws and regulations have been complied with, (2) if the outstanding Stock is at the time listed on any stock exchange, until the shares to be delivered have been listed or authorized to be listed on such exchange upon official notice of issuance, and (3) until all other legal matters in connection with the issuance and delivery of such shares have been approved by the Company's counsel. Without limiting the generality of the foregoing, if the sale of Stock has not been registered under the Securities of 1933, as amended, the Company may require, as a condition to exercise of the award, such representations or agreements as counsel for the Company may consider appropriate to avoid violation of such Act and may require that the certificates evidencing such Stock bear an appropriate legend restricting transfer.

(f) Nontransferability of Awards. Except as specifically provided in an option approved by the Board, no option or other award may be transferred other than by will or by the laws of descent and distribution, and during a participant's lifetime an award may be exercised only him or her.

(g) Mergers, etc. In the event of any merger, consolidation, dissolution, or liquidation of the Company, the Board in its sole discretion may, as to any outstanding options or other awards, make such substitution or adjustment in the aggregate number of shares reserved for issuance under the Plan and in the number and purchase price (if any) of shares subject to such awards as it may determine, or accelerate, amend, or terminate such awards upon such terms and conditions as it shall provide (which, in the case of the termination of the vested portion of any award, shall require payment or other consideration that the Board deems equitable in the circumstances).

7. TERMINATION OF EMPLOYMENT OR BOARD MEMBERSHIP

(a) If a participant's employment or service as a member of the Board with the Company and its subsidiaries terminates prior to the Expiration Date, the Board in its sole discretion may provide (either prior to or within 30 days following termination) that (1) any or all of such portion of any option not otherwise vested (i.e., exercisable) prior to termination shall be treated as having become vested immediately prior to termination, in which case, as to that number of shares of Stock for which the award was vested, or deemed vested by action of the Board, immediately prior to termination, such award shall continue to be exercisable thereafter during the period prior to the Expiration Date and within one year following the termination; or (2) except if otherwise set forth in an award, the participant or beneficiary receive in cash, with respect to each share of Stock to which an option or other award relates, the excess of (x) the share's fair market value on the date of the participant's termination over (y) the option exercise price. Except as otherwise provided in an award, after completion of the one-year period, such awards shall terminate to the extent not previously exercised, expired, or terminated. No option shall be exercised or surrendered in exchange for a cash payment after the Expiration Date.

(b) Notwithstanding the foregoing, except as otherwise provided in an award, if the participant is terminated for "cause" (as defined in (c) below), all options and other awards shall immediately terminate as to all shares of Stock subject hereto, whether or not vested immediately prior to such termination for cause.

(c) "Cause," with respect to any participant who is an employee of the Company and its subsidiaries, shall mean the following events or conditions: (1) the failure to devote substantially all of his or her business time to the performance of his or her duties to the Company or any of its subsidiaries (other than by reason of disability), or refusal or failure to follow or carry out any reasonable direction of the Board of Directors, and the continuance of such refusal or failure for a period of 10 days after notice to such participant; (2) the material breach by the participant of any material agreement to which such participant and the Company or any of its affiliates are a party; (3) the commission of fraud, embezzlement, theft or other dishonesty by such participant with respect to the Company or any of its affiliates; (4) the conviction of such participant of, or plea by such participant of nolo contendere to, any felony or any other crime involving dishonesty or moral turpitude; and (5) any other intentional action or intentional omission that involves a material breach of fiduciary obligation on the part of such participant.

(d) The Board may provide in the case of any award for post-termination exercise provisions different from those expressly set forth in this Section 7, including with limitation terms allowing a later exercise by a former employee or director (or, in the case of a former employee or director who is deceased, the person or persons to whom the award is transferred by will or the laws of descent and distribution) as to all or any portion of the award not exercisable immediately prior to termination of employment or service as a director, but in no case may an award be exercised after the Expiration Date.

8. EMPLOYMENT OR DIRECTORSHIP RIGHTS

Neither the adoption of the Plan nor the grant of awards shall confer upon any participant any right to continue as an employee or director of the Company, its parent, or any subsidiary or affect in any way the right of the Company, its parent, or a subsidiary to terminate the participant's relationship at any time. Except as specifically provided by the Board in any particular case, the loss of existing or potential profit in awards granted under this Plan shall not constitute an element of damages in the event of termination of the relationship of a participant.

9. EFFECT, DISCONTINUANCE, CANCELLATION, AMENDMENT, AND TERMINATION

Neither adoption of the Plan nor the grant of awards to a participant shall affect the Company's right to make awards to such participant that are not subject to the Plan, to issue to such participant Stock as a bonus or otherwise, or to adopt other plans or arrangement under which Stock may be issued. No option granted pursuant to the Plan is intended to be an incentive stock option under Section 422 of the Code.

The Board may at any time or times amend the Plan or any outstanding award for the purpose of satisfying the requirements of any changes in applicable laws or regulations or for any other purpose that may at the time be permitted by law, or may at any time terminate the Plan as to any further grants of awards; provided, that, except to the extent expressly required by the Plan, no such amendment shall adversely affect the rights of any participant (without his or her consent) under any award previously granted, nor shall such amendment, without the approval of the stockholders of the Company, effectuate a change for which stockholder approval is required to comply with any tax or regulatory requirement, including in order for the Plan to continue to qualify under Rule 16b-3 promulgated under Section 16 of the 1934 Act.

10. MISCELLANEOUS

The Plan shall be governed by Michigan law. The Board may provide in a particular case that an award shall be evidenced by an award agreement or certificate.

* * *