

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **1999-09-10** | Period of Report: **1999-07-31**
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FILER

SMUCKER J M CO

CIK: **91419** | IRS No.: **340538550** | State of Incorporation: **OH** | Fiscal Year End: **0430**
Type: **10-Q** | Act: **34** | File No.: **001-05111** | Film No.: **99709721**
SIC: **2033** Canned, fruits, veg, preserves, jams & jellies

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

(X) QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended July 31, 1999

OR

() TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number _____1-5111_____

THE J. M. SMUCKER COMPANY

_____Ohio_____
State of Incorporation

_____34-0538550_____
IRS Identification No.

STRAWBERRY LANE
ORRVILLE, OHIO 44667
(330) 682-3000

The Company has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months and has been subject to such filing requirements for the past 90 days.

The Company had 14,335,215 Class A Common Shares and 14,674,076 Class B Common Shares outstanding on July 31, 1999.

The Exhibit Index is located at Sequential Page No. 12.

PART I. FINANCIAL INFORMATION

THE J. M. SMUCKER COMPANY
CONDENSED STATEMENTS OF CONSOLIDATED INCOME

Item 1. Financial Statements

<TABLE>

<CAPTION>

	Three Months Ended July 31,	
	1999	1998
	(Dollars in thousands, except per share data)	
<S>	<C>	<C>
Net sales	\$ 161,495	\$ 150,500
Cost of products sold	103,467	96,638
	-----	-----
	58,028	53,862
Selling, distribution, and administrative expenses	40,795	37,342
	-----	-----
	17,233	16,520
Other income (expense)		
Interest income	723	625
Interest expense	(480)	(4)
Other - net	367	295
	-----	-----
Income before income taxes	17,843	17,436
Income taxes	6,806	7,020
	-----	-----
Net Income	\$ 11,037	\$ 10,416
	=====	=====
Net income per Common Share	\$.38	\$.36
	=====	=====
Net income per Common Share - assuming dilution	\$.38	\$.36
	=====	=====
Dividends declared on Class A and Class B Common Shares	\$.15	\$.14
	=====	=====

</TABLE>

See notes to condensed consolidated financial statements

<TABLE>
<CAPTION>

	July 31, 1999	April 30, 1999
	-----	-----
	(Dollars in Thousands)	
<S>	<C>	<C>
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 52,454	\$ 8,683
Trade receivables, less allowances	58,178	51,858
Inventories:		
Finished products	49,106	51,983
Raw materials, containers, and supplies	92,530	62,217
	-----	-----
	141,636	114,200
Other current assets	14,375	11,401
	-----	-----
Total Current Assets	266,643	186,142
PROPERTY, PLANT, AND EQUIPMENT		
Land and land improvements	15,792	15,729
Buildings and fixtures	84,675	83,290
Machinery and equipment	206,365	201,913
Construction in progress	26,382	23,296
	-----	-----
	333,214	324,228
Less allowances for depreciation	(162,670)	(157,685)
	-----	-----
Total Property, Plant and Equipment	170,544	166,543
OTHER NONCURRENT ASSETS		
Intangible assets	59,440	60,627
Other assets	20,467	20,571
	-----	-----
Total Other Noncurrent Assets	79,907	81,198
	-----	-----
	\$ 517,094	\$ 433,883
	=====	=====
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable	\$ 57,634	\$ 40,262
Other current liabilities	37,737	47,369
	-----	-----
Total Current Liabilities	95,371	87,631
NONCURRENT LIABILITIES		
Long-term debt	75,000	--
Other noncurrent liabilities	21,776	21,923
	-----	-----
Total Noncurrent Liabilities	96,776	21,923
SHAREHOLDERS' EQUITY		
Class A Common Shares	3,584	3,608
Class B Common Shares (Nonvoting)	3,668	3,682
Additional capital	17,151	15,604
Retained income	320,341	318,660
Less:		
Deferred compensation	(3,607)	(2,001)
Amount due from ESOP	(9,526)	(9,526)
Accumulated other comprehensive loss	(6,664)	(5,698)
	-----	-----
Total Shareholders' Equity	324,947	324,329

\$	517,094	\$	433,883
----	---------	----	---------

</TABLE>

See notes to condensed consolidated financial statements

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THE J. M. SMUCKER COMPANY

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

<TABLE>
<CAPTION>

	Three Months Ended July 31,	
	1999	1998
	(Dollars in Thousands)	
<S>	<C>	<C>
OPERATING ACTIVITIES		
Net income	\$ 11,037	\$ 10,416
Adjustments	(13,990)	(19,518)
Net cash used for operating activities	(2,953)	(9,102)
INVESTING ACTIVITIES		
Businesses acquired - net of cash	--	(9,901)
Additions to property, plant, and equipment	(9,987)	(9,173)
Proceeds from the sale of property, plant, and equipment	107	46
Other - net	338	313
Net cash used for investing activities	(9,542)	(18,715)
FINANCING ACTIVITIES		
Proceeds from long-term debt	75,000	--
(Reduction in) proceeds from short-term debt - net	(8,966)	3,473
Purchase of common shares	(5,231)	--
Dividends paid	(4,342)	(4,064)
Other - net	(33)	(447)
Net cash provided by (used for) financing activities	56,428	(1,038)
Cash flows provided by (used for) operations	43,933	(28,855)
Effect of exchange rate changes	(162)	(577)
Net increase (decrease) in cash and cash equivalents	43,771	(29,432)
Cash and cash equivalents at beginning of period	8,683	36,484
Cash and cash equivalents at end of period	\$ 52,454	\$ 7,052

</TABLE>

() Denotes use of cash

See notes to condensed consolidated financial statements

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THE J. M. SMUCKER COMPANY
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note A - Basis of Presentation

The accompanying unaudited, condensed, consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments considered necessary for a fair presentation have been included. Operating results for the three-month period ended July 31, 1999, are not necessarily indicative of the results that may be expected for the year ended April 30, 2000. For further information, reference is made to the consolidated financial statements and footnotes included in the Company's Annual Report on Form 10-K for the year ended April 30, 1999.

Note B - Operating Segments

The Company has two reportable segments, domestic and international. The domestic segment represents the aggregation of the consumer, foodservice, beverage, specialty foods, consumer direct, and industrial business areas. The following table sets forth operating segments information:

<TABLE>
<CAPTION>

(Dollars in thousands)	Three Months Ended July 31,	
	1999	1998
	-----	-----
<S>	<C>	<C>
Net sales:		
Domestic	\$ 140,465	\$ 133,581
International	21,030	16,919
	-----	-----
Total net sales	\$ 161,495	\$ 150,500
	=====	=====
Segment profit:		
Domestic	\$ 26,500	\$ 25,068
International	2,414	1,472
	-----	-----
Total segment profit	28,914	26,540
Interest income	723	625
Interest expense	(480)	(4)
Amortization expense	(967)	(704)
Corporate administrative expenses	(9,944)	(9,425)

Other unallocated expense	(403)	404
	-----	-----
Income before income taxes	\$ 17,843	\$ 17,436
	=====	=====

</TABLE>

Note C - Common Shares

At July 31, 1999, 35,000,000 Class A Common Shares and 35,000,000 Class B Common Shares were authorized. At July 31, 1999, there were 14,335,215 and 14,674,076 outstanding shares of Class A Common and Class B Common, respectively, while 14,432,619 Class A and 14,726,576 Class B Common Shares were outstanding at April 30, 1999. Outstanding shares of each class are shown net of 1,877,073 Class A and 1,538,212 Class B treasury shares at July 31, 1999, and 1,779,669 Class A and 1,485,712 Class B treasury shares at April 30, 1999.

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Note D - Financing Arrangements

On June 18, 1999, the Company issued \$75,000,000 of 6.77% senior, unsecured notes due June 1, 2009.

Note E - Income Per Share

The following table sets forth the computation of earnings per Common Share and earnings per Common Share-assuming dilution:

<TABLE>
<CAPTION>

	Three Months Ended July 31,	
(Dollars in thousands, except per share data)	1999	1998
	-----	-----
<S>	<C>	<C>
Numerator:		

Net income	\$ 11,037	\$ 10,416
	=====	=====
Denominator:		

Denominator for earnings per Common Share - weighted-average shares	29,047,531	29,026,846
Effect of dilutive securities:		
Stock options	130,528	239,599
Restricted stock	--	65,992
	-----	-----
Denominator for earnings per Common Share - assuming dilution	29,178,059	29,332,437

	=====	=====
Net income per Common Share	\$.38	\$.36
	=====	=====
Net income per Common Share - assuming dilution	\$.38	\$.36
	=====	=====

</TABLE>

Note F - Comprehensive Income

During the quarter ended July 31, 1999 and 1998, total comprehensive income was \$10,071,000 and \$8,276,000, respectively. Comprehensive income consists of net income and foreign currency translation adjustments.

Note G - Recently Issued Accounting Standards

In 1998, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities (SFAS 133). SFAS 133 changes the accounting related to derivative instruments. Currently, the Company does not have significant participation in derivative instruments. Although the Company has not yet completed its evaluation of the potential impact of adopting SFAS 133 on future earnings, it does not expect the impact to be material. The Company is required to adopt this statement in fiscal 2002.

Item 2. Management's Discussion and Analysis

This discussion and analysis deals with comparisons of material changes in the condensed, consolidated financial statements for the three-month periods ended July 31, 1999 and 1998, respectively.

Results of Operations

Sales for the first quarter were up approximately 7%, to \$161,495,000 from \$150,500,000 in the prior year. Domestic segment sales were up 5%, while the international segment realized an increase of 24%.

In the domestic segment, all businesses realized sales increases over the prior year, with the largest dollar growth occurring in the consumer and foodservice markets. The combined dollar growth of these two markets accounted for approximately 54% of the total increase in sales. In the consumer area, the continued rollout of "Smucker's Snackers", introduced during last fiscal year, and the inclusion of the "Adams" natural peanut butter business, acquired in December 1998, were key causes for the increase. In the foodservice area, the increase in sales was due to a combination of volume growth in the portion control segment and the impact of the recent agreement with Lea & Perrins, Inc. pursuant to which the Company now is distributing "Lea & Perrins" products to the foodservice industry.

In the international segment, all geographic markets realized sales

increases, with the majority of the growth occurring in the Greater Europe market and Australia.

Cost of products sold remained relatively constant at 64.1% of net sales compared to 64.2% last year as increases in certain fruit costs were offset by improved plant efficiencies. Selling, distribution and administrative costs increased at a slightly greater rate than sales due to an increase in selling and corporate administrative expenses. Although the increased fruit costs will affect the remainder of the fiscal year, the Company hopes to minimize the impact on margins through improved operational efficiencies, overhead cost reductions, and selective price increases.

Interest expense increased significantly over the prior year due to the long-term debt placement completed during the first quarter. During the quarter the Company capitalized approximately \$220,000 in interest associated with the Company's information technology reengineering project.

The effective income tax rate for the period decreased from 40.3% last year to 38.1%. The effective rate for the first quarter of fiscal 2000 was consistent with the 38.7% effective rate for the year ended April 30, 1999. The decrease from last year's first quarter is primarily due to lower state and local taxes.

Financial Condition - Liquidity and Capital Resources

The financial position of the Company remains strong with an increase in cash and cash equivalents of \$43,771,000 during the first quarter. The increase in cash and cash equivalents resulted from the issuance of 10-year, senior, unsecured notes in the amount of \$75,000,000 due June 1, 2009. The interest rate on these notes is 6.77% and is payable each June 1st and December 1st.

Significant uses of cash during the quarter include the seasonal procurement of fruit inventories, capital expenditures, the repayment of short-term borrowings, and the payment of dividends. Also during the quarter, the Company completed the repurchase of 140,000 Class A and 92,200 Class B Common Shares as part of a previously announced stock repurchase program. With the combination of cash provided from operations and the proceeds from the long-term debt placement, the Company expects its cash to be sufficient to meet requirements.

Impact of Year 2000

As part of the information technology reengineering (ITR) project previously reported, the Company has completed an assessment of the Year 2000 issue as it may affect its information technology (IT) systems. The new IT systems being installed are fully Year 2000 compliant and will replace 80% of the Company's noncompliant IT systems. The remaining 20% of such systems will be corrected, as discussed below. The total ITR project cost, which includes an enterprise-wide information system and business process reengineering, is estimated at approximately \$34,000,000, excluding internal staff costs.

The portion of the ITR project that resolves the Year 2000 issue on the Company's IT systems has been implemented in domestic locations, with international implementation to be completed by November 1, 1999. With regard to

the IT systems that either are not being replaced by the ITR project or will not be replaced in time to meet the change in millenium, the Company has completed all renovations and is currently running final acceptance testing. The Company utilized outside consultants to assist with these corrections at a cost of approximately \$1,900,000 which was 5% below original expectations. The Company believes that with conversion to the new software and with the modifications to existing software, the Year 2000 issue will not pose significant operational problems for its IT systems.

The Company also has identified and will have replaced all non-IT systems that have Year 2000 issues by the end of November 1999. The cost to replace non-IT systems is not material. In addition, the Company has contacted all critical vendors to obtain status on their Year 2000 issues, and is presently following up as needed. The Company currently is contacting all major customers to develop contingency plans with them as required. To date, none of the contingency plans have a material impact on the Company.

The worst case scenario of the Company, its vendors, or its customers not being fully Year 2000 compliant include temporary plant closings, delays in delivery of finished goods or receipt of raw materials, invoice and collection errors, and possible inventory and supply obsolescence. Should these events occur, the impact on the Company's results of operations, financial condition, and cash flows could be material. The Company believes that its approach to the Year 2000 issue should reduce the likelihood of any such disruptions and should help to minimize the adverse effects if they do occur. As developed, contingency plans and related cost estimates will be continually updated as additional information becomes available.

The costs of the ITR project, the date on which the Company believes it will complete the Year 2000 modifications, and the statements with regard to the potential effect of the Year 2000 issue on the Company's operations and financial condition are based on management's best estimates, which were derived utilizing numerous assumptions of future events, including the continued availability of certain resources and other factors. However, there can be no

guarantee that these estimates will be achieved and actual results could differ materially from those anticipated. Specific factors that might cause such material differences include, but are not limited to, the availability and cost of personnel trained in this area, the ability to locate and correct all relevant computer codes, and similar uncertainties.

Recently Issued Accounting Standards

In 1998, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities (SFAS 133). SFAS 133 changes the accounting related to derivative instruments. Currently, the Company does not have significant participation in derivative instruments. Although the Company has not yet completed its evaluation of the potential impact of adopting SFAS 133 on future earnings, it does not expect the impact to be material. The Company is required to adopt this statement in fiscal 2002.

Certain Forward-Looking Statements

This quarterly report includes certain forward-looking statements that

are based on current expectations and are subject to a number of risks and uncertainties. Actual results may differ depending on a number of factors including: the success of the Company's marketing programs during the year; competitive activity; the mix of products sold and level of marketing expenditures needed to generate sales; an increase in fruit costs or costs of other significant ingredients, including sweeteners; the ability of the Company to maintain and/or improve sales and earnings performance of its nonretail business areas; foreign currency exchange rate and interest rate fluctuations; level of capital resources required for and success of future acquisitions; and the successful implementation of the Company's operational efficiency improvement and overhead reduction plans and its information technology reengineering project and Year 2000 modifications.

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PART II. OTHER INFORMATION

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits

See the Index of Exhibits that appears on Sequential Page No. 12 of this report.

(b) Reports on Form 8-K

No Reports on Form 8-K were required to be filed during the quarter for which this report is filed.

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SIGNATURES

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

September 10, 1999

THE J. M. SMUCKER COMPANY

/s/ Steven J. Ellcessor

BY STEVEN J. ELLCESSOR

Vice President-Finance and Administration,
Secretary, and General Counsel

/s/ Richard K. Smucker

AND RICHARD K. SMUCKER
President

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INDEX OF EXHIBITS

That are filed with the Commission and
The New York Stock Exchange

<TABLE>

<CAPTION>

Assigned Exhibit No. *	Description	Sequential Page No.
<S>	<C>	<C>
10 (a)	Top Management Supplemental Retirement Benefit Plan (May 1, 1999 Restatement)	
10 (b)	Note Purchase Agreement (Dated as of June 16, 1999)	
27	Financial data schedules pursuant to Article 5 in Regulation S-X.	

</TABLE>

* Exhibits 2, 3, 4, 11, 15, 18, 19, 22, 23, 24, and 99 are either inapplicable
to the Company or require no answer.

THE J. M. SMUCKER COMPANY
 TOP MANAGEMENT SUPPLEMENTAL
 RETIREMENT BENEFIT PLAN
 (MAY 1, 1999 RESTATEMENT)

THE J. M. SMUCKER COMPANY
 TOP MANAGEMENT SUPPLEMENTAL
 RETIREMENT BENEFIT PLAN
 (MAY 1, 1999 RESTATEMENT)

The J. M. Smucker Company Top Management Supplemental Retirement Benefit Plan established effective January 1, 1985, as amended and restated effective May 1, 1994, for the purpose of supplementing the retirement benefits of certain officers and other key management employees of The J. M. Smucker Company and its subsidiaries who are selected to participate in the Plan, is hereby again amended and restated in its entirety, effective May 1, 1999, for individuals who retire, die or enter into pay status on or after August 1, 1998. Benefit payments under this Plan for individuals who retire, die or enter into pay status on or after August 1, 1998 shall be increased to reflect the benefit changes made by this plan restatement beginning with the calendar month following the date on which the individual retired, died or entered into pay status.

ARTICLE I

DEFINITIONS

For the purposes hereof, the following words and phrases shall have the meanings indicated:

1.1 The "Plan" means the supplemental retirement benefit plan as set forth herein, together with all amendments thereto, which Plan shall be called

"The J. M. Smucker Company Top Management Supplemental Retirement Benefit Plan."

1.2 The "Company" means The J. M. Smucker Company, an Ohio corporation, its corporate successors, and the surviving corporation resulting from any merger or consolidation of The J. M. Smucker Company with any other corporation or corporations.

1.3 A "Subsidiary" means any corporation 50% or more of the issued and outstanding voting stock of which is owned or controlled by the Company, directly or indirectly.

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1.4 An "Employer" means the Company and any Subsidiary.

1.5 A "Participant" means a key executive of the Company or of a Subsidiary who is selected from time to time by the board of directors to participate in the Plan. A Participant's selection and approval to participate in the Plan shall be evidenced in writing in the form of a contract between the Participant and the Company.

1.6 The "Retirement Plan" means The J. M. Smucker Company Employees' Retirement Plan.

1.7 The "Final Average Monthly Salary" of a Participant means the Participant's "average monthly base compensation" under the Retirement Plan but determined using the highest aggregate base compensation, management bonuses and Christmas bonuses received by the Participant during any 60 consecutive full calendar months of employment prior to the earlier of his retirement or other termination of employment or the date of any termination of the Retirement Plan. Except as provided below, for purposes of calculating Final Average Monthly Salary, any bonus earned by a Participant during a fiscal year of the Company shall be treated as having been paid to the Participant on the last day of the fiscal year to which such bonus relates, rather than on the later date of actual payment to the Participant. Only five (5) consecutive years' bonuses will be taken into consideration in determining Final Average Monthly Salary. However, any bonus paid to a Participant after his termination of employment will be included in determining Final Average Monthly Salary only if such inclusion serves to increase his Final Average Monthly Salary; if inclusion of such bonus would cause his Final Average Monthly Salary to decrease, then such bonus shall be disregarded and an earlier year's bonus used in selecting the five (5) consecutive years' bonuses to be taken into consideration.

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1.8 A Participant's "Normal Retirement Date" means the date on which he attains age 65.

1.9 The "Social Security Offset Amount" of a Participant means his estimated monthly Primary Insurance Amount under the federal Social Security Act as in effect on the day immediately preceding the earlier of his retirement or other termination of employment or any termination of the Plan; moreover, if such event occurs before the Participant attains age 62, his estimated monthly Primary Insurance Amount shall be equal to the amount he would receive at age 62 on the assumption that from and after the date of his retirement or termination the Participant will receive no further compensation which is treated as wages for purposes of the Act. Provided, however, if an Employee previously had retired due to permanent and total disability and was entitled to receive long-term disability benefits under any plan maintained by an Employer, computation of his monthly Primary Insurance Amount upon subsequent retirement under the Plan shall be based on the Act in effect on his date of disability retirement. All estimates hereunder shall be made by the Company, upon the advice of an actuary, using standards of uniform and non-discriminatory application.

1.10 A Participant's "Monthly Retirement Benefit" means the amount of monthly benefit to which he is entitled under the terms of this Plan, as determined in accordance with Article II hereof.

1.11 The "Years of Service" of a Participant means the Participant's years of "benefit service" under the Retirement Plan but determined including any periods of employment after his Normal Retirement Date. Years of Service shall include fractional years to the nearest 1/10th year based upon the number of days since the employment anniversary date.

Wherever used herein, the masculine pronoun shall include the feminine, the singular shall include the plural, and the plural shall include the singular.

ARTICLE II

SUPPLEMENTAL RETIREMENT BENEFITS

2.1 NORMAL RETIREMENT. A Participant who retires from employment with his Employer on or after his Normal Retirement Date, or who has left active employment prior to his Normal Retirement Date under conditions of eligibility for a long-term disability benefit under any plan maintained by an Employer and is receiving long-term disability benefits on his Normal Retirement Date, shall be eligible for a normal retirement Monthly Retirement Benefit in an amount equal to:

- (a) two and one-half percent of his Final Average Monthly Salary multiplied by his Years of Service, not to exceed 20 years, plus an additional one percent for each Year of Service after 20 years not to exceed an additional 5 years, less
- (b) 100 percent of his Social Security Offset Amount, less
- (c) the amount of his monthly retirement benefit under the Retirement Plan. In calculating the amount of the offset under this paragraph (c), benefits attributable to Participant contributions under the supplemental portion of the Retirement Plan shall be disregarded. However, benefits attributable to Company contributions under the supplemental portion of the Retirement Plan, which are subject to this offset, shall be calculated as those benefits which the Participant would have been eligible to receive, assuming he had contributed to the supplemental portion of the Retirement Plan for all periods for which he was eligible to contribute, regardless of whether such contributions were actually made or not.

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A normal retirement Monthly Retirement Benefit shall be paid to an eligible Participant commencing as of the first day of the month following the month in which he retires and shall be payable monthly thereafter in accordance with the terms of Section 2.4 or an optional form of benefit elected under Section 2.5.

Notwithstanding the foregoing, a Participant who is still employed by an Employer on the April 1 following the calendar year in which he attains age 70-1/2 shall commence receiving the Monthly Retirement Benefit provided under this Section 2.1 as of April 1 following the calendar year in which he attains age 70-1/2.

2.2 EARLY RETIREMENT. A Participant who retires from employment with his Employer at or after age 55, but prior to his Normal Retirement Date, who has at least ten (10) Years of Service, and who is not eligible for a short or long-term disability benefit under any plan maintained by an Employer, shall be eligible for an early retirement Monthly Retirement Benefit in an amount determined after his early retirement in the same manner as provided for a normal retirement Monthly Retirement Benefit, except that the amount determined in Section 2.1(a) above shall be reduced by one-third of one percent for each full month by which commencement of payment of the benefit precedes the month following the date on which the Participant attains age 62. An early retirement Monthly Retirement Benefit shall be paid to an eligible Participant commencing on or after the first day of the month following the month in which he retires and shall be payable monthly thereafter in accordance with the terms of Section

2.4 or an optional form of benefit elected under Section 2.5.

2.3 TERMINATION OF EMPLOYMENT. The Plan is intended to provide benefits for career employees of an Employer. Therefore, a Participant who terminates his employment with his Employer for any reason other than death and who is not eligible for any retirement benefit under

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the Plan or a short or long-term disability benefit under any plan maintained by an Employer, shall not be eligible for any Monthly Retirement Benefit under the Plan, except that such a Participant, who has at least ten (10) Years of Service, is eligible for a deferred Monthly Retirement Benefit in an amount determined after his termination of employment in the same manner as provided for an early retirement Monthly Retirement Benefit. A deferred Monthly Retirement Benefit shall be paid to an eligible Participant commencing on or after the first day of the month following the month in which he attains age 55 and shall be payable monthly thereafter in accordance with the terms of Section 2.4 or an optional form of benefit elected under Section 2.5.

2.4 NORMAL FORM OF PAYMENT.

(A) A Participant who becomes eligible to receive a Monthly Retirement Benefit and who is married at the time payment of his Monthly Retirement Benefit commences shall receive payment of such benefit in the form of a qualified joint and survivor annuity that in the event of the Participant's death would provide a benefit to the Participant's surviving spouse equal to 50 percent of the benefit the Participant was receiving at the time of his death unless an optional form of payment is elected under Section 2.5 of this Plan. To receive a benefit under the qualified joint and survivor form of payment, a Participant's surviving spouse must be the same spouse to whom the Participant was married at the time payment of his Monthly Retirement Benefit commenced.

The present value of the qualified joint and survivor annuity payable to a Participant hereunder shall be the actuarial equivalent of the present value of the benefit otherwise payable to him under the Plan.

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(B) A Participant who becomes eligible to receive a Monthly Retirement Benefit and who is unmarried at the time payment of his

Monthly Retirement Benefit commences shall receive payment of such benefit in the form of a single life annuity unless an optional form of payment is elected under Section 2.5 of this Plan. Such Participant shall receive an unreduced Monthly Retirement Benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs.

2.5 OPTIONAL FORMS OF PAYMENT.

An unmarried Participant or a married Participant who has obtained spousal consent as required and set forth under the provisions of the Retirement Plan may elect to receive his supplemental retirement benefit under one of the following optional forms of payment:

(A) OPTION A - 100% JOINT AND SURVIVOR ANNUITY. The retired Participant shall receive a reduced Monthly Retirement Benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's beneficiary survives him, then commencing with the month following the month in which his death occurs, his beneficiary shall receive a continuing monthly benefit equal to such reduced amount for such beneficiary's lifetime, the last monthly payment being for the month in which the death of the beneficiary occurs.

(B) OPTION B - 50% JOINT AND SURVIVOR ANNUITY. The retired Participant shall receive a reduced Monthly Retirement Benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's beneficiary survives him, then commencing with the month following the month in which his death occurs, his beneficiary shall receive a continuing monthly benefit equal to one-half of such reduced amount

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for such beneficiary's lifetime, the last monthly payment being for the month in which the death of the beneficiary occurs.

(C) OPTION C - 66 2/3% JOINT AND SURVIVOR ANNUITY. The retired Participant shall receive a reduced Monthly Retirement Benefit payable for his lifetime, the last monthly payment being for the month in which his death occurs. If the Participant's beneficiary survives him, then commencing with the month following the month in which his death occurs, his beneficiary shall receive a continuing monthly benefit equal to two-thirds of such reduced amount for such beneficiary's lifetime, the last monthly payment being for the month in which the death of the beneficiary occurs.

(D) OPTION D - TEN-YEAR CERTAIN AND LIFE ANNUITY. The retired

Participant shall receive a reduced Monthly Retirement Benefit payable for his lifetime, with the continuance after his death to the beneficiary or beneficiaries designated by him of a monthly benefit equal to such reduced amount for the remainder, if any, of the ten-year term commencing with the retired Participant's beginning payment date. If any monthly benefit payments remain unpaid upon the death of the survivor of the Participant and his beneficiary, the remaining payments shall be made to the estate of such survivor.

If the retired Participant's beneficiary under an optional form of payment is his spouse, spousal consent shall only be required in the case of Option D above, and not for Options A, B or C.

A Participant's beneficiary may be any person or persons selected by such Participant with his spouse's consent. The reduced monthly payments to be made to a retired Participant under an optional form of payment shall be in an amount which, on the date of commencement thereof, is the actuarial equivalent of the monthly benefit otherwise payable to the Participant under the Plan in lieu of which the option was elected, taking into account the age of the Participant and the age of his beneficiary.

ARTICLE III

SURVIVOR BENEFITS

3.1 If a Participant who has at least five (5) Years of Service should die after his retirement or termination of employment but prior to the commencement of benefit payments under the Plan, and if the Participant had a surviving spouse as defined in the Retirement Plan, the surviving spouse shall be eligible for payments as if the Participant had effectively elected the 50 percent joint and survivor option described under the Retirement Plan and designated his spouse as his beneficiary.

3.2 If a Participant who has at least five (5) Years of Service should die prior to retirement or termination of employment, and if the Participant had a surviving spouse as defined in the Retirement Plan, the surviving spouse shall be eligible for payments as if the Participant had retired or terminated on the day before his death.

3.3 If a Participant had ten (10) or more Years of Service on his date of death, his survivor benefit under this Article III shall commence on or after the later of the month next following his date of death or the month next following the date on which he would have attained age fifty-five (55). If a Participant had at least five (5) but less than ten (10) Years of Service on his

date of death, his survivor benefit under this Article III shall commence on the later of the month next following his date of death or the month next following the date on which he would have attained age sixty-five (65).

ARTICLE IV

SPECIAL CREDITING

4.1 Employees who are Participants under the Plan as of its effective date of January 1, 1985 automatically will be credited with twenty (20) Years of Service or their actual number of

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Years of Service, whichever is greater, as of the date of their retirement or termination of employment.

ARTICLE V

ADMINISTRATION

5.1 The Company shall be responsible for the administration of the Plan. The Company shall have all such powers as may be necessary to carry out the Plan, including the power to determine all questions relating to eligibility for and the amount of any benefit and all questions pertaining to claims for benefits and procedures for claim review; to resolve all other questions arising under the Plan, including any questions of construction; and to take such further action as the Company shall deem advisable in the administration of the Plan. The actions taken and the decisions made by the Company hereunder shall be final and binding upon all interested parties.

ARTICLE VI

FUNDING

6.1 Benefits under the Plan shall be paid out of the general assets of the Employers including any trust or fund created for that purpose.

ARTICLE VII

7.1 The Company reserves the right to amend or terminate the Plan at any time by action of its board of directors. Notwithstanding any such action, the Company shall be obligated to pay any benefits already accrued to any Participant under the Plan at the date of amendment or termination of the Plan and to continue making payments in the amounts determined to any retired Participant or his beneficiary, and shall be obligated to pay benefits in amounts not less than the

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benefits to which a Participant or his beneficiary would be entitled hereunder upon retirement, death or other termination of employment at the time of such amendment or termination. If a trust is being used to fund assets under the Plan and the Plan is terminated, any excess assets remaining in the trust after the full value of benefits already accrued to Participants under the Plan has been paid to such Participants or their beneficiaries shall revert to the Company.

ARTICLE VIII

MISCELLANEOUS

8.1 NON-ALIENATION OF RETIREMENT RIGHTS OR BENEFITS. Neither the Participant nor any beneficiary shall encumber or dispose of his right to receive any payments hereunder, which payments or the right thereto are expressly declared to be non-assignable and non-transferable. Any payment which the Company is required to make hereunder may be made, in the discretion of the Company, directly to the Participant or beneficiary or to any other person for the use or benefit of such Participant or beneficiary or that of his dependents, if any, including any person furnishing goods or services to or for the use or benefit of such Participant or beneficiary or that of his dependents, if any. Each such payment may be made without the intervention of a guardian. Any receipt by the payee shall constitute a complete acquittance to the Company with respect thereto, and the Company shall have no responsibility for the proper application thereof.

8.2 NO EMPLOYMENT GUARANTEED. Nothing herein contained shall be construed as a commitment or agreement on the part of any person employed by the Company or any Subsidiary to continue his employment with the Company or any Subsidiary, and nothing herein contained shall be construed as a commitment on the part of the Company or any Subsidiary to continue the employment or the annual salary rate of any such person for any period, and all Participants shall remain subject to discharge to the same extent as if the Plan was never put into effect.

8.3 INTEREST OF PARTICIPANT. The obligation of the Company under the Plan to provide the Participant with benefits hereunder merely constitutes the unsecured promise of the Company to make payments as provided herein, and the Participant shall have no interest in, and no lien or prior claim upon, any property of the Company or of any Subsidiary.

8.4 CLAIMS OF OTHER PERSONS. The provisions of the Plan shall in no event be construed as giving any person, firm or corporation, any legal or equitable rights as against the Company, its officers, employees, or directors, except any such rights as are specifically provided for in the Plan or are hereafter created in accordance with the terms of the Plan.

8.5 NO COMPETITION. The right of any Participant, surviving spouse, or other beneficiary to a supplemental retirement benefit under the Plan will be terminated, or, if payment thereof has begun, all further payments will be discontinued and forfeited, in the event the Participant (i) at any time wrongfully discloses any secret process or trade secret of the Company or any of its Subsidiaries, or (ii) engages, either directly or indirectly, as an officer, trustee, employee, consultant, partner, or substantial shareholder, on his own account or in any other capacity, in a business venture within the ten-year period following his retirement or termination of employment that the Company's board of directors reasonably determines to be competitive with the Company to a degree materially contrary to the Company's best interest.

8.6 SEVERABILITY. The invalidity or unenforceability of any particular provision of the Plan shall not affect any other provision hereof, and the Plan shall be construed in all respects as if such invalid or unenforceable provision were omitted herefrom.

8.7 GOVERNING LAW. The Plan shall be governed by and construed in accordance with the laws of the State of Ohio.

8.8 SUCCESSORS AND ASSIGNS. The Plan and the obligations created hereunder shall be binding upon the Company and its successors and assigns.

8.9 DISHONEST CONDUCT OF A PARTICIPANT. Notwithstanding anything to the contrary contained in the Plan, if a Participant's employment with an Employer is terminated because the Company determines the Participant (i) engaged in

dishonest or fraudulent acts against an Employer, (ii) willfully injured property of an Employer, (iii) conspired against an Employer, or (iv) disclosed confidential information concerning an Employer, then no supplemental retirement benefit shall be payable to the Participant or his surviving spouse under the Plan.

EXECUTED at Orrville, Ohio, this 6th day of July, 1999.

THE J. M. SMUCKER COMPANY

/s/ Richard K. Smucker

By: Richard K. Smucker
President

/s/ Philip P. Yuschak

By: Philip P. Yuschak
Treasurer

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

DATED AS OF JUNE 16, 1999

\$75,000,000
6.77% SENIOR NOTES DUE JUNE 1, 2009

[THE HOLDERS OF THE NOTES ISSUED PURSUANT TO THIS AGREEMENT HAVE BEEN REQUESTED, AS A CURTESY, BUT SHALL HAVE NO OBLIGATION UNDER THIS AGREEMENT, TO PROVIDE THE COMPANY WITH NOTICE OF THEIR DISCLOSURE OF "CONFIDENTIAL INFORMATION" (AS

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EXHIBIT 5.13	--	Form of Offeree Letter

THE J.M. SMUCKER COMPANY
STRAWBERRY LANE
ORRVILLE, OHIO 44667

\$75,000,000
6.77% SENIOR NOTES DUE JUNE 1, 2009

Dated as of June 16, 1999

To Each of the Purchasers Listed in
the Attached Schedule A:

Ladies and Gentlemen:

THE J.M. SMUCKER COMPANY, an Ohio corporation (the "COMPANY"), agrees with you as follows:

1. AUTHORIZATION OF NOTES

The Company will authorize the issue and sale of \$75,000,000 aggregate principal amount of its 6.77% Senior Notes due June 1, 2009 (the "NOTES", such term to include any such notes issued in substitution therefor pursuant to Section 13 of this Agreement or the Other Agreements (as hereinafter defined)). The Notes shall be substantially in the form set out in Exhibit 1, with such changes therefrom, if any, as may be approved by you and the Company. Certain capitalized terms used in this Agreement are defined in Schedule B; references to a "Schedule" or an "Exhibit" are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

2. SALE AND PURCHASE OF NOTES

Subject to the terms and conditions of this Agreement, the Company will issue and sell to you and you will purchase from the Company, at the Closing provided for in Section 3, Notes in the principal amount specified opposite your name in Schedule A at the purchase price of 100% of the principal amount thereof. Contemporaneously with entering into this Agreement, the Company is entering into separate Note Purchase Agreements (the "OTHER AGREEMENTS")

identical with this Agreement with each of the other purchasers named in Schedule A (the "OTHER PURCHASERS"), providing for the sale at such Closing to each of the Other Purchasers of Notes in the principal amount specified opposite its name in Schedule A. Your obligation hereunder and the obligations of the Other Purchasers under the Other Agreements are several and not joint obligations and you shall have no obligation under any Other Agreement and no liability to any Person for the performance or non-performance by any Other Purchaser thereunder.

3. CLOSING

The sale and purchase of the Notes to be purchased by you and the Other Purchasers shall occur at the offices of Hebb & Gitlin, One State Street, Hartford, Connecticut 06103, at 10:00 a.m., local time, at a closing (the "CLOSING") on June 18, 1999 or on such other Business Day thereafter on or prior to June 21, 1999 as may be agreed upon by the Company and you and the Other Purchasers. At the Closing the Company

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

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will deliver to you the Notes to be purchased by you in the form of a single Note (or such greater number of Notes in denominations of at least \$100,000 as you may request) dated the date of the Closing and registered in your name (or in the name of your nominee), against delivery by you to the Company or its order of immediately available funds in the amount of the purchase price therefor by wire transfer of immediately available funds for the account of the Company to account number 2037464 at National City Bank, Cleveland, Ohio, ABA number 041000124, Attn: The J.M. Smucker Company. If at the Closing the Company shall fail to tender such Notes to you as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to your satisfaction, you shall, at your election, be relieved of all further obligations under this Agreement, without thereby waiving any rights you may have by reason of such failure or such nonfulfillment.

4. CONDITIONS TO CLOSING

Your obligation to purchase and pay for the Notes to be sold to you at the Closing is subject to the fulfillment to your reasonable satisfaction, prior to or at the Closing, of the following conditions:

4.1 REPRESENTATIONS AND WARRANTIES.

The representations and warranties of the Company in this Agreement shall be correct when made and at the time of the Closing.

4.2 PERFORMANCE; NO DEFAULT.

The Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or at the Closing and after giving effect to the issue and sale of the Notes (and the application of the proceeds thereof as contemplated by Schedule 5.14) no Default or Event of Default shall have occurred and be continuing.

4.3 COMPLIANCE CERTIFICATES.

(a) OFFICER'S CERTIFICATE. The Company shall have delivered to you an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in Sections 4.1, 4.2 and 4.9 have been fulfilled.

(b) SECRETARY'S CERTIFICATE. The Company shall have delivered to you a certificate certifying as to the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Notes, this Agreement and the Other Agreements.

4.4 OPINIONS OF COUNSEL.

You shall have received opinions in form and substance satisfactory to you, dated the date of the Closing from

(a) Steven J. Ellcessor, General Counsel of the Company, in the form set forth in Exhibit 4.4(a) (and the Company hereby instructs its counsel to deliver such opinion to you), and

(b) Hebb & Gitlin, your special counsel in connection with such transactions, in the form set forth in Exhibit 4.4(b).

4.5 PURCHASE PERMITTED BY APPLICABLE LAW, ETC.

On the date of the Closing your purchase of Notes shall (i) be permitted by the laws and regulations of each jurisdiction to which you are

subject, without recourse to provisions (such as Section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (ii) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (iii) not subject you to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. If requested by you, you shall have received an Officer's Certificate certifying as to such matters of fact as you may reasonably specify to enable you to determine whether such purchase is so permitted.

4.6 SALE OF OTHER NOTES.

Contemporaneously with the Closing the Company shall sell to the Other Purchasers and the Other Purchasers shall purchase the Notes to be purchased by them at the Closing as specified in Schedule A.

4.7 PAYMENT OF SPECIAL COUNSEL FEES.

Without limiting the provisions of Section 15.1, the Company shall have paid on or before the Closing the reasonable fees, charges and disbursements of Hebb & Gitlin, your special counsel referred to in Section 4.4, to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to the Closing, which statement will include all accrued fees and disbursements of such counsel, together with an estimate for the additional fees and disbursements of such counsel necessary to complete the Closing and all post-closing matters relating thereto (including, without limitation, preparation of closing files).

4.8 PRIVATE PLACEMENT NUMBER.

A Private Placement number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the Securities Valuation Office of the National Association of Insurance Commissioners) shall have been obtained by the Company for the Notes.

4.9 CHANGES IN CORPORATE STRUCTURE.

Except as specified in Schedule 4.9, the Company shall not have changed its jurisdiction of incorporation or been a party to any merger or consolidation and shall not have succeeded to all or any substantial part of the liabilities of any other entity, at any time following the date of the most recent financial statements referred to in Schedule 5.5.

4.10 PROCEEDINGS AND DOCUMENTS.

All corporate and other proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be satisfactory to you and your special counsel, and you and your special counsel shall have received all such counterpart originals or certified or other copies of such documents as you or they may reasonably request.

5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to you that:

5.1 ORGANIZATION; POWER AND AUTHORITY.

The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, to execute and deliver this Agreement and the Other Agreements and the Notes and to perform the provisions hereof and thereof.

5.2 AUTHORIZATION, ETC.

This Agreement and the Other Agreements and the Notes have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement constitutes, and upon execution and delivery thereof each Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

5.3 DISCLOSURE.

The Company, through its agent, William Blair & Company, has delivered to you and each Other Purchaser a copy of a Private Placement Memorandum, dated

May, 1999 (the "MEMORANDUM"), relating to the transactions contemplated hereby. Except as disclosed in Schedule 5.3, this Agreement, the Memorandum, the documents, certificates or other writings identified in Schedule 5.3 and the financial statements listed in Schedule 5.5, taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made. Except as disclosed in the Memorandum or as expressly described in Schedule 5.3, or in one of the documents, certificates or other writings identified therein, or in the financial statements listed in Schedule 5.5, since April 30, 1998, there has been no change in the financial condition, operations, business or properties of the Company or any of its Subsidiaries except changes that individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect.

5.4 ORGANIZATION AND OWNERSHIP OF SHARES OF SUBSIDIARIES.

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

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(a) Schedule 5.4 is (except as noted therein) a complete and correct list of the Company's Subsidiaries, showing, as to each Subsidiary, the correct name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 5.4 as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or another Subsidiary free and clear of any Lien (except as otherwise disclosed in Schedule 5.4).

(c) Each Subsidiary identified in Schedule 5.4 is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign corporation or other legal entity and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not,

individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact.

5.5 FINANCIAL STATEMENTS.

The Company has delivered to each Purchaser copies of the financial statements of the Company and its Subsidiaries listed on Schedule 5.5. All of said financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and its Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments).

5.6 COMPLIANCE WITH LAWS, OTHER INSTRUMENTS, ETC.

The execution, delivery and performance by the Company of this Agreement and the Notes will not

(a) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, or any other Material agreement or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected,

(b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary or

(c) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary.

5.7 GOVERNMENTAL AUTHORIZATIONS, ETC.

Except for regular and routine filings with the Securities and Exchange Commission, no consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company of this Agreement or the Notes.

5.8 LITIGATION; OBSERVANCE OF STATUTES AND ORDERS.

(a) Except as disclosed in Schedule 5.8, there are no actions, suits or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Subsidiary is in default under any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including without limitation Environmental Laws) of any Governmental Authority, which default or violation, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

5.9 TAXES.

The Company and its Subsidiaries have filed all income tax returns that are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments payable by them, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which is not individually or in the aggregate Material or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The federal income tax liabilities of the Company and its Subsidiaries have been determined by the Internal Revenue Service and paid for all fiscal years up to and including the fiscal year ended April 30, 1994.

5.10 TITLE TO PROPERTY; LEASES.

The Company and its Subsidiaries have good and sufficient title to their respective Material properties, including all such properties reflected in the most recent audited balance sheet referred to in Section 5.5 or purported to

have been acquired by the Company or any Subsidiary after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement, except for those defects in title and Liens that, individually or in the aggregate, would not have a Material Adverse Effect. All Material leases are valid and subsisting and are in full force and effect in all material respects.

5.11 LICENSES, PERMITS, ETC.

Except as disclosed in Schedule 5.11, the Company and its Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, service marks, trademarks and trade names, or rights thereto, that are Material, without known conflict with the rights of others, except for those conflicts that, individually or in the aggregate, would not have a Material Adverse Effect.

5.12 COMPLIANCE WITH ERISA.

THE J.M. SMUCKER COMPANY

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(a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and could not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans (as defined in section 3 of ERISA), and no event, transaction or condition has occurred or exists that would reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to such penalty or excise tax provisions or to section 401(a)(29) or 412 of the Code, other than such liabilities or Liens as would not be individually or in the aggregate Material.

(b) The present value of the aggregate benefit liabilities under each of the Plans (other than Multiemployer Plans), determined as of the end of such Plan's most recently ended plan year on the basis of the actuarial assumptions specified for funding purposes in such Plan's most recent actuarial valuation report, did not exceed the aggregate current value of the assets of such Plan allocable to such benefit liabilities. The term "BENEFIT LIABILITIES" has the meaning specified

in section 4001 of ERISA and the terms "CURRENT VALUE" and "PRESENT VALUE" have the meaning specified in section 3 of ERISA.

(c) The Company and its ERISA Affiliates have not incurred withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that individually or in the aggregate are Material.

(d) The expected postretirement benefit obligation (determined as of the last day of the Company's most recently ended fiscal year in accordance with Financial Accounting Standards Board Statement No. 106, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries is, as of April 30, 1999, \$12,775,000.

(e) The execution and delivery of this Agreement and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975(c)(1)(A)-(D) of the Code. The representation by the Company in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of your representation in Section 6.2 as to the Sources to be used to pay the purchase price of the Notes to be purchased by you.

5.13 PRIVATE OFFERING BY THE COMPANY.

Neither the Company nor, based solely on the letter of William Blair & Company attached hereto as Exhibit 5.13 (the "OFFEREE LETTER"), any Person acting on its behalf, has offered the Notes or any similar Securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than you, the Other Purchasers and not more than 75 other Institutional Investors, each of which has been offered the Notes at a private sale for investment. Neither the Company nor, based solely on the Offeree Letter, any Person acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of Section 5 of the Securities Act. William Blair & Company is the only Person the Company has authorized to act on its behalf in connection with the matters referred to in this Section 5.13.

5.14 USE OF PROCEEDS; MARGIN REGULATIONS.

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The Company will apply the proceeds of the sale of the Notes as set forth in Schedule 5.14. No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 1% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 1% of the value of such assets. As used in this Section, the terms "MARGIN STOCK" and "PURPOSE OF BUYING OR CARRYING" shall have the meanings assigned to them in said Regulation U.

5.15 EXISTING INDEBTEDNESS.

Except as described therein, Schedule 5.15 sets forth a complete and correct list of all outstanding Indebtedness of the Company and its Subsidiaries as of April 30, 1999, since which date there has been no Material change in the amounts, interest rates, sinking funds, installment payments or maturities of the Indebtedness of the Company or its Subsidiaries. Neither the Company nor any Subsidiary is in default and no waiver of default is currently in effect, in the payment of any principal or interest on any Indebtedness of the Company or such Subsidiary and no event or condition exists with respect to any Indebtedness of the Company or any Subsidiary the outstanding principal amount of which exceeds \$15,000,000 that would permit (or that with notice or the lapse of time, or both, would permit) one or more Persons to cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

5.16 FOREIGN ASSETS CONTROL REGULATIONS, ETC.

Neither the sale of the Notes by the Company hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

5.17 STATUS UNDER CERTAIN STATUTES.

Neither the Company nor any Subsidiary is subject to regulation under the Investment Company Act of 1940, as amended, the Public Utility Holding Company Act of 1935, as amended, the Transportation Acts, as amended, or the Federal Power Act, as amended.

5.18 YEAR 2000 COMPLIANT.

The Company began implementation of an information technology re-engineering program approximately 18 months ago, which will result in the upgrade and replacement of the Company's computer systems and a full study of

the Company's potential Year 2000 issues. The Company has contacted its critical vendors and major customers to obtain their status on their Year 2000 issues, and at this time is not aware of any Year 2000 issues affecting such vendors and customers which could reasonably be expected to have a Material Adverse Effect. The Company is confident that its information technology program will ensure that its systems will be Year 2000 Compliant and will not produce any logical or arithmetic inconsistencies as the years changes from 1999 to 2000, which inconsistencies could have a Material Adverse Effect. In accordance with section 7(b) of the Year 2000 Information and Readiness Disclosure Act, 15 USC sec.1, the Company designates the statement made in this Section 5.18 as its "Year 2000 Readiness Disclosure." The Company

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has complied in all material respects with the disclosure requirements of Interpretation: Disclosure of Year 2000 Issues and Consequences by Public Companies, Investment Advisors, Investment Companies, and Municipal Securities Issuers, SEC Concept Release Nos. 33-7558; 34-40277; IA-1738; International Series No. 1149 (<<http://www.sec.gov/rules/concept/33-7558.htm>>).

6. REPRESENTATIONS OF THE PURCHASER

6.1 PURCHASE FOR INVESTMENT.

You represent that you are purchasing the Notes for your own account or for one or more separate accounts maintained by you or for the account of one or more pension or trust funds and not with a view to the distribution thereof, provided that the disposition of your or their property shall at all times be within your or their control. You understand that the Notes have not been registered under the Securities Act and that the Company is not required to register the Notes. You represent and agree that you will not resell any Notes unless such Notes are registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law. By the resale of any Note, the seller thereof, and by the acceptance of any Note, the purchaser thereof, shall be deemed to have represented to the Company that such Note has not been sold in violation of the Securities Act.

6.2 SOURCE OF FUNDS.

You represent that at least one of the following statements is an

accurate representation as to each source of funds (a "SOURCE") to be used by you to pay the purchase price of the Notes to be purchased by you hereunder:

(a) INSURANCE COMPANY GENERAL ACCOUNT -- the Source is an "insurance company general account" as defined in PTE 95-60 (60 FR 35925, July 12, 1995) and in respect thereof you represent that there is no "employee benefit plan" (as defined in section 3(3) of ERISA and section 4975(e)(1) of the Code, treating as a single plan all plans maintained by the same employer (and affiliates thereof as defined in section V(a)(1) of PTE 95-60) or employee organization or affiliate thereof) with respect to which the amount of the general account reserves and liabilities of all contracts held by or on behalf of such plan exceeds 10% of the total reserves and liabilities of such general account as determined under PTE 95-60 (exclusive of separate account liabilities) plus surplus, as set forth in the National Association of Insurance Commissioners' Annual Statement filed with your state of domicile and that such acquisition is eligible for and satisfies the other requirements of such exemption; or

(b) SEPARATE ACCOUNT -- the Source is a separate account:

(i) 10% POOLED SEPARATE ACCOUNT -- that is an insurance company pooled separate account, within the meaning of DOL Prohibited Transaction Class Exemption 90-1 (issued January 29, 1990), and to the extent that there is any employee benefit plan, or group of plans maintained by the same employer or employee organization, whose assets in such separate account exceed ten percent (10%) of the assets of such separate account, you have disclosed the names of such plans to the Company in writing; or

(ii) IDENTIFIED PLAN ASSETS -- that is comprised of employee benefit plans identified by you in writing and with respect to which the Company hereby warrants and

represents that, as of the date of Closing, neither the Company nor any ERISA Affiliate is a "party in interest" (as defined in section 3 of ERISA) or a "disqualified person" (as defined in section 4975 of the Code) with respect to any plan so identified; or

(iii) GUARANTIED SEPARATE ACCOUNT -- that is maintained solely in connection with fixed contractual obligations of an insurance company, under which any amounts payable, or credited, to any employee benefit plan having an interest in such account and to any participant or beneficiary of such plan (including an annuitant) are not affected in any manner by the investment performance of the separate account (as provided by 29 CFR sections.2510.3-101(h)(1)(iii)); or

(c) QPAM FUNDS -- the Source constitutes assets of an "investment fund" (within the meaning of part V of PTE 84-14 (the "QPAM EXEMPTION")) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of part V of the QPAM Exemption), no employee benefit plan's assets that are included in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of section V(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, exceed twenty percent (20%) of the total client assets managed by such QPAM, the conditions of part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM (applying the definition of "control" in section V(e) of the QPAM Exemption) owns a five percent (5%) or more interest in the Company and:

(i) the identity of such QPAM and

(ii) the names of all employee benefit plans whose assets are included in such investment fund;

have been disclosed to the Company in writing pursuant to this Section 6.2(c); or

(d) GOVERNMENTAL PLANS -- the Source is a governmental plan; or

(e) IDENTIFIED PLANS OR FUNDS -- the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this Section 6.2(e); or

(f) EXEMPT PLANS -- the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.2, the terms "EMPLOYEE BENEFIT PLAN", "GOVERNMENTAL PLAN" and "SEPARATE ACCOUNT" shall have the respective meanings assigned to such terms in section 3 of ERISA.

You represent that this Agreement has been duly authorized by all necessary corporate action on your part, and that this Agreement constitutes a legal, valid and binding obligation upon you in accordance with its terms, except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether considered in a proceeding in equity or at law).

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7. INFORMATION AS TO COMPANY

7.1 FINANCIAL AND BUSINESS INFORMATION.

The Company shall deliver to each holder of Notes that is an Institutional Investor:

(a) QUARTERLY STATEMENTS -- within 90 days after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(i) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(ii) consolidated statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments, provided that delivery within the time period specified above of copies of the Company's Quarterly Report on Form 10-Q prepared in compliance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 7.1(a);

(b) ANNUAL STATEMENTS -- within 120 days after the end of each fiscal year of the Company, duplicate copies of,

(i) a consolidated balance sheet of the Company and its Subsidiaries, as at the end of such year, and

(ii) consolidated statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, provided that the delivery within the time period specified above of the Company's Annual Report on Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 7.1(b);

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(c) SEC AND OTHER REPORTS -- promptly upon their becoming available, one copy of (i) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to public securities holders generally, and (ii) each regular or periodic report, each registration statement that shall have become effective (without exhibits except as expressly requested by such holder), and each final prospectus and all amendments thereto filed by the Company or any Subsidiary with the Securities and Exchange Commission;

(d) NOTICE OF DEFAULT OR EVENT OF DEFAULT -- promptly, and in any event within five Business Days after a Responsible Officer becoming aware of the existence of any Default or Event of Default, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(e) ERISA MATTERS -- promptly, and in any event within five Business Days after a Responsible Officer becoming aware of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take

with respect thereto:

(i) with respect to any Plan, any reportable event, as defined in section 4043(b) of ERISA and the regulations thereunder (other than a reportable event of a technical and routine nature which occurs as a result of a transaction permitted under Section 10.8(b)), for which notice thereof has not been waived pursuant to such regulations as in effect on the date hereof; or

(ii) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; or

(iii) any event, transaction or condition that could result in the incurrence of any liability by the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such liability or Lien, taken together with any other such liabilities or Liens then existing, would reasonably be expected to have a Material Adverse Effect; and

(f) REQUESTED INFORMATION -- with reasonable promptness and to the extent not prohibited by applicable law, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries or relating to the ability of the Company to perform its obligations hereunder and under the Notes as from time to time may be reasonably requested by any such holder of Notes, including, without limitation, any information required to determine whether the Company and its Subsidiaries are or will be Year 2000 Compliant.

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7.2 OFFICER'S CERTIFICATE.

Each set of financial statements delivered to a holder of Notes pursuant to Section 7.1(a) or Section 7.1(b) hereof shall be accompanied by a certificate of a Senior Financial Officer setting forth:

(a) COVENANT COMPLIANCE -- the information (including detailed calculations) required in order to establish whether the Company was in compliance with the requirements of Section 10.3 through Section 10.9 hereof, inclusive, during the quarterly or annual period covered by the statements then being furnished (including with respect to each such Section, where applicable, the calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Sections, and the calculation of the amount, ratio or percentage then in existence); and

(b) EVENT OF DEFAULT -- a statement that such officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists (including, without limitation, any such event or condition resulting from the failure of the Company or any Subsidiary to comply with any Environmental Law), specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

7.3 INSPECTION.

The Company shall permit the representatives of each holder of Notes that is an Institutional Investor:

(a) NO DEFAULT -- if no Default or Event of Default then exists, at the expense of such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and, with the consent of the Company (which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Subsidiary, all at such reasonable times and as often as may be reasonably requested in writing; and

(b) DEFAULT -- if a Default or Event of Default then exists, at the expense of the Company to visit and inspect any of the offices or properties of the Company or any Subsidiary, to examine all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the

Company and its Subsidiaries), all at such times and as often as may be requested.

8. PREPAYMENT OF THE NOTES

8.1 PAYMENT OF NOTES AT MATURITY.

The entire outstanding principal amount of, and the interest then accrued and unpaid on, the Notes shall be due and payable on June 1, 2009.

8.2 OPTIONAL PREPAYMENTS WITH MAKE-WHOLE AMOUNT.

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The Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of, the Notes, in an amount not less than 5% of the aggregate principal amount of the Notes then outstanding in the case of a partial prepayment, at 100% of the principal amount so prepaid, plus the Make-Whole Amount determined for the prepayment date with respect to such principal amount. The Company will give each holder of Notes written notice of each optional prepayment under this Section 8.2 not less than 30 days and not more than 60 days prior to the date fixed for such prepayment. Each such notice shall specify such date, the aggregate principal amount of the Notes to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.4), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of Notes a certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the specified prepayment date.

8.3 CHANGE IN CONTROL.

(a) NOTICE OF CHANGE IN CONTROL OR CONTROL EVENT. The Company will, within five Business Days after any Responsible Officer has knowledge of the occurrence of any Change in Control or Control Event, give written notice of such Change in Control or Control Event to each holder of Notes unless notice in respect of such Change in Control (or

the Change in Control contemplated by such Control Event) shall have been given pursuant to Section 8.3(b). If a Change in Control has occurred, such notice shall contain and constitute an offer to prepay Notes as described in Section 8.3(c) and shall be accompanied by the certificate described in Section 8.3(g).

(b) CONDITION TO COMPANY ACTION. The Company will not take any action that consummates or finalizes a Change in Control unless

(i) at least 30 days prior to such action it shall have given to each holder of Notes written notice containing and constituting an offer to prepay Notes as described in Section 8.3(c), accompanied by the certificate described in Section 8.3(g), and

(ii) contemporaneously with such action, it prepays all Notes required to be prepaid in accordance with this Section 8.3.

(c) OFFER TO PREPAY NOTES. The offer to prepay Notes contemplated by Section 8.3(a) and Section 8.3(b) shall be an offer to prepay, in accordance with and subject to this Section 8.3, all, but not less than all, the Notes held by each holder (in this case only, "holder" in respect of any Note registered in the name of a nominee for a disclosed beneficial owner shall mean such beneficial owner) on a date specified in such offer (the "PROPOSED PREPAYMENT DATE"). If such Proposed Prepayment Date is in connection with an offer contemplated by Section 8.3(a), such date shall be not less than 30 days and not more than 60 days after the date of such offer (if the Proposed Prepayment Date shall not be specified in such offer, the Proposed Prepayment Date shall be the 30th day after the date of such offer).

(d) ACCEPTANCE. A holder of Notes may accept the offer to prepay made pursuant to this Section 8.3 by causing a notice of such acceptance to be delivered to the Company at least five Business Days prior to the Proposed Prepayment Date. A failure by a holder of Notes to respond to

an offer to prepay made pursuant to this Section 8.3 shall be deemed to constitute an acceptance of such offer by such holder.

(e) PREPAYMENT. Prepayment of the Notes to be prepaid pursuant to this Section 8.3 shall be at 100% of the principal amount of such

Notes, plus the Make-Whole Amount determined for the date of prepayment with respect to such principal amount, together with interest on such Notes accrued to the date of prepayment. On the Business Day preceding the date of prepayment, the Company shall deliver to each holder of Notes being prepaid a statement showing the Make-Whole Amount due in connection with such prepayment and setting forth the details of the computation of such amount. The prepayment shall be made on the Proposed Prepayment Date except as provided in Section 8.3(f).

(f) DEFERRAL OF OBLIGATION TO PURCHASE. The obligation of the Company to prepay Notes pursuant to the offers accepted in accordance with Section 8.3(d) is subject to the occurrence of the Change in Control in respect of which such offers and acceptances shall have been made. In the event that such Change in Control does not occur on the Proposed Prepayment Date in respect thereof, the prepayment shall be deferred until and shall be made on the date on which such Change in Control occurs. The Company shall keep each holder of Notes reasonably and timely informed of

(i) any such deferral of the date of prepayment,

(ii) the date on which such Change in Control and the prepayment are expected to occur, and

(iii) any determination by the Company that efforts to effect such Change in Control have ceased or been abandoned (in which case the offers and acceptances made pursuant to this Section 8.3 in respect of such Change in Control shall be deemed rescinded).

(g) OFFICER'S CERTIFICATE. Each offer to prepay the Notes pursuant to this Section 8.3 shall be accompanied by a certificate, executed by a Senior Financial Officer of the Company and dated the date of such offer, specifying:

(i) the Proposed Prepayment Date;

(ii) that such offer is made pursuant to this Section 8.3;

(iii) the principal amount of each Note offered to be prepaid;

(iv) the last date upon which the offer can be accepted or rejected, and setting forth the consequences of failing to provide an acceptance or rejection, as provided in Section 8.3(d);

(v) the estimated Make-Whole Amount, if any, due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth

the details of such computation;

(vi) the interest that would be due on each Note offered to be prepaid, accrued to the Proposed Prepayment Date;

(vii) that the conditions of this Section 8.3 have been fulfilled; and

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(viii) in reasonable detail, the nature and date or proposed date of the Change in Control.

8.4 ALLOCATION OF PARTIAL PREPAYMENTS.

In the case of each partial prepayment of the Notes, the principal amount of the Notes to be prepaid shall be allocated among all of the Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

8.5 MATURITY; SURRENDER, ETC.

In the case of each prepayment of Notes pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

8.6 PURCHASE OF NOTES.

Except as otherwise provided in this Section 8, the Company will not and will not permit any Affiliate to purchase, redeem, prepay, or otherwise acquire, directly or indirectly, any of the outstanding Notes except pursuant to an offer to purchase (which offer may or may not include the Make-Whole Amount, if any, or any portion thereof) made by the Company or an Affiliate pro rata to the holders of all Notes at the time outstanding upon the same terms and conditions, provided that at the time such offer is made and after giving effect

to such purchase, no Default or Event of Default shall exist. Any such offer shall provide each holder with sufficient information to enable it to make an informed decision with respect to such offer, shall contain a representation by the Company that no Default or Event of Default exists or would exist after giving effect to such proposed purchase of Notes, and shall remain open for at least ten Business Days. If the holders of more than 50% of the principal amount of the Notes then outstanding accept such offer, the Company shall promptly notify the remaining holders of such fact and the expiration date for the acceptance by holders of Notes of such offer shall be extended by the number of days necessary to give each such remaining holder at least ten Business Days from its receipt of such notice to accept such offer. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to any provision of this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

8.7 MAKE-WHOLE AMOUNT.

The term "MAKE-WHOLE AMOUNT" means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal, provided that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

"CALLED PRINCIPAL" means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to the terms hereof or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

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"DISCOUNTED VALUE" means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

"REINVESTMENT YIELD" means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by

(i) the yields reported, as of 10:00 A.M. (New York

City time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as Page "PX1" on the Bloomberg Financial Market Service (or such other display as may replace Page "PX1" on the Bloomberg Financial Market Service) for actively traded U.S. Treasury securities having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or

(ii) if such yields are not reported as of such time or the yields reported as of such time are not ascertainable, the Treasury Constant Maturity Series Yields reported, for the latest day for which such yields have been so reported as of the second Business Day preceding the Settlement Date with respect to such Called Principal, in Federal Reserve Statistical Release H.15 (519) (or any comparable successor publication) for actively traded U.S. Treasury securities having a constant maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date.

Such implied yield will be determined, if necessary, by (a) converting U.S. Treasury bill quotations to bond-equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the actively traded U.S. Treasury security with the duration closest to and greater than the Remaining Average Life and (2) the actively traded U.S. Treasury security with the duration closest to and less than the Remaining Average Life.

"REMAINING AVERAGE LIFE" means, with respect to any Called Principal, the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (b) the number of years (calculated to the nearest one-twelfth year) that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

"REMAINING SCHEDULED PAYMENTS" means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, provided that if such Settlement Date is not a date on which interest payments are due to be made under the terms of the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date.

"SETTLEMENT DATE" means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to the terms hereof or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

9. AFFIRMATIVE COVENANTS

The Company covenants that so long as any of the Notes are outstanding:

9.1 COMPLIANCE WITH LAW.

The Company will and will cause each of its Subsidiaries to comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, Environmental Laws, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

9.2 INSURANCE.

The Company will and will cause each of its Subsidiaries to maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) so that such insurance, taken as a whole, shall be customary for entities of established reputations engaged in the same or a similar business and similarly situated.

9.3 MAINTENANCE OF PROPERTIES.

The Company will and will cause each of its Subsidiaries to maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, provided that this Section shall not prevent the Company or any Subsidiary from discontinuing the operation and the maintenance of any of its

properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance would not, individually or in the aggregate, have a Material Adverse Effect.

9.4 PAYMENT OF TAXES.

The Company will and will cause each of its Subsidiaries to file all income tax or similar tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies payable by any of them, to the extent such taxes and assessments have become due and payable and before they have become delinquent, provided that neither the Company nor any Subsidiary need pay any such tax or assessment if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary or (ii) the nonpayment of all such taxes and assessments in the aggregate would not reasonably be expected to have a Material Adverse Effect.

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9.5 CORPORATE EXISTENCE, ETC.

The Company will at all times preserve and keep in full force and effect its corporate existence. Subject to Sections 10.2 and 10.8, the Company will at all times preserve and keep in full force and effect the corporate existence of each of its Subsidiaries (unless merged into the Company or a Subsidiary) and all rights and franchises of the Company and its Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise would not, individually or in the aggregate, have a Material Adverse Effect.

9.6 PARI PASSU RANKING.

The Notes shall at all times rank pari passu, without preference or priority, with all other outstanding, unsecured, unsubordinated Indebtedness of the Company, present and future, that have not been accorded preferential rights.

9.7 YEAR 2000 COMPLIANT.

The Company and its Subsidiaries' internal computing systems will be Year 2000 Compliant as of January 1, 2000, and the advent of the year 2000 and

its impact on such computer systems shall not have a Material Adverse Effect.

10. NEGATIVE COVENANTS

The Company covenants that so long as any of the Notes are outstanding:

10.1 TRANSACTIONS WITH AFFILIATES.

The Company will not and will not permit any Subsidiary to enter into directly or indirectly any Material transaction or Material group of related transactions (including, without limitation, the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Subsidiary), except pursuant to the reasonable requirements of the Company's or such Subsidiary's business and upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate.

10.2 MERGER, CONSOLIDATION, ETC.

The Company will not consolidate with or merge with any other corporation or convey, transfer or lease substantially all of its assets in a single transaction or series of transactions to any Person unless:

(a) the successor formed by such consolidation or the survivor of such merger or the Person that acquires by conveyance, transfer or lease substantially all of the assets of the Company as an entirety (the "SURVIVOR"), as the case may be, shall be a solvent corporation organized and existing under the laws of the United States, any state thereof or the District of Columbia, and, if the Company is not such corporation, such corporation shall have expressly assumed in writing, pursuant to such agreements and instruments as shall be reasonably satisfactory to the Required Holders, the due and punctual payment of the principal of and Make-Whole Amount, if any, and interest on all of the Notes, according to their tenor, and the due and punctual performance and observance of each

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covenant and condition of this Agreement, the Other Agreements and the Notes to be performed or observed by the Company; and

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing.

No such conveyance, transfer or lease of substantially all of the assets of the

Company shall have the effect of releasing the Company or any successor corporation that shall theretofore have become such in the manner prescribed in this Section 10.2 from its liability under this Agreement or the Notes.

10.3 CONSOLIDATED NET WORTH.

The Company will not, at any time, permit Consolidated Net Worth to be less than Two Hundred Forty Million Dollars (\$240,000,000).

10.4 INCURRENCE OF FUNDED DEBT.

The Company will not, and will not permit any Subsidiary to, directly or indirectly, create, incur, assume, guarantee, or otherwise become directly or indirectly liable with respect to, any Funded Debt, except:

(a) the Notes;

(b) Funded Debt owing to the Company or a Wholly-Owned Subsidiary;

(c) Funded Debt outstanding on the date hereof and disclosed in Schedule 5.15, and any renewals, extensions, and refundings thereof so long as (i) no Default or Event of Default shall exist, and (ii) there is no increase in the aggregate principal amount thereof outstanding, in each case on the date of any such renewal, extension or refunding; and

(d) additional Funded Debt so long as on the date the Company or such Subsidiary becomes liable with respect to any such Funded Debt and immediately after giving effect thereto and the concurrent retirement of any other Funded Debt,

(i) no Default or Event of Default exists,

(ii) the sum of (A) Consolidated Senior Funded Debt, plus (B) the Clean-Down Amount of Consolidated Current Debt, does not exceed 55% of Consolidated Total Capitalization, and

(iii) the sum of (A) Consolidated Funded Debt, plus (B) the Clean-Down Amount of Consolidated Current Debt, does not exceed 65% of Consolidated Total Capitalization.

As used in this Section 10.4, the term "CLEAN-DOWN AMOUNT OF CONSOLIDATED CURRENT DEBT" means, at any date, the lowest average daily amount of Consolidated Current Debt outstanding during any period of thirty (30) consecutive days occurring in the twelve consecutive calendar months most recently ended as of such date (or on such date if such date shall be the last day of a calendar month).

For the purposes of this Section 10.4, any Person becoming a Subsidiary after the date hereof shall be deemed, at the time it becomes a Subsidiary, to

have incurred all of its then outstanding Funded Debt, and

any Person extending, renewing or refunding any Funded Debt shall be deemed to have incurred such Funded Debt at the time of such extension, renewal or refunding. For the avoidance of doubt, the parties hereto acknowledge and agree that the covenant set forth in this Section 10.4 is to be applied on and as of each date upon which the Company or any Subsidiary shall, directly or indirectly, create, incur, assume, guarantee or otherwise become directly or indirectly liable with respect to (or, as described in the immediately preceding sentence, be deemed, directly or indirectly, to create, incur, assume, guarantee or otherwise become directly or indirectly liable with respect to), any Funded Debt.

10.5 INCURRENCE OF CURRENT DEBT.

The Company will not, and will not permit any Subsidiary to, directly or indirectly, create, incur, assume, guarantee, or otherwise become directly or indirectly liable with respect to, any Current Debt on any date unless no Default or Event of Default shall exist on such date and there shall have been a period of thirty (30) consecutive days occurring in the twelve consecutive calendar months most recently ended as of such date (or on such date if such date shall be the last day of a calendar month) on each day of which Consolidated Current Debt shall not have been in excess of the amount of Funded Debt that the Company and the Subsidiaries could have incurred, but did not incur, on such day in accordance with Section 10.4(d).

For the purposes of this Section 10.5, any Person becoming a Subsidiary after the date hereof shall be deemed, at the time it becomes a Subsidiary, to have incurred all of its then outstanding Current Debt, and any Person extending, renewing or refunding any Current Debt shall be deemed to have incurred such Current Debt at the time of such extension, renewal or refunding. For the avoidance of doubt, the parties hereto acknowledge and agree that the covenant set forth in this Section 10.5 is to be applied on and as of each date upon which the Company or any Subsidiary shall, directly or indirectly, create, incur, assume, guarantee or otherwise become directly or indirectly liable with respect to (or, as described in the immediately preceding sentence, be deemed, directly or indirectly, to create, incur, assume, guarantee or otherwise become directly or indirectly liable with respect to), any Current Debt.

10.6 PRIORITY DEBT.

The Company will not, at any date, permit Priority Debt to exceed 25% of Consolidated Total Capitalization, determined as of the last day of the then

most recently ended fiscal quarter of the Company (or determined as of such date if such date shall be the last day of a fiscal quarter of the Company).

10.7 LIENS.

The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including, without limitation, any document or instrument in respect of goods or accounts receivable) of the Company or any such Subsidiary, whether now owned or held or hereafter acquired, or any income or profits therefrom (whether or not provision is made for the equal and ratable securing of the Notes in accordance with the last paragraph of this Section 10.7), or assign or otherwise convey any right to receive income or profits, except:

(a) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business

(i) in connection with workers' compensation, unemployment insurance and other types of social security or retirement benefits, or

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(ii) to secure (or to obtain letters of credit that secure) the performance of tenders, statutory obligations, surety bonds, bids, leases (other than Capital Leases), performance bonds, purchase, construction or sales contracts and other similar obligations, in each case not incurred or made in connection with the borrowing of money, the obtaining of advances or credit or the payment of the deferred purchase price of property;

(b) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen and other similar Liens, in each case incurred in the ordinary course of business for sums not yet due and payable or the payment of which is not at the time required by Section 9.4;

(c) Liens arising from judicial attachments or judgments, or securing appeal bonds, and other similar Liens, provided that

(i) the execution or other enforcement of such Liens

is effectively stayed, and

(ii) the claims secured thereby are being actively contested in good faith and adequate reserves in respect thereof have been established by the Company or such Subsidiary in accordance with GAAP;

(d) leases or subleases granted to others, easements, rights-of-way, restrictions and other similar charges or encumbrances, in each case incidental to, and not interfering with, the ordinary conduct of the business of the Company or any of the Subsidiaries, provided that such Liens do not, in the aggregate, materially impair the use of such property by the Company or such Subsidiary;

(e) Liens for taxes, assessments or other governmental charges which are not yet due and payable or the payment of which is not at the time required by Section 9.4;

(f) Liens on property of a Subsidiary, provided that such Liens secure only Debt owing to the Company or a Subsidiary; and

(g) other Liens not otherwise permitted by paragraphs (a) through (f) of this Section 10.7, so long as the Debt secured thereby can be

(i) incurred under Section 10.4(d), and

(ii) incurred and remain outstanding in accordance with the requirements of Section 10.6.

If, notwithstanding the prohibition contained herein, the Company shall, or shall permit any of its Subsidiaries to, directly or indirectly create, incur, assume or permit to exist any Lien, other than those Liens permitted by the provisions of paragraphs (a) through (g) of this Section 10.7, it will make or cause to be made effective provision whereby the Notes will be secured equally and ratably with any and all other obligations thereby secured, such security to be pursuant to agreements reasonably satisfactory to the Required Holders and, in any such case, the Notes shall have the benefit, to the fullest extent that, and with such priority as, the holders of the Notes may be entitled under applicable law, of an equitable Lien on such property. Such violation of this Section 10.7 will constitute an Event of Default, whether or not provision is made for an equal and ratable Lien pursuant to this Section 10.7.

10.8 ASSET SALES.

(a) SALE OF ASSETS. The Company will not, and will not permit any Subsidiary to, make any Asset Disposition unless:

(i) in the good faith opinion of the Company, the Asset Disposition is in exchange for consideration having a Fair Market Value at least equal to that of the property exchanged and is in the best interest of the Company or such Subsidiary;

(ii) immediately after giving effect to the Asset Disposition, no Default or Event of Default would exist; and

(iii) immediately after giving effect to the Asset Disposition, the sum of the Disposition Values in respect of all property that was the subject of any Asset Disposition occurring in the period commencing with the first day of the Current Four Quarter Period and ending with and including the date of such Asset Disposition would not exceed 15% of Consolidated Total Assets as of the end of the then most recently ended fiscal year of the Company. As used in this Section 10.8(a) (iii), the term "CURRENT FOUR QUARTER PERIOD" means, as of any date, the period of four consecutive fiscal quarters of the Company ending on the last day of the then current fiscal quarter of the Company.

If the Company shall give written notice to the holders of the Notes prior to consummation of any Transfer that it intends to apply the Net Proceeds Amount arising therefrom to a Debt Prepayment Application or a Property Reinvestment Application within 365 days after such Transfer, then such Transfer, only for the purpose of determining compliance with subsection (iii) of this Section 10.8(a), shall be deemed not to be an Asset Disposition. If the Company shall fail to apply such Net Proceeds Amount as stated in such notice within such period, such failure shall constitute an Event of Default.

(b) DISPOSAL OF OWNERSHIP OF A SUBSIDIARY. The Company will not, and will not permit any of the Subsidiaries to, Transfer any shares of Subsidiary Stock (including, without limitation, pursuant to any merger, consolidation or other transaction specified in Section 10.2 hereof), nor will the Company permit any such Subsidiary to issue or Transfer any shares of its own Subsidiary Stock, provided that the foregoing restrictions do not apply to:

(i) the issue of directors' qualifying shares by any such Subsidiary;

(ii) any such Transfer of Subsidiary Stock constituting a

Transfer described in clause (a) of the definition of "Asset Disposition"; and

(iii) the Transfer of all of the Subsidiary Stock of a Subsidiary owned by the Company and the other Subsidiaries if:

(A) such Transfer satisfies the requirements of Section 10.8(a) hereof,

(B) in connection with such Transfer the entire investment (whether represented by stock, Debt, claims or otherwise) of the Company and the other Subsidiaries in such Subsidiary is sold, transferred or otherwise disposed of to a Person other than (1) the

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Company, (2) another Subsidiary not being simultaneously disposed of, or (3) an Affiliate, and

(C) the Subsidiary being disposed of has no continuing investment in any other Subsidiary not being simultaneously disposed of or in the Company.

10.9 SALE-AND-LEASEBACK TRANSACTIONS.

The Company will not, and will not permit any Subsidiary to, enter into or permit to continue any Sale-and-Leaseback Transaction unless either (a) the Attributable Debt associated therewith can be incurred and remain outstanding in accordance with the requirements of Section 10.6 or (b) the Company shall give written notice to the holders of the Notes prior to consummation of any such transaction that it intends to apply the Net Proceeds Amount arising therefrom to a Debt Prepayment Application or a Property Reinvestment Application within 365 days after such consummation, in which event such transaction, only for the purpose of determining compliance with this Section 10.9, shall be deemed not to be a Sale-and-Leaseback Transaction. If the Company shall fail to apply such Net Proceeds Amount as stated in such notice within such period, such failure shall constitute an Event of Default.

10.10 LINE OF BUSINESS.

The Company will not, and will not permit any of its Subsidiaries to engage in any business if, as a result, the general nature of the business in which the Company and its Subsidiaries, taken as a whole, would then be engaged

would be substantially changed from the general nature of the business in which the Company and its Subsidiaries, taken as a whole, are engaged on the date of this Agreement as described in the Memorandum.

11. EVENTS OF DEFAULT

An "EVENT OF DEFAULT" shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note for more than ten Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in any one or more of Section 7.1(d) or Sections 10.2 through 10.9, inclusive; or

(d) the Company defaults in the performance of or compliance with any term contained herein (other than those referred to in Section 11(a)), Section 11(b) or Section 11(c)) and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default and (ii) the Company receiving written notice of such default from any holder of a Note (any such written notice to be identified as a "notice of default" and to refer specifically to this Section 11(d)); or

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(e) any representation or warranty made in writing by or on behalf of the Company or by any officer of the Company in this Agreement or in any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any material respect on the date as of which made; or

(f) the Company or any Significant Subsidiary

(i) is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or

Make-Whole Amount or interest on any Indebtedness (other than Indebtedness under this Agreement and the Notes) that is outstanding in an aggregate principal amount of at least \$5,000,000 beyond any period of grace provided with respect thereto (after giving effect to any consents or waivers in respect thereof), or

(ii) is in default in the performance of or compliance with any term of any evidence of any Indebtedness in an aggregate outstanding principal amount of at least \$15,000,000 or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition such Indebtedness has become, or has been declared due and payable before its stated maturity or before its regularly scheduled dates of payment; or

(g) the Company or any Significant Subsidiary

(i) is generally not paying, or admits in writing its inability to pay, its debts as they become due,

(ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction,

(iii) makes an assignment for the benefit of its creditors,

(iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property,

(v) is adjudicated as insolvent or to be liquidated, or

(vi) takes corporate action for the purpose of any of the foregoing; or

(h) a court or governmental authority of competent jurisdiction enters an order appointing, without consent by the Company or any of its Significant Subsidiaries, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the

dissolution, winding-up or liquidation of the Company or any of its Significant Subsidiaries, or any such petition shall be filed against the Company or any of its Significant Subsidiaries and such petition shall not be dismissed within 90 days; or

(i) a final judgment or judgments for the payment of money aggregating in excess of \$15,000,000 are rendered against one or more of the Company and its Significant Subsidiaries and which judgments are not, within 30 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 30 days after the expiration of such stay; or

(j) if

(i) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under section 412 of the Code,

(ii) a notice of intent to terminate any Plan shall have been or is reasonably expected to be filed with the PBGC or the PBGC shall have instituted proceedings under ERISA section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan may become a subject of any such proceedings,

(iii) the aggregate "amount of unfunded benefit liabilities" (within the meaning of section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed \$15,000,000,

(iv) the Company or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans,

(v) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan for which there is unfunded withdrawal liability in excess of \$15,000,000, or

(vi) the Company or any Subsidiary establishes or amends any employee welfare benefit plan that provides post-employment welfare benefits in a manner that would increase the liability of the Company or any Subsidiary thereunder;

and any such event or events described in clauses (i) through (vi) above, either individually or together with any other such event or events, would reasonably be expected to have a Materially Adverse Effect.

As used in Section 11(j), the terms "EMPLOYEE BENEFIT PLAN" and "EMPLOYEE WELFARE BENEFIT PLAN" shall have the respective meanings assigned to such terms in Section 3 of ERISA.

12. REMEDIES ON DEFAULT, ETC.

12.1 ACCELERATION.

(a) If an Event of Default with respect to the Company described in paragraph (g) or (h) of Section 11 (other than an Event of Default described in clause (i) of paragraph (g) or described in clause (vi) of paragraph (g) by virtue of the fact that such clause encompasses clause (i) of paragraph (g)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

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(b) If any other Event of Default has occurred and is continuing, any holder or holders of a majority in principal amount of the Notes at the time outstanding may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in paragraph (a) or (b) of Section 11 has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and

the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

12.2 OTHER REMEDIES.

If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

12.3 RESCISSION.

At any time after any Notes have been declared due and payable pursuant to clause (b) or (c) of Section 12.1, the holders of not less than 75% in principal amount of the Notes then outstanding, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the Default Rate, (b) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (c) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

12.4 NO WAIVERS OR ELECTION OF REMEDIES, EXPENSES, ETC.

No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any Note upon any holder thereof shall be

exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

13.1 REGISTRATION OF NOTES.

The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

13.2 TRANSFER AND EXCHANGE OF NOTES.

Upon surrender of any Note at the principal executive office of the Company for registration of transfer or exchange (and in the case of a surrender for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered holder of such Note or his attorney duly authorized in writing and accompanied by the address for notices of each transferee of such Note or part thereof), the Company shall execute and deliver within five Business Days, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Exhibit 1. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than \$100,000, provided that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than \$100,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee),

shall be deemed to have made the representation set forth in the last sentence of Section 6.1 and in Section 6.2.

13.3 REPLACEMENT OF NOTES.

Upon receipt by the Company of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or an Institutional Investor, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

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(b) in the case of mutilation, upon surrender and cancellation thereof,

the Company at its own expense shall execute and deliver within five Business Days, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

14. PAYMENTS ON NOTES

14.1 PLACE OF PAYMENT.

Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in Orrville, Ohio at the principal office of the Company in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

14.2 HOME OFFICE PAYMENT.

So long as you or your nominee shall be the holder of any Note, and

notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, and interest by the method and at the address specified for such purpose below your name in Schedule A, or by such other method or at such other address as you shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, you shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by you or your nominee you will, at your election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased by you under this Agreement and that has made the same agreement relating to such Note as you have made in this Section 14.2.

15. EXPENSES, ETC.

15.1 TRANSACTION EXPENSES.

Whether or not the transactions contemplated hereby are consummated, the Company will pay all out-of-pocket costs and expenses (including reasonable attorneys' fees of a special counsel and, if reasonably required, local or other counsel) incurred by you and each Other Purchaser or holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement or the Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement or the Notes as against the Company or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement or the Notes, or by reason of being a holder of any Note, and (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any

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Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby and by the Notes. The Company will pay, and will save you and each other holder of a Note harmless from, all claims in respect of any fees, costs or expenses if any, of brokers and finders (other

than those retained by you).

15.2 SURVIVAL.

The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement or the Notes, and the termination of this Agreement.

16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT

All representations and warranties contained herein shall be deemed made at and as of the date of the Closing and shall speak only as of such date. The accuracy of such representations and warranties as at the date of the Closing shall survive the execution and delivery of this Agreement and the Notes, the purchase or transfer by you of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of you or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement and the Notes embody the entire agreement and understanding between you and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

17. AMENDMENT AND WAIVER

17.1 REQUIREMENTS.

This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), with (and only with) the written consent of the Company and the Required Holders, except that (a) no amendment or waiver of any of the provisions of Section 1, 2, 3, 4, 5 or 6 hereof, or any defined term (as it is used therein), will be effective as to you unless consented to by you in writing, and (b) no such amendment or waiver may, without the written consent of the holder of each Note at the time outstanding affected thereby, (i) subject to the provisions of Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest or of the Make-Whole Amount on, the Notes, (ii) change the percentage of the principal amount of the Notes the holders of which are required to consent to any such amendment or waiver, or (iii) amend any of Sections 8, 11(a), 11(b), 12, 17 or 20.

17.2 SOLICITATION OF HOLDERS OF NOTES.

(a) SOLICITATION. The Company will provide each holder of the Notes (irrespective of the amount of Notes then owned by it) with all information that the Company reasonably believes is sufficient, and all other information requested by any of the holders, sufficiently far in

advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this Section 17 to each holder of outstanding Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

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(b) PAYMENT. The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security, to any holder of Notes as consideration for or as an inducement to the entering into by any holder of Notes or any waiver or amendment of any of the terms and provisions hereof unless such remuneration is concurrently paid, or security is concurrently granted, on the same terms, ratably to each holder of Notes then outstanding even if such holder did not consent to such waiver or amendment.

(c) SCOPE OF CONSENT. Any amendment or waiver made pursuant to this Section 17.2 by a holder of Notes that has transferred or has agreed to transfer its Notes to the Company, any Subsidiary or any Affiliate and has provided or has agreed to provide such amendment or waiver as a condition to such transfer shall be void and of no force and effect except solely as to such holder, and any amendments effected or waivers granted that would not have been or would not be so effected or granted but for such amendment or waiver (and the amendments or waivers of all other holders of Notes that were acquired under the same or similar conditions) shall be void and of no force and effect, retroactive to the date such amendment or waiver initially took or takes effect, except solely as to such holder.

17.3 BINDING EFFECT, ETC.

Any amendment or waiver consented to as provided in this Section 17 applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and the holder of any Note nor

any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note. As used herein, the term "THIS AGREEMENT" and references thereto shall mean this Agreement as it may from time to time be amended or supplemented.

17.4 NOTES HELD BY COMPANY, ETC.

Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes, or have directed the taking of any action provided herein or in the Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

18. NOTICES

All notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(i) if to you or your nominee, to you or it at the address specified for such communications in Schedule A, or at such other address as you or it shall have specified to the Company in writing,

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(ii) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(iii) if to the Company, to the Company at its address set forth at the beginning hereof to the attention of the "Treasurer," with a copy to the attention of the "Legal Department," or at such other address as the Company shall have specified to the holder of each Note in writing.

Notices under this Section 18 will be deemed given only when actually received.

19. REPRODUCTION OF DOCUMENTS

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by you at the Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to you, may be reproduced by you by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process and you may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by you in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

20. CONFIDENTIAL INFORMATION

For the purposes of this Section 20, "CONFIDENTIAL INFORMATION" means information delivered to you by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by you as being confidential information of the Company or such Subsidiary, provided that such term does not include information that

(a) was publicly known or otherwise known to you prior to the time of such disclosure,

(b) subsequently becomes publicly known through no act or omission by you or any Person acting on your behalf,

(c) otherwise becomes known to you other than through disclosure by the Company or any Subsidiary or

(d) constitutes financial statements delivered to you under Section 7.1 that are otherwise publicly available.

You will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by you in good faith to protect confidential information of third parties delivered to you, provided that you may deliver or disclose Confidential Information to

(i) your directors, officers, employees, agents, attorneys and affiliates, (to the extent such disclosure reasonably relates to the administration of the investment represented by your Notes and is not used in connection with the analysis of any other investment in the Company except in a manner that is in compliance with applicable securities laws),

(ii) your financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20,

(iii) any other holder of any Note,

(iv) any Institutional Investor to which you sell or offer to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20),

(v) any Person from which you offer to purchase any Security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20),

(vi) any federal or state regulatory authority having jurisdiction over you,

(vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about your investment portfolio, or

(viii) any other Person to which such delivery or disclosure may be necessary or appropriate

(w) to effect compliance with any law, rule, regulation or order applicable to you,

(x) in response to any subpoena or other legal process,

(y) in connection with any litigation to which you are a party or

(z) if an Event of Default has occurred and is continuing, to the extent you may reasonably determine such delivery and disclosure to be necessary or appropriate in the

enforcement or for the protection of the rights and remedies under your Notes and this Agreement.

Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this Section 20.

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21. MISCELLANEOUS

21.1 SUCCESSORS AND ASSIGNS.

All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

21.2 PAYMENTS DUE ON NON-BUSINESS DAYS.

Anything in this Agreement or the Notes to the contrary notwithstanding, any payment of principal of or Make-whole Amount or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

21.3 SEVERABILITY.

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

21.4 CONSTRUCTION.

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an

express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

THE J.M. SMUCKER COMPANY

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21.5 COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

21.6 GOVERNING LAW.

THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK EXCLUDING CHOICE-OF-LAW PRINCIPLES OF THE LAW OF SUCH STATE THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

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If you are in agreement with the foregoing, please sign the form of agreement on the accompanying counterpart of this Agreement and return it to the Company, whereupon the foregoing shall become a binding agreement between you and the Company.

Very truly yours,

THE J.M. SMUCKER COMPANY

By: /s/ Richard K. Smucker

Name: Richard K. Smucker

Title: President

The foregoing is hereby
agreed to as of the
date thereof.

HARTFORD LIFE INSURANCE COMPANY

By The Hartford Investment Management Company
and by Hartford Investment Services, Inc.
Its Agents and Attorneys-in-Fact

By: /s/ Betsy Roberts

Name: Betsy Roberts

Title: Senior Vice President

NATIONWIDE LIFE INSURANCE COMPANY

By: /s/ Mark W. Poeppelman

Name: Mark W. Poeppelman

Title: Authorized Signatory

NATIONWIDE INDEMNITY COMPANY

By: /s/ Mark W. Poeppelman

Name: Mark W. Poeppelman

Title: Authorized Signatory

AMCO INSURANCE COMPANY

By: /s/ Mark W. Poeppelman

Name: Mark W. Poeppelman

Title: Authorized Signatory

NATIONWIDE INSURANCE COMPANY OF FLORIDA

By: /s/ Mark W. Poeppelman

Name: Mark W. Poeppelman

Title: Authorized Signatory

CONNECTICUT GENERAL LIFE INSURANCE COMPANY

By: CIGNA Investments, Inc. (authorized agent)

By: /s/ Denise T. Duffee

Name: Denise T. Duffee
Title: Managing Director

THE TRAVELERS INSURANCE COMPANY

By: /s/ Teresa M. Torrey

Name: Teresa M. Torrey
Title: Second Vice President

THE TRAVELERS LIFE AND ANNUITY COMPANY

By: /s/ Teresa M. Torrey

Name: Teresa M. Torrey
Title: Second Vice President

MUTUAL TRUST LIFE INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Thomas G. Meyer

Name: Thomas G. Meyer
Title: Vice President

NATIONAL TRAVELERS LIFE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Thomas G. Meyer

Name: Thomas G. Meyer
Title: Vice President

GUARANTEE RESERVE LIFE INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Thomas G. Meyer

Name: Thomas G. Meyer
Title: Vice President

PIONEER MUTUAL LIFE INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Thomas G. Meyer

Name: Thomas G. Meyer
Title: Vice President

THE CATHOLIC AID ASSOCIATION

By: Advantus Capital Management, Inc.

By: /s/ Loren Haugland

Name: Loren Haugland

Title: Vice President

PROJECTED HOME MUTUAL LIFE INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Loren Haugland

Name: Loren Haugland

Title: Vice President

THE RELIABLE LIFE INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Loren Haugland

Name: Loren Haugland

Title: Vice President

GREAT WESTERN INSURANCE COMPANY

By: Advantus Capital Management, Inc.

By: /s/ Loren Haugland

Name: Loren Haugland

Title: Vice President

THE NORTH WEST LIFE ASSURANCE COMPANY OF CANADA

By: Advantus Capital Management, Inc.

By: /s/ Loren Haugland

Name: Loren Haugland

Title: Vice President

MODERN WOODMEN OF AMERICA

By: /s/ Clyde C. Schoeck

Name: Clyde C. Schoeck

Title: President

SCHEDULE B

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"AFFILIATE" means, at any time, and with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person. As used in this definition, "CONTROL" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Company.

"ASSET DISPOSITION" means any Transfer except :

(a) any

(i) Transfer from a Subsidiary to the Company or a Wholly-Owned Subsidiary;

(ii) Transfer from the Company to a Wholly-Owned Subsidiary; and

(iii) Transfer from the Company to a Subsidiary (other than a Wholly-Owned Subsidiary) or from a Subsidiary to another Subsidiary (other than a Wholly-Owned Subsidiary), which in either case is for Fair Market Value,

so long as immediately before and immediately after the consummation of any such Transfer and after giving effect thereto, no Default or Event of Default exists; or

(b) any Transfer made in the ordinary course of business and involving only property that is either (i) inventory held for sale or (ii) equipment, fixtures, supplies or materials no longer required in the operation of the business of the Company or any of its Subsidiaries or that is obsolete.

"ATTRIBUTABLE DEBT" means, as to any particular lease relating to a Sale-and-Leaseback Transaction, the present value of all Lease Rentals required to be paid by the Company or any Subsidiary under such lease during the remaining term thereof (determined in accordance with generally accepted

financial practice using a discount factor equal to the interest rate implicit in such lease if known or, if not known, an interest rate of 10% per annum).

"BUSINESS DAY" means any day other than a Saturday, a Sunday or a day on which commercial banks in New York City, New York are required or authorized to be closed.

"CAPITAL LEASE" means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

"CHANGE IN CONTROL" means either:

(a) the failure of the Smucker Family to hold, in the aggregate, not less than the greater of: (i) 35% of the total voting power of all classes of the Voting Stock of the Company; and (ii) 200%

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of the voting power of all classes of the Voting Stock of the Company possessed by any person (as such term is used in section 13(d) and section 14(d)(2) of the Exchange Act as in effect on the date of the Closing) or related persons constituting a group (as such term is used in Rule 13d-5 under the Exchange Act as in effect on the date of the Closing), other than the Smucker Family ; or

(b) all or substantially all of the assets of the Company are sold or otherwise transferred, in a single transaction or a series of related transactions, to any person (as such term is used in section 13(d) and section 14(d)(2) of the Exchange Act as in effect on the date of the Closing) or related persons constituting a group (as such term is used in Rule 13d-5 under the Exchange Act as in effect on the date of the Closing).

"CLOSING" is defined in Section 3.

"CODE" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"COMPANY" is defined in the introductory sentence of this Agreement.

"CONFIDENTIAL INFORMATION" is defined in Section 20.

"CONSOLIDATED ATTRIBUTABLE DEBT" means, as of any date of determination, the total of all Attributable Debt of the Company and its Subsidiaries outstanding on such date, after eliminating all offsetting debits and credits between the Company and its Subsidiaries and all other items

required to be eliminated in the course of the preparation of consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP.

"CONSOLIDATED CURRENT DEBT" means, as of any date of determination, the total of all Current Debt of the Company and its Subsidiaries outstanding on such date, after eliminating all offsetting debits and credits between the Company and its Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP.

"CONSOLIDATED FUNDED DEBT" means, as of any date of determination, the total of all Funded Debt of the Company and its Subsidiaries outstanding on such date, after eliminating all offsetting debits and credits between the Company and its Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP.

"CONSOLIDATED NET WORTH" means, at any time,

(a) the sum of (i) the par value (or value stated on the books of the corporation) of the capital stock (but excluding treasury stock, capital stock subscribed and unissued and Preferred Stock redeemable prior to the maturity date of the Notes) of the Company and its Subsidiaries plus (ii) the amount of the paid-in capital and retained earnings of the Company and its Subsidiaries, in each case as such amounts would be shown on a consolidated balance sheet of the Company and its Subsidiaries as of such time prepared in accordance with GAAP, minus

(b) to the extent included in clause (a), all amounts properly attributable to minority interests, if any, in the stock and surplus of Subsidiaries.

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"CONSOLIDATED SENIOR FUNDED DEBT" means all Senior Funded Debt of the Company and the Subsidiaries, after eliminating all offsetting debits and credits between the Company and its Subsidiaries and all other items required to be eliminated in the course of the preparation of consolidated financial statements of the Company and its Subsidiaries in accordance with GAAP.

"CONSOLIDATED TOTAL ASSETS" means, at any time, the total assets of the Company and the Subsidiaries which would be shown as assets on a consolidated balance sheet of the Company and the Subsidiaries as of such time prepared in accordance with GAAP, after eliminating all amounts properly attributable to minority interests, if any, in the stock and surplus of Subsidiaries.

"CONSOLIDATED TOTAL CAPITALIZATION" means, at any time, the sum of Consolidated Net Worth and Consolidated Funded Debt.

"CONTROL EVENT" means:

(a) the execution, by the holders of Voting Stock of the Company (together with their respective executors, heirs, beneficiaries, successors and assigns) or (in the case of any natural Person) their respective Families or Family Trusts, or by the Company or any of its Subsidiaries or Affiliates, of any agreement or letter of intent with respect to any proposed transaction or event or series of transactions or events which, individually or in the aggregate, may reasonably be expected to result in a Change in Control;

(b) the execution of any written agreement which, when fully performed by the parties thereto, would result in a Change in Control;
or

(c) the making of any written offer by any person (as such term is used in section 13(d) and section 14(d) (2) of the Exchange Act as in effect on the Closing Date) or related persons constituting a group (as such term is used in Rule 13d-5 under the Exchange Act as in effect on the Closing Date) to the holders of the Voting Stock of the Company, which offer, if accepted by the requisite number of holders, would result in a Change in Control.

"CURRENT DEBT" means, with respect to any Person, all Debt of such Person which by its terms or by the terms of any instrument or agreement relating thereto matures on demand or within one year from the date of the creation thereof and is not directly or indirectly renewable or extendible at the option of the obligor in respect thereof to a date one year or more from such date, provided that (a) Debt outstanding under a revolving credit or similar agreement which obligates the lender or lenders to extend credit over a period of one year or more and (b) Current Maturities of Funded Debt shall constitute Funded Debt and not Current Debt, even though such Debt by its terms matures on demand or within one year from such date.

"CURRENT MATURITIES OF FUNDED DEBT" means, at any time and with respect to any item of Funded Debt, the portion of such Funded Debt outstanding at such time which by the terms of such Funded Debt or the terms of any instrument or agreement relating thereto is due on demand or within one year from such time (whether by sinking fund, other required prepayment or final payment at maturity) and is not directly or indirectly renewable, extendible or refundable at the option of the obligor under an agreement or firm commitment in effect at such time to a date one year or more from such time.

"DEBT" means, with respect to any Person, without duplication:

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(a) its liabilities for borrowed money;

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

(c) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases;

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

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

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

"DEBT PREPAYMENT APPLICATION" means, with respect to any Transfer of property, the application by the Company or its Subsidiaries of cash in an amount equal to the Net Proceeds Amount with respect to such Transfer to pay Senior Funded Debt of the Company (other than Senior Funded Debt owing to the Company, any of its Subsidiaries or any Affiliate and Senior Funded Debt in respect of any revolving credit or similar credit facility providing the Company or any of its Subsidiaries with the right to obtain loans or other extensions of credit from time to time, except to the extent that in connection with such payment of Senior Funded Debt the availability of credit under such credit facility is permanently reduced by an amount not less than the amount of such proceeds applied to the payment of such Senior Funded Debt).

"DEFAULT" means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"DEFAULT RATE" means that rate of interest that is the greater of (i) 8.77% per annum above the rate of interest stated in clause (a) of the first paragraph of the Notes or (ii) 2% over the rate of interest publicly announced from time to time by Morgan Guaranty Trust Company of New York (or its successor) in New York City as its "base" or "prime" rate.

"DISPOSITION VALUE" means, at any time, with respect to any property

(a) in the case of property that does not constitute Subsidiary Stock, the book value thereof, valued at the time of such disposition in good faith by the Company, and

(b) in the case of property that constitutes Subsidiary Stock, an amount equal to that percentage of book value of the assets of the Subsidiary that issued such stock as is equal to the percentage that the book value of such Subsidiary Stock represents of the book value of all of the outstanding capital stock of such Subsidiary (assuming, in making such calculations, that all Securities convertible into such capital stock are so converted and giving full effect to all transactions that would

occur or be required in connection with such conversion) determined at the time of the disposition thereof, in good faith by the Company.

"ENVIRONMENTAL LAWS" means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"ERISA AFFILIATE" means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

"EVENT OF DEFAULT" is defined in Section 11.

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

"FAIR MARKET VALUE" means, on any date and with respect to any property that is to be the subject of a Transfer, the sale value of such property that would be realized in an arm's-length sale at such time between an informed and willing buyer and an informed and willing seller (neither being under a compulsion to buy or sell), as determined by:

(i) an appraiser of established reputation in appraising

property of the kind to be subject to such Transfer;

(ii) the highest price offered for such property in a competitive bidding process in which at least three potential bidders have been requested to participate so long as the Company had a reasonable basis on which to make such request (in terms of such potential bidders' financial resources and interest in such property); or

(iii) an analysis prepared by the Company which in addition to taking into account the standard set forth in this definition prior to clause (i) shall take into account the operating costs that would be saved by disposing of such property, and the relative tax benefits attributable to continued ownership and to disposition of such property; provided, however, that the sum of the Disposition Value of such property, plus the Disposition Value of all other such property Transferred during the 365 day period ending on such date, shall not exceed an amount equal to 3% of Consolidated Total Assets as of the end of the then most recently ended fiscal year of the Company (exclusive of the Disposition Value of the real property of the Company located in Pottstown, Pennsylvania, and the plant and equipment located thereon, related to the "Mrs.'s Smith's" frozen pie business). Any such evaluation shall be delivered to the holders of the Notes together with an Officer's Certificate, signed by a Senior Financial Officer, certifying as to the accuracy and completeness of such evaluation.

"FAMILY" means, in respect of any individual, the heirs, legatees, descendants and blood relatives to the fifth degree of consanguinity of such individual.

"FAMILY TRUSTS" means, in respect of any individual, any trusts for the exclusive benefit of such individual, his or her spouse and lineal descendants.

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

Schedule B-5

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"FUNDED DEBT" means, with respect to any Person, all Debt of such Person which by its terms or by the terms of any instrument or agreement relating thereto matures, or which is otherwise payable or unpaid, one year or more from, or is directly or indirectly renewable or extendible at the option of the obligor in respect thereof to a date one year or more (including, without limitation, an option of such obligor under a revolving credit or similar agreement obligating the lender or lenders to extend credit over a period of one year or more) from, the date of the creation thereof.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"GOVERNMENTAL AUTHORITY" means

(a) the government of

(i) the United States of America or any state or other political subdivision thereof, or

(ii) any jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

"GUARANTY" means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

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"HOLDER" means, with respect to any Note, the Person in whose name such

Note is registered in the register maintained by the Company pursuant to Section 13.1.

"INDEBTEDNESS" with respect to any Person means, at any time, without duplication:

(a) its liabilities for borrowed money and its redemption obligations in respect of mandatorily redeemable Preferred Stock;

(b) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property);

(c) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases;

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

(e) all its liabilities in respect of letters of credit or instruments serving a similar function issued or accepted for its account by banks and other financial institutions (whether or not representing obligations for borrowed money);

(f) Swaps of such Person; and

(g) any Guaranty of such Person with respect to liabilities of a type described in any of clauses (a) through (f) hereof.

"INSTITUTIONAL INVESTOR" means (a) any original purchaser of a Note, (b) any holder of a Note holding more than 5% of the aggregate principal amount of the Notes then outstanding, and (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form.

"LEASE RENTALS" means, with respect to any period, the sum of the minimum amount of rental and other obligations required to be paid during such period by the Company or any Subsidiary as lessee under all leases of real or personal property (other than Capital Leases), excluding any amounts required to be paid by the lessee (whether or not therein designated as rental or additional rental) (a) which are on account of maintenance and repairs, insurance, taxes, assessments, water rates and similar charges, or (b) which are based on profits, revenues or sales realized by the lessee from the leased property or otherwise based on the performance of the lessee.

"LIEN" means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any

vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, stockholder agreements, voting trust agreements and all similar arrangements).

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

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"MAKE-WHOLE AMOUNT" is defined in Section 8.7.

"MATERIAL" means material in relation to the business, operations, affairs, financial condition, assets, or properties of the Company and its Subsidiaries taken as a whole.

"MATERIAL ADVERSE EFFECT" means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole, or (b) the ability of the Company to perform its obligations under this Agreement and the Notes, or (c) the validity or enforceability of this Agreement or the Notes.

"MEMORANDUM" is defined in Section 5.3.

"MULTIEMPLOYER PLAN" means any Plan that is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

"NET PROCEEDS AMOUNT" means, with respect to any Transfer of any property by any Person, an amount equal to the difference of

(a) the aggregate amount of the consideration (valued at the Fair Market Value of such consideration at the time of the consummation of such Transfer) received by such Person in respect of such Transfer, minus

(b) all ordinary and reasonable out-of-pocket costs and expenses actually incurred by such Person in connection with such Transfer.

"NOTES" is defined in Section 1.

"OFFEREE LETTER" is defined in Section 5.13.

"OFFICER'S CERTIFICATE" means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

"OTHER AGREEMENTS" is defined in Section 2.

"OTHER PURCHASERS" is defined in Section 2.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

"PERSON" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

"PLAN" means an "employee benefit plan" (as defined in section 3(3) of ERISA) that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

Schedule B-8

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"PREFERRED STOCK" means any class of capital stock of a corporation that is preferred over any other class of capital stock of such corporation as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such corporation.

"PRIORITY DEBT" means the sum of (a) all Debt of the Company secured by Liens permitted by Section 10.7(g), (b) all Debt of Subsidiaries (other than Debt held by the Company or a Wholly-Owned Subsidiary) and (c) Consolidated Attributable Debt.

"PROPERTY" or "PROPERTIES" means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

"PROPERTY REINVESTMENT APPLICATION" means, with respect to any Transfer of property, the satisfaction of each of the following conditions:

(a) an amount equal to the Net Proceeds Amount with respect to such Transfer shall have been applied to the acquisition by the Company, or any of its Subsidiaries making such Transfer, of property that upon such acquisition is unencumbered by any Lien (other than Liens described in subparagraphs (a) through (f), inclusive, of Section 10.7) and that

(i) constitutes property that is (x) property classifiable under GAAP as non-current to the extent that such proceeds are derived from the Transfer of property that was properly classifiable as non-current, and otherwise properly classifiable as either current or non-current, and (y) to be

used in the ordinary course of business of the Company and the Subsidiaries, or

(ii) constitutes equity interests of a Person that shall be, on or prior to the time of such acquisition, a Subsidiary of the Company, and that shall invest the proceeds of such acquisition in property of the nature described in the immediately preceding clause (i); and

(b) the Company shall have delivered a certificate of a Responsible Officer of the Company to each holder of a Note referring to Section 10.8 or Section 10.9, as applicable, and identifying the property that was the subject of such Transfer, the Disposition Value of such property, and the nature, terms, amount and application of the proceeds from the Transfer.

"PROPOSED PREPAYMENT DATE" is defined in Section 8.3(c).

"PTE" means a United States Department of Labor Prohibited Transaction Class Exemption.

"QPAM EXEMPTION" is defined in Section 6.2(c).

"REQUIRED HOLDERS" means, at any time, the holders of at least a majority in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates).

"RESPONSIBLE OFFICER" means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this agreement.

"SALE-AND-LEASEBACK TRANSACTION" means a transaction or series of transactions pursuant to which the Company or any Subsidiary shall sell or transfer to any Person (other than the Company

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

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or a Subsidiary) any property, whether now owned or hereafter acquired, and, as part of the same transaction or series of transactions, the Company or any Subsidiary shall rent or lease as lessee (other than pursuant to a Capital Lease), or similarly acquire the right to possession or use of, such property or one or more properties which it intends to use for the same purpose or purposes as such property.

"SECURITIES ACT" means the Securities Act of 1933, as amended from time

to time.

"SECURITY" has the meaning set forth in Section 2(1) of the Securities Act.

"SENIOR FINANCIAL OFFICER" means the Vice President - Administration, principal accounting officer, treasurer or controller of the Company.

"SENIOR FUNDED DEBT" means all Funded Debt of the Company (other than Subordinated Funded Debt) and all Funded Debt of Subsidiaries.

"SIGNIFICANT SUBSIDIARY" means at any time any Subsidiary that would at such time constitute a "significant subsidiary" (as such term is defined in Regulation S-X of the Securities and Exchange Commission as in effect on the date of the Closing) of the Company.

"SOURCE" is defined in Section 6.2.

"SMUCKER FAMILY" means and includes Lorraine E. Smucker, Timothy P. Smucker, Richard K. Smucker, Susan Smucker Wagstaff and Marcella Smucker Clark, and their respective Families and Family Trusts.

"SUBORDINATED FUNDED DEBT" means any Funded Debt of the Company that is subordinated in right of payment or security to Funded Debt evidenced by the Notes, in each case, upon written terms and conditions reasonably satisfactory to the Required Holders.

"SUBSIDIARY" means, as to any Person, any corporation, association or other business entity in which such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such entity, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries (unless such partnership can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Company.

"SUBSIDIARY STOCK" means, with respect to any Person, the stock (or any options or warrants to purchase stock or other Securities exchangeable for or convertible into stock) of any Subsidiary of such Person.

"SWAPS" means, with respect to any Person, payment obligations with respect to interest rate swaps, currency swaps and similar obligations obligating such Person to make payments, whether periodically or upon the happening of a contingency. For the purposes of this Agreement, the amount of the obligation under any Swap shall be the amount determined in respect thereof as of the end of the then most recently ended fiscal quarter of such Person, based on the assumption that such Swap had terminated at the end of such fiscal

quarter, and in making such determination, if any agreement relating to such Swap provides for the netting of amounts payable by and to such Person thereunder or if any such agreement provides for the simultaneous

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

Schedule B-10

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payment of amounts by and to such Person, then in each such case, the amount of such obligation shall be the net amount so determined.

"TRANSFER" means, with respect to any Person, any transaction in which such Person sells, conveys, transfers or leases (as lessor) any of its property, including, without limitation, Subsidiary Stock. For purposes of determining the application of the Net Proceeds Amount in respect of any Transfer, the Company may designate any Transfer as one or more separate Transfers each yielding a separate Net Proceeds Amount. In any such case, the Disposition Value of any property subject to each such separate Transfer shall be determined by ratably allocating the aggregate Disposition Value of all property subject to all such separate Transfers to each such separate Transfer on a proportionate basis.

"VOTING STOCK" means capital stock of any class or classes of a Person the holders of which are ordinarily, in the absence of contingencies, entitled to elect corporate directors (or Persons performing similar functions).

"WHOLLY-OWNED SUBSIDIARY" means, at any time, any Subsidiary one hundred percent (100%) of all of the equity interests (except directors' qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company's other Wholly-Owned Subsidiaries at such time.

"YEAR 2000 COMPLIANT" means all computer applications that are material to the Company's and the Subsidiaries' business and operations will on a timely basis be able to perform properly date-sensitive functions involving dates on or after January 1, 2000.

THE J.M. SMUCKER COMPANY

NOTE PURCHASE AGREEMENT

Schedule B-11

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EXHIBIT 1

FORM OF NOTE

THE J.M. SMUCKER COMPANY

6.77% SENIOR NOTE DUE JUNE 1, 2009

No. R-____
\$_____

[Date]
PPN: 832696 A@ 7

FOR VALUE RECEIVED, the undersigned, THE J.M. SMUCKER COMPANY (herein called the "COMPANY"), a corporation organized and existing under the laws of the State of Ohio, hereby promises to pay to _____, or registered assigns, the principal sum of _____ DOLLARS (\$_____) on _____, _____, with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance thereof at the rate of 6.77% per annum from the date hereof, payable semiannually, on the first day of June and December in each year, commencing with the June 1 or December 1 next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal, any overdue payment of interest and any overdue payment of any Make-Whole Amount (as defined in the Note Purchase Agreements referred to below), payable semiannually as aforesaid (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to the greater of (i) 8.77% or (ii) 2% over the rate of interest publicly announced from time to time by Morgan Guaranty Trust Company of New York in New York City, New York as its "base" or "prime" rate.

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of the United States of America at the address shown in the register maintained by the Company for such purpose or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreements referred to below.

This Note is one of a series of Senior Notes (herein called the "NOTES") issued pursuant to separate Note Purchase Agreements, dated as of June 16, 1999 (as from time to time amended, the "NOTE PURCHASE AGREEMENTS"), between the Company and the respective Purchasers named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, (i) to have agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreements and (ii) to have made the representations set forth in the last sentence of Section 6.1 and in Section 6.2 of the Note Purchase Agreements.

This Note is a registered Note and, as provided in the Note Purchase Agreements, upon surrender of this Note for registration of transfer, duly endorsed, or accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

This Note is subject to optional prepayment, in whole or from time to

time in part, at the times and on the terms specified in the Note Purchase Agreements, but not otherwise.

FORM OF NOTE

Exhibit 1-1

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If an Event of Default, as defined in the Note Purchase Agreements, occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreements.

THIS NOTE AND THE NOTE PURCHASE AGREEMENTS SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, EXCLUDING CHOICE-OF-LAW PRINCIPLES OF THE LAW OF SUCH STATE THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

THE J.M. SMUCKER COMPANY

By: _____
Name:
Title:

FORM OF NOTE

Exhibit 1-2

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EXHIBIT 4.4 (a)

FORM OF OPINION OF COUNSEL TO THE COMPANY

[Date of the Closing]

To the Persons Listed
on Annex 1 hereto

Re: \$75,000,000 6.77% Senior Notes due June 1, 2009 of The J.M.
Smucker Company

Ladies and Gentlemen:

Reference is made to the separate Note Purchase Agreements (collectively, the "NOTE PURCHASE AGREEMENT"), each dated as of June 16, 1999, between The J.M. Smucker Company (the "COMPANY") and each of you, pursuant to which the Company has issued to you today its 6.77% Senior Notes due June 1, 2009 in the aggregate principal amount of \$75,000,000. Unless otherwise defined herein, all terms used herein that are defined in the Note Purchase Agreement have the respective meanings specified in the Note Purchase Agreement. This letter is being delivered to you in satisfaction of the condition set forth in Section 4.4(a) of the Note Purchase Agreement and with the understanding that you are purchasing the Notes in reliance on the opinions expressed herein.

I am the Vice President - Administration, Secretary and General Counsel of the Company and have acted as counsel for the Company in connection with the transactions contemplated by the Note Purchase Agreement.

In acting as such counsel, I have examined:

(a) an execution copy of the Note Purchase Agreement;

(b) execution copies of each of the Company's 6.77% Senior Notes due June 1, 2009, each dated the date hereof, in the form of Exhibit 1 to the Note Purchase Agreement and registered in the names, in the principal amounts and with the registration numbers set forth in Schedule A to the Note Purchase Agreement (collectively, the "NOTES");

(c) a long-form good standing certificate for the Company from the State of Ohio, and foreign good standing certificates for the Company from each of the states where the Company is qualified to do business;

(d) a certified copy of the Articles of Incorporation of the Company, the Regulations of the Company, and resolutions adopted by the board of directors of the Company authorizing the Note Purchase Agreement and the Notes, as certified by the Secretary of the Company;

(e) a letter to Hebb & Gitlin and the Company from William Blair & Company, dated the date hereof, describing the manner of the offering of the Notes (the "OFFEREE LETTER"); and

FORM OF OPINION OF
COUNSEL TO THE COMPANY

(f) originals, or copies certified or otherwise identified to my satisfaction, of such other documents, records, instruments and certificates of public officials and officers and representatives of the Company as I have deemed necessary or appropriate to enable me to render this opinion.

In rendering my opinion, I have assumed that all signatures (other than signatures of officers and directors of the Company) are genuine, that all documents submitted to me as originals are genuine, that all copies submitted to me as copies conform to the originals, that all natural Persons have legal capacity and, as to documents executed by or on behalf of Persons other than the Company, that each such Person executing documents had the power to enter into and perform its obligations under such documents and that such documents have been duly authorized, executed and delivered by, and are binding upon and enforceable against, such Persons. I have no actual knowledge of any information that would indicate that any of my assumptions are invalid.

In rendering my opinion, I have relied, to the extent I deem necessary and proper, on:

(i) warranties and representations as to certain factual matters contained in the Note Purchase Agreement; and

(ii) the Offeree Letter.

I have no actual knowledge of any material inaccuracies in any of the facts contained in the documents listed in item (i) or item (ii) above.

I am admitted to the practice of law solely in the State of Ohio and the opinions expressed herein are limited to the laws of the State of Ohio and the federal law of the United States. No opinion is expressed herein as to the laws of any other jurisdiction. I call your attention to the fact that the Note Purchase Agreement and the Notes are governed by the laws of the State of New York. In rendering the opinion in paragraph 5 below, I have assumed that the laws of the State of New York are the same as the laws of the State of Ohio (excluding choice of law rules, as to which I express no opinion).

Based on the foregoing, and subject to the further assumptions, exceptions and limitations set forth below, it is my opinion that:

1. The Company is a corporation validly existing and in good standing under the laws of the State of Ohio and has all requisite corporate power and authority to carry on its business as presently conducted and own its property.

Each of the Significant Subsidiaries is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation and has all requisite corporate power and authority to carry on its business as presently conducted and own its property.

2. Each of the Company and the Significant Subsidiaries is qualified and is in good standing as a foreign corporation in each jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary, except where the failure to so qualify and be in good standing would not have a material adverse effect on the ability of the Company to perform its obligations under the Note Purchase Agreement and the Notes.

3. To the best of my knowledge after due inquiry, there is no judgment, order, action, suit, proceeding, inquiry, order or investigation, at law or in equity, before any court or governmental authority, arbitration board or tribunal, pending or threatened against the Company, the Subsidiaries or any of their

FORM OF OPINION OF
COUNSEL TO THE COMPANY

Exhibit 4.4(a)-2

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respective properties which would have a material adverse effect on the ability of the Company to perform its obligations under the Note Purchase Agreement and the Notes.

4. The Company has the requisite corporate power and authority to execute and deliver each of the Note Purchase Agreement and the Notes and to perform its obligations set forth in each of the Note Purchase Agreement and the Notes. The Company has the requisite corporate power and authority to offer, issue and sell the Notes.

5. Each of the Note Purchase Agreement and the Notes has been duly authorized by all necessary corporate action on the part of the Company (no action on the part of the stockholders of the Company being required with respect thereto), has been executed and delivered by one or more duly authorized officers of the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

6. The execution and delivery by the Company of each of the Note Purchase Agreement and the Notes, the offer, issue and sale of the Notes by the Company and the performance by the Company of its obligations under the Note Purchase Agreement and the Notes will not conflict with, constitute a violation of, result in a breach of any provision of, constitute a default under, or result in the creation or imposition of any Lien upon any of the property of the Company pursuant to its Articles of Incorporation or Regulations, any applicable

statute, rule or regulation to which the Company is subject, or any agreement or instrument relating to the borrowing of money to which the Company is a party or by which its property may be bound.

7. Other than routine filings with the Securities and Exchange Commission, all consents, approvals and authorizations of, and all designations, declarations, filings, registrations, qualifications and recordations with, Governmental Authorities required on the part of the Company in connection with the execution and delivery of each of the Note Purchase Agreement and the Notes, the offer, issue and sale of the Notes and the use of the proceeds thereof have been obtained.

8. Based on the accuracy of the terms of the Offerree Letter, and the accuracy of your representations and warranties set forth in the Note Purchase Agreement, the issuance and sale of the Notes to each of you, under the circumstances contemplated by the Note Purchase Agreement, are not subject to the registration requirements under the Securities Act, and the Company is not required to qualify an indenture with respect to the Notes under the Trust Indenture Act of 1939, as amended.

9. Neither the issuance of the Notes nor the intended use of the proceeds of the Notes (as set forth in Section 5.14 of the Note Purchase Agreement) will violate Regulations T, U or X of the Federal Reserve Board.

10. The Company is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or a "holding company" or an "affiliate" of a "holding company," or a "subsidiary company" of a "holding company," or a "public utility" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

All opinions herein contained with respect to the enforceability of agreements and instruments are qualified to the extent that:

(a) the availability of equitable remedies, including, without limitation, specific enforcement and injunctive relief, is subject to the discretion of the court before which any proceedings therefor may be brought; and

FORM OF OPINION OF
COUNSEL TO THE COMPANY

Exhibit 4.4(a)-3

(b) the enforceability of certain terms provided in the Note Purchase Agreement and the Notes may be limited by applicable bankruptcy, reorganization, arrangement, insolvency, moratorium or

similar laws affecting the enforcement of creditors' rights generally as at the time in effect, and general principles of equity and the discretion of a court in granting equitable remedies (whether enforceability is considered in a proceeding at law or in equity).

I acknowledge that this opinion is being issued at the request of the Company pursuant to paragraph 4.4(a) of the Note Purchase Agreement and I agree that you and each of your respective successors and assigns (including, without limitation, subsequent holders of the Notes) may rely on this opinion as if it were addressed to them. Hebb & Gitlin may rely on this opinion for the sole purpose of rendering their opinion to be rendered pursuant to paragraph 4.4(b) of the Note Purchase Agreement.

Very truly yours,

Steven J. Ellcessor
Vice President - Administration,
Secretary, and General Counsel

FORM OF OPINION OF
COUNSEL TO THE COMPANY

Exhibit 4.4(a)-4

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EXHIBIT 4.4(b)

FORM OF OPINION OF SPECIAL COUNSEL TO THE PURCHASERS

[Letterhead of Hebb & Gitlin]

[Date of the Closing]

To the Persons Listed
on Annex 1 hereto

Re: \$75,000,000 6.77% Senior Notes due June 1, 2009 of The J.M. Smucker Company

Ladies and Gentlemen:

Reference is made to the separate Note Purchase Agreements (collectively, the "NOTE PURCHASE AGREEMENT"), each dated as of June 16, 1999, between The J.M. Smucker Company (the "COMPANY") and each of you, pursuant to which the Company has issued to you today its 6.77% Senior Notes due June 1, 2009 in the aggregate principal amount of \$75,000,000. Unless otherwise defined herein, all terms used herein that are defined in the Note Purchase Agreement have the respective meanings specified in the Note Purchase Agreement. This opinion is being delivered to you pursuant to Section 4.4(b) of the Note Purchase Agreement.

We have acted as your special counsel in connection with the transactions contemplated by the Note Purchase Agreement. In acting as such counsel, we have examined:

(a) the Note Purchase Agreement;

(b) the Company's 6.77% Senior Notes due June 1, 2009, each dated the date hereof, in the form of Exhibit 1 to the Note Purchase Agreement and registered in the names, in the principal amounts and with the registration numbers set forth on Schedule A to the Note Purchase Agreement (the "NOTES");

(c) an Officer's Certificate, dated the date hereof, certifying that the conditions specified in Sections 4.1, 4.2 and 4.9 of the Note Purchase Agreement have been fulfilled;

(d) a certificate of the Secretary of the Company, dated the date hereof, certifying, among other things, attached copies of the Articles of Incorporation and Regulations of the Company and resolutions adopted by the board of directors of the Company authorizing the Note Purchase Agreement and the Notes;

(e) the opinion, dated the date hereof and delivered to you pursuant to Section 4.4(a) of the Note Purchase Agreement, of Steven J. Ellcessor, Esq., General Counsel of the Company;

(f) a letter to Hebb & Gitlin and the Company from William Blair & Company, dated the date hereof, describing the manner of the offering of the Notes (the "OFFEREE LETTER"); and

FORM OF OPINION OF SPECIAL
COUNSEL TO THE PURCHASERS

(g) originals, or copies certified or otherwise identified to our satisfaction, of such other documents, records, instruments and certificates of public officials as we have deemed necessary or appropriate to enable us to render this opinion.

In rendering our opinion, we have assumed that all signatures are genuine, that all documents submitted to us as originals are genuine, that all copies submitted to us as copies conform to the originals, that all natural Persons have legal capacity and, as to documents executed by or on behalf of Persons other than the Company, that each Person executing such documents had the power to enter into and perform its obligations under such documents and that such documents have been duly authorized, executed and delivered by, and are binding upon and enforceable against, such Persons.

In rendering our opinion, we have relied, to the extent we deem necessary and proper, upon:

(A) warranties and representations as to certain factual matters contained in the Note Purchase Agreement;

(B) the Offeree Letter; and

(C) the opinion of Steven J. Ellcessor, Esq. referred to in clause (e) above with respect to all questions governed by the laws of the State of Ohio and with respect to all questions concerning the existence, good standing and corporate power and authority of, and the authorization, execution and delivery of agreements and instruments by, the Company (except that we have made an independent examination of the certificate of the Company referred to in clause (d) above setting forth its constitutive documents and corporate resolutions authorizing its participation in the transactions contemplated by the Note Purchase Agreement).

As to such opinion and the matters therein upon which we are relying, we incorporate herein the assumptions and qualifications to such opinion set forth therein. Based on such investigation as we have deemed appropriate, such opinion of Steven J. Ellcessor, Esq. is satisfactory in form and scope to us and in our opinion you and we are justified in relying thereon.

Based upon the foregoing, we are of the following opinions:

1. The Company is a corporation validly existing and in good standing under the laws of the State of Ohio.

2. The Company has the requisite corporate power and authority to execute and deliver each of the Note Purchase Agreement and the Notes and to perform its obligations set forth in each of the Note Purchase Agreement and the Notes. The Company has the requisite corporate power and authority to offer, issue and sell the Notes.

3. Each of the Note Purchase Agreement and the Notes has been duly authorized by all necessary corporate action on the part of the Company, has been executed and delivered by one or more duly authorized officers of the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

4. The execution and delivery of the Note Purchase Agreement and the Notes by the Company and the performance by the Company of its obligations thereunder will not violate the Articles of Incorporation or Regulations of the Company.

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COUNSEL TO THE PURCHASERS

Exhibit 4.4(b)-2

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5. No consents, approvals or authorizations of Governmental Authorities of the United States of America or the State of New York are required on the part of the Company in connection with the execution and delivery of each of the Note Purchase Agreement and the Notes, the offer, issue and sale of the Notes or the use of the proceeds thereof. Our opinion in this paragraph 5 is based solely on a review of generally applicable laws of the United States of America and the State of New York and not on any search with respect to, or review of, any orders decrees, judgments or other determinations specifically applicable to the Company.

6. The issuance and sale of the Notes to each of you, under the circumstances contemplated by the Note Purchase Agreement, are not subject to the registration requirements of the Securities Act, and the Company is not required to qualify an indenture with respect to the Notes under the Trust Indenture Act of 1939, as amended.

All opinions herein contained with respect to the enforceability of agreements and instruments are qualified to the extent that:

(a) the availability of equitable remedies, including, without

limitation, specific enforcement and injunctive relief, is subject to the discretion of the court before which any proceedings therefor may be brought; and

(b) the enforceability of certain provisions of the Note Purchase Agreement and the Notes may be limited by applicable bankruptcy, reorganization, arrangement, insolvency, moratorium or similar laws affecting the enforcement of creditors' rights generally as at the time in effect, and general principles of equity and the discretion of a court in granting equitable remedies (whether enforceability is considered in a proceeding at law or in equity).

We express no opinion as to the law of any jurisdiction other than the federal law of the United States of America, the laws of the State of New York, and, solely in reliance upon the opinion of Steven J. Ellcessor, Esq., the laws of the State of Ohio.

Future holders of the Notes may rely upon this opinion as if it were addressed to them.

Very truly yours,

FORM OF OPINION OF SPECIAL
COUNSEL TO THE PURCHASERS

Exhibit 4.4(b)-3

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EXHIBIT 5.13

FORM OF OFFEREE LETTER

[Letterhead of William Blair & Company]

[Date of Closing]

Hebb & Gitlin
One State Street
Hartford, Connecticut 06103

The J.M. Smucker Company

Strawberry Lane
Orrville, Ohio 44667
Attn: Steven J. Ellcessor, Esq.
Vice President - Administration

Ladies and Gentlemen:

Reference is made to the separate Note Purchase Agreements, each dated as of June 16, 1999 (collectively, the "NOTE PURCHASE AGREEMENT"), between The J.M. Smucker Company (the "COMPANY") and each of the purchasers listed on Schedule A attached thereto (the "PURCHASERS"), which provide, among other things, for the issuance and sale by the Company of its 6.77% Senior Notes due June 1, 2009, in the aggregate principal amount of Seventy-Five Million Dollars (\$75,000,000). The capitalized terms used herein and not defined herein have the meanings specified in the Note Purchase Agreement.

1. We (who were authorized and employed by the Company in connection with the offering and sale of the Notes) have not, directly or indirectly, sold or disposed of, or attempted or offered to sell or dispose of, the Notes or similar Securities to, or solicited offers to buy any Notes or similar Securities from, or otherwise approached or negotiated with respect to the Notes or similar Securities with, any Person that might be considered to be an offeree in connection with the sale of the Notes or similar Securities, other than _____ () institutional investors (including the Purchasers), each of whom was offered a portion of the Notes at private sale for investment.

2. Immediately prior to making any offer in connection with the Notes to any of the aforementioned offerees, immediately prior to making any sale of the Notes to any of the aforementioned offerees, and after making reasonable inquiry, we had reasonable grounds to believe, and did believe, that each such offeree had such knowledge and experience in financial and business matters that it was capable of evaluating the merits and risks of its prospective investment.

3. We have not offered to sell, offered for sale or sold any Notes or similar Securities by means of any form of general solicitation or general advertising.

FORM OF OFFEREE LETTER

Exhibit 5.13-1

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4. During the two-year period ending on the date hereof, we have not, directly or indirectly, sold or disposed of, or attempted or offered to sell or dispose of, any Securities of the Company other than the Notes.

By: _____

Name:

Title:

FORM OF OFFEREE LETTER

Exhibit 5.13-2

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The following schedules and exhibits have not been included in this filing. A copy of any omitted schedule will be provided to the Commission upon request:

- SCHEDULE A - Information Relating to Purchasers
- SCHEDULE 4.9 - Changes in Corporate Structure
- SCHEDULE 5.3 - Disclosure Materials
- SCHEDULE 5.4 - Organization and Ownership of Shares of Subsidiaries
- SCHEDULE 5.5 - Financial Statements
- SCHEDULE 5.8 - Certain Litigation
- SCHEDULE 5.11 - Licenses, Permits, etc.
- SCHEDULE 5.14 - Use of Proceeds
- SCHEDULE 5.15 - Existing Indebtedness
- EXHIBIT 4.4(a)
- ANNEX 1 - Addressees

EXHIBIT 4.4 (b)

ANNEX 1 - Addressees

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