

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2008-12-11** | Period of Report: **2008-11-01**
SEC Accession No. **0001362310-08-008088**

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FILER

JO-ANN STORES INC

CIK: **34151** | IRS No.: **340720629** | State of Incorporation: **OH** | Fiscal Year End: **0131**
Type: **10-Q** | Act: **34** | File No.: **001-06695** | Film No.: **081243536**
SIC: **5940** Miscellaneous shopping goods stores

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HUDSON OH 44236

Business Address
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HUDSON OH 44236
2166562600

**United States
Securities and Exchange Commission
WASHINGTON, D.C. 20549**

FORM 10-Q

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

For the Quarterly Period Ended November 1, 2008

Commission File No. 1-6695

Jo-Ann Stores, Inc.

(Exact name of Registrant as specified in its charter)

Ohio
(State or other jurisdiction of
incorporation or organization)

34-0720629
(I.R.S. Employer Identification No.)

5555 Darrow Road, Hudson, Ohio
(Address of principal executive offices)

44236
(Zip Code)

Registrant's telephone number, including area code: **(330) 656-2600**

Indicate by check mark whether the registrant (1) 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 (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act (Check one).

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.):
Yes No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:
Common Shares, without par value, as of December 1, 2008: 25,855,415

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For the Quarter Ended November 1, 2008

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PART I. FINANCIAL INFORMATION**Item 1. Financial Statements****Jo-Ann Stores, Inc.****Consolidated Balance Sheets**

	(Unaudited)		
	November 1, 2008	November 3, 2007	February 2, 2008
(Dollars in millions, except share and per share data)			
Assets			
Current assets:			
Cash and cash equivalents	\$24.8	\$29.4	\$25.4
Inventories	522.3	570.9	472.2
Deferred income taxes	24.9	29.4	26.4
Prepaid expenses and other current assets	29.0	24.3	23.8
Total current assets	601.0	654.0	547.8
Property, equipment and leasehold improvements, net	311.6	301.9	297.5
Goodwill	11.8	-	11.8
Other assets	13.9	9.9	12.3
Total assets	\$938.3	\$965.8	\$869.4
Liabilities and Shareholders' Equity			
Current liabilities:			
Accounts payable	\$182.6	\$186.4	\$145.3
Accrued expenses	94.9	67.6	97.1
Total current liabilities	277.5	254.0	242.4
Long-term debt	112.7	202.0	100.0
Long-term deferred income taxes	-	16.2	-
Lease obligations and other long-term liabilities	93.0	82.7	87.0
Shareholders' equity:			
Preferred stock, no par value, 5,000,000 shares authorized, none issued	-	-	-
Common stock, stated value \$0.05 per share; 150,000,000 authorized; issued 28,859,179; 28,071,432 and 28,072,032 shares, respectively	1.4	1.4	1.4
Additional paid-in capital	209.5	193.0	194.6
Retained earnings	290.0	261.0	288.5
	500.9	455.4	484.5
Treasury stock, at cost; 3,662,786; 3,586,206 and 3,586,872 shares, respectively	(45.8)	(44.5)	(44.5)
Total shareholders' equity	455.1	410.9	440.0
Total liabilities and shareholders' equity	\$938.3	\$965.8	\$869.4

See notes to unaudited consolidated financial statements

Jo-Ann Stores, Inc.

Consolidated Statements of Operations
(Unaudited)

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	November 1, 2008	November 3, 2007	November 1, 2008	November 3, 2007
	(Dollars in millions, except share and per share data)			
Net sales	\$480.1	\$480.2	\$1,329.2	\$1,292.9
Cost of sales (exclusive of depreciation and amortization shown separately below)	244.8	249.7	695.3	684.4
Gross margin	235.3	230.5	633.9	608.5
Selling, general and administrative expenses	199.5	199.1	575.6	572.7
Store pre-opening and closing costs	4.7	1.5	10.0	6.6
Depreciation and amortization	13.8	13.2	40.1	38.6
Operating profit (loss)	17.3	16.7	8.2	(9.4)
Gain on repurchase of notes	(2.1)	—	(2.1)	—
Interest expense, net	2.6	3.9	7.2	9.3
Income (loss) before income taxes	16.8	12.8	3.1	(18.7)
Income tax provision (benefit)	6.6	4.8	1.6	(6.6)
Net income (loss)	<u>\$10.2</u>	<u>\$8.0</u>	<u>\$1.5</u>	<u>\$(12.1)</u>
Net income (loss) per common share – basic	<u>\$0.41</u>	<u>\$0.33</u>	<u>\$0.06</u>	<u>\$(0.50)</u>
Net income (loss) per common share – diluted	<u>\$0.40</u>	<u>\$0.32</u>	<u>\$0.06</u>	<u>\$(0.50)</u>
Weighted average shares outstanding (in thousands):				
Basic	<u>25,044</u>	<u>24,407</u>	<u>24,792</u>	<u>24,247</u>
Diluted	<u>25,738</u>	<u>25,011</u>	<u>25,435</u>	<u>24,247</u>

See notes to unaudited consolidated financial statements

Jo-Ann Stores, Inc.

Consolidated Statements of Cash Flows
(Unaudited)

	Thirty-Nine Weeks Ended	
	November 1, 2008	November 3, 2007
(Dollars in millions)		
Net cash flows provided by (used for) operating activities:		
Net income (loss)	\$1.5	\$(12.1)
Adjustments to reconcile net income (loss) to net cash provided by (used for) operating activities:		
Depreciation and amortization	40.1	38.6
Deferred income taxes	(0.5)	14.2
Stock-based compensation expense	7.2	6.9
Amortization of deferred financing costs	0.7	0.7
Loss on disposal of fixed assets	0.9	0.7
Gain on repurchase of notes	(2.1)	–
Changes in operating assets and liabilities:		
Increase in inventories	(50.1)	(117.5)
(Increase) decrease in prepaid expenses and other current assets	(5.2)	6.1
Increase in accounts payable	37.3	38.9
Decrease in accrued expenses	(2.2)	(18.4)
Increase (decrease) in lease obligations, net	6.1	(1.8)
Decrease in other long-term liabilities	(0.1)	(0.6)
Other, net	1.3	0.4
Net cash provided by (used for) operating activities	34.9	(43.9)
Net cash flows used for investing activities:		
Capital expenditures	(55.1)	(29.4)
Net cash used for investing activities	(55.1)	(29.4)
Net cash flows provided by financing activities:		
Purchase of senior subordinated notes	(18.0)	–
Net change in revolving credit facility	33.1	76.7
Proceeds from stock-based compensation plans	6.0	7.7
Other, net	(1.5)	(0.1)
Net cash provided by financing activities	19.6	84.3
Net (decrease) increase in cash and cash equivalents	(0.6)	11.0
Cash and cash equivalents at beginning of period	25.4	18.4
Cash and cash equivalents at end of period	<u>\$24.8</u>	<u>\$29.4</u>
Supplemental disclosures of cash flow information:		
Cash paid (received) during the period for:		
Interest	\$8.5	\$9.9
Income taxes, net of refunds	2.2	(7.3)

See notes to unaudited consolidated financial statements

Notes to Consolidated Financial Statements (Unaudited)
Jo-Ann Stores, Inc.

Note 1 – Basis of Presentation

Jo-Ann Stores, Inc. (the “company”), an Ohio corporation, is the nation’s largest specialty retailer of fabrics and one of the largest specialty retailers of crafts, operating 768 retail stores in 47 states at November 1, 2008.

The company’s fiscal year is a 52- or 53-week period ending on the Saturday closest to January 31. The fiscal year refers to the year in which the period ends (e.g., fiscal 2009 refers to the year-ended January 31, 2009). The 2009 fiscal year will include 52 weeks. Fiscal 2008 was also a 52-week year.

The consolidated interim financial statements include the accounts of the company and its subsidiaries and have been prepared without audit, pursuant to the rules of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted pursuant to those rules and regulations, although the company believes that the disclosures herein are adequate to make the information not misleading. The financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the company’s Annual Report on Form 10-K for the fiscal year-ended February 2, 2008.

Typical of most retail companies, the company’s business is highly seasonal with the majority of revenues and operating profits generated in the second half of the fiscal year. Accordingly, earnings or losses for a particular interim period are not indicative of full-year results. Due to the seasonal nature of the company’s business, a comparable balance sheet as of November 3, 2007 has been provided. In the opinion of management, the consolidated financial statements contain all adjustments (consisting only of normal recurring accruals) necessary for a fair presentation of the financial position and results of operations for the interim periods presented.

Note 2 – Earnings (Loss) Per Share

Basic earnings (loss) per common share are computed by dividing net income (loss) by the weighted average number of shares outstanding during the period. Diluted earnings per common share include the effect of the assumed exercise of dilutive stock-based awards under the treasury stock method. Loss per common share does not include the effect of the assumed exercise of stock-based awards, since the effect would be anti-dilutive.

The following table presents information necessary to calculate basic and diluted income (loss) per common share (shares in thousands):

	Thirteen Weeks Ended		Thirty-Nine Weeks Ended	
	November 1, 2008	November 3, 2007	November 1, 2008	November 3, 2007
Weighted average shares outstanding:				
Basic common shares	25,044	24,407	24,792	24,247
Incremental shares from assumed exercise of stock options	262	290	254	–
Incremental restricted shares	432	314	389	–
Diluted common shares	<u>25,738</u>	<u>25,011</u>	<u>25,435</u>	<u>24,247</u>

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For the third quarter and year-to-date period of fiscal 2009, the above calculation of the diluted net income per common share reflects the impact of stock options that had exercise prices below the average market price of the company's common shares for the quarter. An average of 660,494 stock options for the third quarter and 717,086 stock options for the year-to-date period were not included in the computation of diluted net income per common share because the exercise price of the stock options exceeded the average market price and would have been anti-dilutive.

For the third quarter of fiscal 2008, an average of 747,854 stock options were not included in the computation of diluted net income per common share because the exercise price of the stock options exceeded the average market price and would have been anti-dilutive. For the year-to-date period of fiscal 2008, all outstanding stock-based awards were excluded from the calculation of diluted net loss per common share because they would have had an anti-dilutive effect due to the company's net loss for this period.

Note 3 – Shareholders' Equity

During the first thirty-nine weeks of fiscal 2009, shares outstanding increased by 711,000 as follows:

	<u>Common Shares</u> <i>(Shares in thousands)</i>	<u>Treasury Shares</u>	<u>Common Stock Stated Value</u>	<u>Additional Paid-In Capital</u>	<u>Retained Earnings</u>	<u>Treasury Stock</u>	<u>Total Shareholders' Equity</u>
Balance, February 2, 2008	24,485	3,587	\$ 1.4	\$ 194.6	\$288.5	\$(44.5)	\$ 440.0
Net income	–	–	–	–	1.5	–	1.5
Exercise of stock options	406	–	–	4.1	–	–	4.1
Tax on equity compensation	–	–	–	1.7	–	–	1.7
Stock-based compensation	235	–	–	7.2	–	–	7.2
Purchase of common stock	(76)	76	–	–	–	(1.3)	(1.3)
Associate Stock Ownership Plan	146	–	–	1.9	–	–	1.9
Year-to-date activity	711	76	–	14.9	1.5	(1.3)	15.1
Balance, November 1, 2008	25,196	3,663	\$ 1.4	\$ 209.5	\$290.0	\$(45.8)	\$ 455.1

As of November 1, 2008, the company had 1,783,950 stock options outstanding and 717,904 restricted stock awards issued but not yet vested.

Note 4 – Financing

On September 5, 2008, the company and certain of its subsidiaries (the "Company") amended certain terms and extended the maturity of its Credit Facility, originally entered into as of April 24, 2001 (the "Amended Facility"). The Amended Facility, which expires on September 5, 2013, is a \$300 million revolver with Bank of America, N.A. and seven other lenders and is secured by a first priority security interest in the company's inventory, accounts receivable, personal property and other assets and is guaranteed by one other wholly-owned subsidiary of the company. The company has the option to request an increase in the size of the Amended Facility up to \$100 million (for a total facility of \$400 million) in increments of \$25 million subject to certain conditions, as defined; however, the lenders under the Amended Facility are not under any obligation to provide any such additional increments. Interest on borrowings under the Amended Facility is calculated at either LIBOR plus 1.75 percent to 2.25 percent or the bank's base rate plus 0.75 percent to 1.25 percent, both of which are dependent on the level of excess availability as defined in the credit agreement. The Amended Facility contains a sub-limit for letters of credit of \$200 million. Deferred financing costs of \$2.3 million, of which \$0.4 million relates to the unamortized portion of the deferred financing costs of the previous Credit Facility, will be amortized over the term of the Amended Facility.

The Amended Facility contains customary covenants that, among other things, restrict the company's ability to incur additional indebtedness or guarantee obligations, engage in mergers or consolidations, dispose of assets, make investments, acquisitions, loans or advances, engage in certain transactions with affiliates, create liens, or change the nature of its business. The company is restricted in its ability to prepay or modify the terms of other indebtedness, pay dividends and make other distributions when excess availability, as defined, falls below certain levels. Further, the company is required to comply with a minimum fixed charge ratio covenant, as defined, if excess availability is less than 10 percent of the borrowing base at any time. The Amended Facility also defines various events of default, including cross-default provisions, defaults for any material judgments or a change in control.

During the third quarter of fiscal 2009, the company purchased \$20.4 million in face value of the 7.5 percent senior subordinated notes at 88.375% to par. The company recorded a pre-tax gain of \$2.1 million for the cash discount received which was slightly offset by the related write-off of applicable deferred financing costs. These charges are reflected in the gain on repurchase of notes line item in the statement of operations.

Note 5 – Recent Accounting Pronouncements

Financial Accounting Standards Board Staff Position No. 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active"

In October 2008, the Financial Accounting Standards Board ("FASB") issued FASB Staff Position No. 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active" ("FSP 157-3"), which clarifies the application of Statement of Financial Accounting Standards No. 157, "Fair Value Measurement" ("SFAS 157") when the market for a financial asset is not active. FSP 157-3 was effective upon issuance, including prior periods for which financial statements had not been issued. The adoption of SFAS 157 did not have an impact on the company's consolidated financial statements.

Note 6 – Segment Reporting

At November 1, 2008, the company operated 208 large-format stores and 560 small-format stores. The company considers stores that generally average more than approximately 24,000 square feet of retail space as large-format stores. The company's small-format stores generally average less than approximately 24,000 square feet. The size of the store is not the only decisive factor in determining its classification as large-format or small-format. The most important distinction is whether or not stores in the range have been recently built or remodeled and contain a broad assortment of craft categories.

The company's reportable segments include large-format stores, small-format stores and other. The small-format stores offer a complete selection of fabric and a convenience assortment of crafts, artificial floral, finished seasonal and home décor merchandise. The large-format stores offer an expanded and more comprehensive product assortment than the small-format stores. The large-format stores also generally offer custom framing and educational programs that the small-format stores do not. The "other" category includes unallocated corporate assets and overhead in addition to the operating results of the company's joann.com Internet business. The segments are evaluated based on revenues and operating profit contribution to the total corporation. All income and expense items below operating profit are not allocated to the segments and are not disclosed.

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As permitted under SFAS 131, "Disclosures about Segments of an Enterprise and Related Information," certain information not routinely used in the management of these segments or information that is impractical to report is not shown. The company does not report assets other than property, equipment and leasehold improvements by segment because not all assets are allocated to segments for purposes of measurement by the company's chief operating decision maker.

<i>(Dollars in millions)</i>	Large-format Stores	Small-format Stores	Other	Consolidated
Thirteen Weeks Ended November 1, 2008				
Net sales	\$247.2	\$224.8	\$8.1	\$480.1
Store pre-opening and closing costs	1.6	3.1	–	4.7
Depreciation and amortization	8.0	2.7	3.1	13.8
Operating profit (loss)	20.7	26.4	(29.8)	17.3
Capital expenditures	<u>11.3</u>	<u>4.4</u>	<u>5.7</u>	<u>21.4</u>
Thirteen Weeks Ended November 3, 2007				
Net sales	\$252.6	\$227.6	\$–	\$480.2
Store pre-opening and closing costs	0.5	1.0	–	1.5
Depreciation and amortization	7.9	2.2	3.1	13.2
Operating profit (loss)	21.0	27.4	(31.7)	16.7
Capital expenditures	<u>2.5</u>	<u>2.1</u>	<u>3.0</u>	<u>7.6</u>
Thirty-Nine Weeks Ended November 1, 2008				
Net sales	\$687.5	\$618.3	\$23.4	\$1,329.2
Store pre-opening and closing costs	4.4	5.6	–	10.0
Depreciation and amortization	23.6	7.2	9.3	40.1
Operating profit (loss)	41.9	63.4	(97.1)	8.2
Capital expenditures	22.3	12.5	20.3	55.1
Property, equipment and leasehold improvements, net	<u>157.4</u>	<u>37.4</u>	<u>116.8</u>	<u>311.6</u>
Thirty-Nine Weeks Ended November 3, 2007				
Net sales	\$675.8	\$617.1	\$–	\$1,292.9
Store pre-opening and closing costs	2.3	4.3	–	6.6
Depreciation and amortization	23.3	6.6	8.7	38.6
Operating profit (loss)	29.9	55.9	(95.2)	(9.4)
Capital expenditures	14.2	8.2	7.0	29.4
Property, equipment and leasehold improvements, net	<u>169.8</u>	<u>38.4</u>	<u>93.7</u>	<u>301.9</u>

Note 7 – Consolidating Financial Statements (Unaudited)

The company's 7.5 percent senior subordinated notes and credit facility are fully and unconditionally guaranteed, on a joint and several basis, by certain of the wholly-owned subsidiaries of the company. The senior subordinated notes are subordinated to the company's credit facility.

Summarized consolidating financial information of the company (excluding its subsidiaries) and the guarantor subsidiaries as of November 1, 2008 and February 2, 2008 and for the thirteen and thirty-nine weeks ended November 1, 2008 and November 3, 2007 is as follows:

**Consolidating Balance Sheets
November 1, 2008**

	<u>Parent</u>	<u>Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
	<i>(Dollars in millions)</i>			
Assets				
Current assets:				
Cash and cash equivalents	\$(0.6)	\$25.4	\$-	\$24.8
Inventories	235.9	286.4		522.3
Deferred income taxes	19.0	5.9		24.9
Prepaid expenses and other current assets	22.1	6.9		29.0
Total current assets	276.4	324.6	-	601.0
Property, equipment and leasehold improvements, net	165.0	146.6		311.6
Goodwill	11.8	-		11.8
Other assets	6.3	7.6		13.9
Investment in subsidiaries	77.3	-	(77.3)	-
Intercompany receivable	360.8	-	(360.8)	-
Total assets	\$897.6	\$478.8	\$(438.1)	\$938.3
Liabilities and Shareholders' Equity				
Current liabilities:				
Accounts payable	\$169.6	\$13.0	\$-	\$182.6
Accrued expenses	98.5	(3.6)		94.9
Total current liabilities	268.1	9.4	-	277.5
Long-term debt	112.7	-		112.7
Lease obligations and other long-term liabilities	61.7	31.3		93.0
Intercompany payable	-	360.8	(360.8)	-
Shareholders' equity:				
Preferred stock	-	-		-
Common stock	1.4	-		1.4
Additional paid-in capital	209.5	-		209.5
Retained earnings	290.0	77.3	(77.3)	290.0
	500.9	77.3	(77.3)	500.9
Treasury stock, at cost	(45.8)	-		(45.8)
Total shareholders' equity	455.1	77.3	(77.3)	455.1
Total liabilities and shareholders' equity	\$897.6	\$478.8	\$(438.1)	\$938.3

Note 7 – Consolidating Financial Statements (Unaudited) – CONTINUED

Consolidating Balance Sheets
February 2, 2008

	<u>Parent</u>	<u>Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
			<i>(Dollars in millions)</i>	
Assets				
Current assets:				
Cash and cash equivalents	\$(1.0)	\$26.4	\$-	\$25.4
Inventories	208.5	263.7		472.2
Deferred income taxes	20.1	6.3		26.4
Prepaid expenses and other current assets	17.8	6.0		23.8
Total current assets	245.4	302.4	-	547.8
Property, equipment and leasehold improvements, net	142.8	154.7		297.5
Goodwill	11.8	-		11.8
Other assets	12.8	(0.5)		12.3
Investment in subsidiaries	70.9	-	(70.9)	-
Intercompany receivable	355.5	-	(355.5)	-
Total assets	<u>\$839.2</u>	<u>\$456.6</u>	<u>\$(426.4)</u>	<u>\$869.4</u>
Liabilities and Shareholders' Equity				
Current liabilities:				
Accounts payable	\$151.6	\$(6.3)	\$-	\$145.3
Accrued expenses	96.5	0.6		97.1
Total current liabilities	248.1	(5.7)	-	242.4
Long-term debt	100.0	-		100.0
Long-term deferred income taxes	(5.2)	5.2		-
Lease obligations and other long-term liabilities	56.3	30.7		87.0
Intercompany payable	-	355.5	(355.5)	-
Shareholders' equity:				
Preferred stock	-	-		-
Common stock	1.4	-		1.4
Additional paid-in capital	194.6	-		194.6
Retained earnings	288.5	70.9	(70.9)	288.5
	484.5	70.9	(70.9)	484.5
Treasury stock, at cost	(44.5)	-		(44.5)
Total shareholders' equity	440.0	70.9	(70.9)	440.0
Total liabilities and shareholders' equity	<u>\$839.2</u>	<u>\$456.6</u>	<u>\$(426.4)</u>	<u>\$869.4</u>

Note 7- Consolidating Financial Statements (Unaudited) – CONTINUED**Consolidating Statements of Operations****Thirteen Weeks Ended November 1, 2008 and November 3, 2007**

	November 1, 2008			
	<u>Parent</u>	<u>Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
	<i>(Dollars in millions)</i>			
Net sales	\$261.2	\$383.2	\$(164.3)	\$480.1
Cost of sales (exclusive of depreciation and amortization shown separately below)	146.3	262.8	(164.3)	244.8
Gross margin	114.9	120.4	–	235.3
Selling, general and administrative expenses	100.9	98.6		199.5
Store pre-opening and closing costs	2.8	1.9		4.7
Depreciation and amortization	7.2	6.6		13.8
Operating profit	4.0	13.3	–	17.3
Gain on repurchase of notes	(2.1)	–	–	(2.1)
Interest expense, net	1.2	1.4		2.6
Income before income taxes	4.9	11.9	–	16.8
Income tax provision	1.8	4.8		6.6
Income before equity income	3.1	7.1	–	10.2
Equity income from subsidiaries	7.1	–	(7.1)	–
Net income	<u>\$10.2</u>	<u>\$7.1</u>	<u>\$(7.1)</u>	<u>\$10.2</u>
	November 3, 2007			
	<u>Parent</u>	<u>Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
	<i>(Dollars in millions)</i>			
Net sales	\$262.5	\$388.2	\$(170.5)	\$480.2
Cost of sales (exclusive of depreciation and amortization shown separately below)	147.1	273.1	(170.5)	249.7
Gross margin	115.4	115.1	–	230.5
Selling, general and administrative expenses	98.4	100.7		199.1
Store pre-opening and closing costs	0.9	0.6		1.5
Depreciation and amortization	6.7	6.5		13.2
Operating profit	9.4	7.3	–	16.7
Interest expense, net	1.6	2.3		3.9
Income before income taxes	7.8	5.0	–	12.8
Income tax provision	2.5	2.3		4.8
Income before equity income	5.3	2.7	–	8.0
Equity income from subsidiaries	2.7	–	(2.7)	–
Net income	<u>\$8.0</u>	<u>\$2.7</u>	<u>\$(2.7)</u>	<u>\$8.0</u>

Note 7 – Consolidating Financial Statements (Unaudited) – CONTINUED**Consolidating Statements of Operations****Thirty-Nine Weeks Ended November 1, 2008 and November 3, 2007**

	November 1, 2008			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
	<i>(Dollars in millions)</i>			
Net sales	\$715.0	\$1,024.0	\$(409.8)	\$1,329.2
Cost of sales (exclusive of depreciation and amortization shown separately below)	407.1	698.0	(409.8)	695.3
Gross margin	307.9	326.0	–	633.9
Selling, general and administrative expenses	288.3	287.3		575.6
Store pre-opening and closing costs	5.9	4.1		10.0
Depreciation and amortization	20.4	19.7		40.1
Operating (loss) profit	(6.7)	14.9	–	8.2
Gain on repurchase of notes	(2.1)	–	–	(2.1)
Interest expense, net	3.2	4.0		7.2
(Loss) income before income taxes	(7.8)	10.9	–	3.1
Income tax (benefit) provision	(2.9)	4.5		1.6
(Loss) income before equity income	(4.9)	6.4	–	1.5
Equity income from subsidiaries	6.4	–	(6.4)	–
Net income	<u>\$1.5</u>	<u>\$6.4</u>	<u>\$(6.4)</u>	<u>\$1.5</u>
	November 3, 2007			
	Parent	Guarantor Subsidiaries	Eliminations	Consolidated
<i>(Dollars in millions)</i>				
Net sales	\$706.9	\$965.6	\$(379.6)	\$1,292.9
Cost of sales (exclusive of depreciation and amortization shown separately below)	396.9	667.1	(379.6)	684.4
Gross margin	310.0	298.5	–	608.5
Selling, general and administrative expenses	286.3	286.4		572.7
Store pre-opening and closing costs	3.1	3.5		6.6
Depreciation and amortization	19.2	19.4		38.6
Operating profit (loss)	1.4	(10.8)	–	(9.4)
Interest expense, net	4.1	5.2		9.3
Loss before income taxes	(2.7)	(16.0)	–	(18.7)
Income tax benefit	(1.2)	(5.4)		(6.6)
Loss before equity loss	(1.5)	(10.6)	–	(12.1)
Equity loss from subsidiaries	(10.6)	–	10.6	–
Net loss	<u>\$(12.1)</u>	<u>\$(10.6)</u>	<u>\$10.6</u>	<u>\$(12.1)</u>

Note 7 – Consolidating Financial Statements (Unaudited) – CONTINUED**Consolidating Statements of Cash Flows****Thirty-Nine Weeks Ended November 1, 2008 and November 3, 2007**

	November 1, 2008			Consolidated
	Parent	Guarantor Subsidiaries	Eliminations	
				<i>(Dollars in millions)</i>
Net cash provided by operating activities	\$24.1	\$10.8	\$–	\$34.9
Net cash flows used for investing activities:				
Capital expenditures	(43.3)	(11.8)		(55.1)
Net cash used for investing activities	(43.3)	(11.8)	–	(55.1)
Net cash flows provided by financing activities:				
Purchase of senior subordinated notes	(18.0)	–		(18.0)
Net change in revolving credit facility	33.1	–		33.1
Proceeds from stock-based compensation plans	6.0	–		6.0
Other, net	(1.5)	–		(1.5)
Net cash provided by financing activities	19.6	–	–	19.6
Net increase (decrease) in cash and cash equivalents	0.4	(1.0)	–	(0.6)
Cash and cash equivalents at beginning of period	(1.0)	26.4	–	25.4
Cash and cash equivalents at end of period	<u>\$ (0.6)</u>	<u>\$ 25.4</u>	<u>\$–</u>	<u>\$ 24.8</u>
				November 3, 2007
				<i>(Dollars in millions)</i>
Net cash (used for) provided by operating activities	\$(57.0)	\$13.1	\$–	\$(43.9)
Net cash flows used for investing activities:				
Capital expenditures	(15.6)	(13.8)		(29.4)
Net cash used for investing activities	(15.6)	(13.8)	–	(29.4)
Net cash flows provided by financing activities:				
Net change in revolving credit facility	76.7	–		76.7
Proceeds from stock-based compensation plans	7.7	–		7.7
Other, net	(0.1)	–		(0.1)
Net cash provided by financing activities	84.3	–	–	84.3
Net increase (decrease) in cash and cash equivalents	11.7	(0.7)	–	11.0
Cash and cash equivalents at beginning of period	(8.8)	27.2	–	18.4
Cash and cash equivalents at end of period	<u>\$ 2.9</u>	<u>\$ 26.5</u>	<u>\$–</u>	<u>\$ 29.4</u>

Item 2. Management' s Discussion and Analysis of Financial Condition and Results of Operations

This discussion is intended to provide the reader with information that will assist in an overall understanding of our financial statements, changes in certain key indicators in those financial statements from year to year, the factors that account for those changes and how certain accounting principles have impacted our financial statements. This discussion should be read in conjunction with the audited consolidated financial statements and notes to the consolidated financial statements presented in our fiscal 2008 Annual Report on Form 10-K.

General Overview

We are the nation' s largest specialty retailer of fabrics and one of the largest specialty retailers of crafts, serving customers in their pursuit of apparel and craft sewing, crafting, home decorating and other creative endeavors. Our retail stores feature a variety of competitively priced merchandise used in sewing, crafting and home decorating projects, including fabrics, notions, crafts, frames, paper crafting material, artificial floral, home accents, finished seasonal and home décor merchandise.

As of November 1, 2008, we operated 768 stores in 47 states (208 large-format stores and 560 small-format stores). We consider stores that generally average more than approximately 24,000 square feet of retail space as large-format stores. Our small-format stores generally average less than approximately 24,000 square feet. The size of the store is not the only decisive factor in determining its classification as large-format or small-format. The most important distinction is whether or not stores in the range have been recently built or remodeled and contain a broad assortment of craft categories.

Our large-format stores offer an expanded and more comprehensive product assortment than our small-format stores. Our large-format stores also generally offer custom framing and educational programs that our small-format stores do not. They average approximately 38,000 square feet and generated average net sales per store of approximately \$4.9 million in fiscal 2008. As new large-format stores are opened, these new stores will average less than 38,000 square feet. Our small-format stores offer a complete selection of fabric and a convenience assortment of crafts, artificial floral, finished seasonal and home décor merchandise. They average approximately 14,700 square feet and generated average net sales per store of approximately \$1.5 million in fiscal 2008.

Executive Overview

We performed better than many retailers, but we are not immune to the current market conditions. In response to the current market conditions, we are focusing on the control of internal operating variables. Controlling our internal operating variables has allowed us to deliver earnings growth over last year for the third quarter of fiscal 2009 and to continue to strengthen our balance sheet.

Sales trends began to soften in the third quarter of fiscal 2009 as evidenced in our same-store sales trend for fiscal 2009. Our 1.5% same-store sales decrease was in contrast to the 3.9% increase we delivered through the first half of the year. A slight drop in our store traffic accounted for most of our sales decrease. Sales in our basic sewing and craft categories continued to perform favorably. Sales within our sewing business were strong for the third quarter of fiscal 2009, particularly in the quilting, fleece and sportswear fabrics categories. Apparel crafts and food crafting remain strong on the non-sewing side of the business.

Weakness in the seasonal merchandise and higher ticket custom framing and home decorating fabric categories negatively impacted our sales trend in the third quarter. This weakness contributed to a downward trend in average ticket, resulting in a disproportionate impact on sales in our large-format stores, which have more space and inventory dedicated to these categories.

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In spite of the sales trend, we continued to improve our inventory position and delivered year-over-year improvements in gross margin and earnings for the quarter. Total inventory was down \$48.6 million or 8.5% compared to last year's third quarter, while total sales were flat for the same period. Basic in-stocks are at record levels, while we continue to reduce the higher risk fashion and seasonal inventories.

Gross margin increased by 100 basis points in the quarter, due to a reduction in clearance activity as compared to the same period in the prior year and lower costs from global sourcing initiatives, particularly on fabrics.

Selling, general and administrative expenses ("SG&A") increased slightly during the quarter as initiatives to tightly manage operating costs were offset by the de-leveraging of sales. In addition, we completed the roll out of our new point-of-sale system during the quarter. As a result of the new system, we incurred training costs during the quarter, which increased SG&A.

Our solid operating performance for the third quarter resulted in earnings of \$0.40 per share, an improvement of \$0.08 per share over the third quarter of the prior year. Included in the \$0.08 earnings per share improvement is \$0.05 earnings per share, net of tax, related to the gain from our senior subordinated note buyback. Our strong balance sheet and cash flow allowed us to retire \$20.4 million of notes during the quarter, at favorable terms, resulting in the gain.

We opened 12 new stores during the third quarter of fiscal 2009. We opened six new stores early in the fourth quarter of fiscal 2009, bringing the total number of new store openings to 21 for the year. We also made progress in revitalizing our existing store base by completing six remodels during the quarter. We have now completed 28 small-format remodels this year. The remodels continue to deliver strong results, with sales growth typically exceeding our small-format store average by 10% in the first year after remodel. In addition, stores we remodeled two years ago are still experiencing sales trends at almost 3% above the company average this year.

We also completed 217 small-format store optimization projects during the third quarter of fiscal 2009. The store optimization projects involve re-merchandising stores that were too small to justify a full remodel. It is too early to quantify the benefit from this effort, but we expect to see some modest incremental sales from these stores in future periods.

Looking ahead to the remainder of fiscal 2009, we believe the negative trends for customer traffic and average ticket may continue. In addition, our seasonal merchandise categories typically represent a larger percent of our business during the fourth quarter. Weakness in this category will create additional downward pressure on overall sales trends. We expect the fourth quarter of fiscal 2009 to be challenging in light of current economic conditions.

We were conservative in purchasing holiday merchandise this year. We continue to closely monitor our holiday sales and sell-through rates, as well as competitive pricing activity, and we will take appropriate pricing actions in order to optimize sell-through rates and gross margin dollars.

The retail industry, as well as its suppliers, has been negatively impacted by the current economic challenges. We are experiencing it at Jo-Ann Stores as well. In the third quarter of fiscal 2009, our same-store sales trend turned negative for the first time in six quarters. However, we believe we are managing through this situation well. Sales in our core sewing and craft categories are steady. Our balance sheet is stronger than it has been in years and we continue to invest for future growth. We believe we are positioned to gain market share in both the sewing and craft categories.

Recent Developments and Business Update

Outlook for Fiscal 2009 and Fiscal 2010

We are updating our previously announced outlook for fiscal 2009. Based upon our results through the third quarter, our operating assumptions for the remainder of the year, an increasingly challenging retail environment and uncertain economic conditions, we have reduced our previously announced full-year guidance. The key considerations underlying our outlook for fiscal 2009 include:

Same-store sales approximately flat for the year versus the previously announced range of 2.0% to 3.5% for the year;

Gross margin rate improvement for the year;

SG&A expense as a percentage of net sales will improve slightly versus the prior year;

Capital expenditures for the full-year of approximately \$60 million;

Earnings per diluted share in the range of \$0.75 to \$0.85 for the year versus the previously announced range of \$0.95 to \$1.05; and

Weighted-average diluted share count of approximately 25.5 million shares for the year.

For fiscal 2010, given the current economic environment, we expect to reduce capital spending from the fiscal 2009 year level of \$60 million to approximately \$35 million. We will continue to execute our strategic plan, which calls for revitalizing our store portfolio by opening new large-format stores and remodeling older small-format stores. At present, we expect that new store and remodel activity will be approximately the same level as this year, with roughly 20 new stores and 30 remodels. We will be closely monitoring the current uncertain economic conditions, and will adjust our new store and remodel plans if the economic conditions deviate significantly from our current expectations. Capital spending on information technology will be significantly lower next year, as well as discretionary spending for projects related to store operations and merchandising.

Goodwill

During the fourth quarter of fiscal 2008, we purchased the remaining 62% ownership interest in the joann.com website. This acquisition resulted in goodwill of \$11.8 million. Under Statement of Financial Accounting Standards No. 142 ("SFAS"), *Goodwill and Other Intangible Assets*, goodwill should be reviewed for impairment at least annually and more frequently if indicators exist that would suggest that goodwill could be impaired. We considered the current economic environment to be an impairment indicator under SFAS No. 142. Accordingly, we performed an interim test of goodwill impairment in accordance with SFAS No. 142. Based on the results of this testing, the conclusion of which was reached based on consideration of the current economic environment and assessment of our near-term future performance, we concluded that our goodwill was not impaired as of November 1, 2008. We will perform our annual test for goodwill impairment during the fourth quarter of fiscal 2009. A continued downturn of general economic conditions and a related loss in value of our business could result in goodwill impairment.

Results of Operations

The following table sets forth our results of operations through operating profit (loss), expressed as a percentage of net sales. The following discussion should be read in conjunction with our consolidated interim financial statements and related notes thereto.

	Percentage of Net Sales							
	Thirteen Weeks Ended				Thirty-Nine Weeks Ended			
	November 1, 2008		November 3, 2007		November 1, 2008		November 3, 2007	
Net sales	100.0	%	100.0	%	100.0	%	100.0	%
Gross margin	49.0	%	48.0	%	47.7	%	47.1	%
Selling, general and administrative expenses	41.6	%	41.5	%	43.3	%	44.3	%
Store pre-opening and closing costs	1.0	%	0.3	%	0.8	%	0.5	%
Depreciation and amortization	2.8	%	2.7	%	3.0	%	3.0	%
Operating profit (loss)	3.6	%	3.5	%	0.6	%	(0.7)	%

Comparison of the Thirteen Weeks Ended November 1, 2008 to November 3, 2007

Net Sales. Net sales for the third quarter of fiscal 2009 were \$480.1 million compared with \$480.2 million in the prior year. Same-store sales decreased 1.5% during the third quarter of fiscal 2009 versus a same-store sales increase of 2.4% in the third quarter last year. The decrease in same-store sales was driven primarily by a decrease in traffic and, to a lesser degree, lower average ticket.

Large-format store net sales for the third quarter of fiscal 2009 decreased 2.1% to \$247.2 million from \$252.6 million last year. Same-store sales for large-format stores decreased 3.8% for the quarter, versus a same-store sales increase of 2.4% in the third quarter last year. Large-format stores have a greater mix of seasonal product and higher ticket items, which had weak performance during the quarter.

Small-format store net sales for the third quarter of fiscal 2009 decreased 1.2% to \$224.8 million from \$227.6 million last year. Same-store sales performance for small-format stores increased 1.2% compared with a same-store sales increase of 2.4% for the third quarter of fiscal 2008. The increase in same-store sales was primarily due to higher average ticket. We continue to see the ongoing benefits from store remodels in our small-format stores. Sales in our basic sewing and craft categories continued to perform favorably.

Large-format stores accounted for approximately 51.5% of total third quarter net sales in fiscal 2009 as compared to 52.6% for the same period in the prior year. Small-format stores accounted for approximately 46.8% of total third quarter net sales in fiscal 2009 as compared to 47.4% for the same period in the prior year. Internet sales through joann.com accounted for the remaining 1.7% of third quarter net sales in fiscal 2009. During the third quarter of fiscal 2008, we were a minority owner of joann.com and therefore did not include its sales as part of total sales during that period.

On a category basis, our sewing businesses represented 54.2% of our fiscal 2009 third quarter net sales volume and increased 1.1% on a same-store sales basis over the third quarter of the prior year. We continued to experience positive same-store sales in the majority of our fabric and sewing notions merchandise categories, especially in quilting and fleece. Categories that negatively impacted same-store sales included home décor fabric and holiday fabric.

Our non-sewing businesses represented 45.8% of our fiscal 2009 third quarter net sales volume and decreased approximately 4.9% on a same-store sales basis over the third quarter of the prior year. The decrease was primarily due to declines in seasonal categories and custom framing.

Gross Margin. Gross margins may not be comparable to those of our competitors and other retailers. For instance, some retailers include all of the costs related to their distribution network and/or occupancy costs in cost of sales. We exclude a portion of the distribution network and occupancy costs from gross margin and include them within SG&A. As a percent of net sales, gross margin increased 100 basis points to 49.0% for the third quarter of fiscal 2009 compared with 48.0% for the same quarter last year. The improvement in the gross margin rate was primarily due to a smaller percentage of clearance sales to total sales in the third quarter of fiscal 2009 and lower costs from global sourcing initiatives, particularly on fabrics as compared to the same period of the prior year.

Selling, general and administrative expenses. SG&A expenses include store and administrative payroll, employee benefits, stock-based compensation, distribution costs, store occupancy costs, advertising expenses and administrative expenses. SG&A expenses, excluding other expenses separately identified in the statement of operations, were \$199.5 million in the third quarter of fiscal 2009 compared with \$199.1 million in the third quarter of the prior year. As a percentage of net sales, SG&A expense during the fiscal 2009 third quarter increased slightly to 41.6% of net sales compared with 41.5% of net sales in the third quarter of last year. The increase in SG&A is due primarily to de-leveraging of net sales and incremental store payroll for training related to our point-of-sale system roll out, offset to a large extent by initiatives to manage operating costs.

Store pre-opening and closing costs. Store pre-opening costs are expensed as incurred and relate to the costs incurred prior to a new store opening, which include lease costs recognized prior to the store opening, hiring and training costs for new employees and the cost of processing of initial merchandise. Store closing costs, which also are expensed as incurred, consist of lease termination costs, lease costs for closed locations, loss on disposal of fixtures and equipment, severance for employees, third-party inventory liquidator costs and other costs incidental to store closings. Store pre-opening and closing costs increased \$3.2 million during the third quarter of fiscal 2009 to \$4.7 million, compared with \$1.5 million in the third quarter last year. During the third quarter of fiscal 2009, we opened six large-format stores and six small-format stores versus the same period last year when we opened one large-format store. We closed 12 small-format stores during the third quarter of fiscal 2009 versus the same period last year when we closed five small-format stores.

During the third quarter of fiscal 2009, we remodeled six stores, of which one was transitioned from a small-format to a large-format layout. During the third quarter of fiscal 2008, we remodeled five stores, of which none were transitioned from a small-format to a large-format layout.

Depreciation and amortization. Depreciation and amortization expense in the third quarter of fiscal 2009 increased \$0.6 million to \$13.8 million from \$13.2 million for the third quarter of the prior year. The increase primarily is due to incremental depreciation associated with fiscal 2008 and 2009 expenditures related to technology as well as spending on new stores and remodels.

Operating profit. Operating profit was \$17.3 million in the third quarter of fiscal 2009 compared with operating profit of \$16.7 million in the same period of the prior year. The improvement in overall operating profit is primarily the result of the increase in gross margin due to reduced sales of clearance merchandise and lower costs from global sourcing initiatives, particularly related to fabrics.

Operating profit for large-format stores was \$20.7 million in the third quarter of fiscal 2009 versus operating profit of \$21.0 million in the third quarter last year. The decrease in large-format store operating profit was primarily the result of a decrease in same-store sales driven by a reduction in average ticket and traffic in addition to incremental store payroll for training related to the point-of-sale system roll out.

Operating profit for small-format stores was \$26.4 million in the third quarter of fiscal 2009 versus \$27.4 million in the third quarter last year. The decrease in operating profit was driven primarily by a decrease in the number of small-format stores as well as incremental store payroll for training related to the point-of-sale system roll out. During the third quarter of fiscal 2009, we closed 12 small-format stores.

Gain on repurchase of notes. Gain on repurchase of notes in the third quarter of fiscal 2009 was \$2.1 million, pre-tax. The gain of \$2.1 million was due to the repurchase of \$20.4 million of our 7.5 percent senior subordinated notes at a discount of approximately 12% to par value offset slightly by the related write-off of applicable deferred financing costs.

Interest expense. Interest expense in the third quarter of fiscal 2009 decreased \$1.3 million to \$2.6 million from \$3.9 million in the third quarter last year, primarily due to a decrease in our average borrowing levels. For the third quarter of fiscal 2009, our borrowing levels decreased to an average of \$117 million from an average of \$196 million outstanding in the third quarter of fiscal 2008.

Income taxes. Our effective income tax rate for the third quarters of fiscal 2009 and fiscal 2008 was 39.3% and 37.5%, respectively. Our effective tax rate is subject to change based on the mix of income from different state jurisdictions, which tax at different rates, as well as the change in status or outcome of uncertain tax positions. We evaluate our effective rate on a quarterly basis and update our estimate of the full-year effective rate as necessary.

Comparison of the Thirty-Nine Weeks Ended November 1, 2008 to November 3, 2007

Net Sales. Net sales for the first nine months of fiscal 2009 increased 2.8% to \$1,329.2 million from \$1,292.9 million in the prior year. Same-store sales increased 1.9% during the first nine months of fiscal 2009 compared with a same-store sales increase of 3.5% in the first nine months last year. The increase in sales was driven primarily by higher average ticket, slightly offset by a decrease in traffic. Increased average ticket was driven primarily by new product assortments, better in-stocks, and the benefit of competitor withdrawals from the sewing business.

Large-format store net sales for the first nine months of fiscal 2009 increased 1.7% to \$687.5 million from \$675.8 million last year. Same-store sales for large-format stores increased 0.3% for the first nine months of fiscal 2009, compared with a same-store sales increase of 4.6% in the first nine months last year. The increase in sales for large-format stores was due primarily to higher average ticket, partially offset by a slight decrease in traffic.

Small-format store net sales for the first nine months of fiscal 2009 increased 0.2% to \$618.3 million from \$617.1 million last year. Same-store sales performance for small-format stores increased 3.7% compared with a same-store sales increase of 2.6% for the same period in fiscal 2008. The increase in sales for small-format stores was driven by higher average ticket. In addition, customer transactions increased due to an improvement in our conversion rate, partially offset by a slight decrease in traffic. We continue to see the ongoing benefit from competitor withdrawals in the sewing business in our small-format stores as well as benefits realized from store remodels.

Large-format stores accounted for approximately 51.7% of total net sales for the first nine months of fiscal 2009 as compared to 52.3% for the same period in the prior year. Small-format stores accounted for approximately 46.5% of total net sales for the first nine months of fiscal 2009 as compared to 47.7% for the same period in the prior year. Internet sales through joann.com accounted for the remaining 1.8% of total net sales for the first nine months of fiscal 2009. During the first nine months of fiscal 2008, we were a minority owner of joann.com and therefore did not include its sales as part of total sales during that period.

On a category basis, our sewing businesses represented 52.5% of our net sales volume for the first nine months of fiscal 2009 and increased approximately 4.5% on a same-store sales basis over the first nine months of the prior year. We continued to experience positive same-store sales in the majority of our fabric and sewing notions merchandise categories, especially in quilting and fleece.

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Our non-sewing businesses represented 47.5% of our net sales volume for the first nine months of fiscal 2009 and decreased approximately 1.4% on a same-store sales basis over the first nine months of the prior year. Declines in seasonal categories and custom framing were partially offset by gains in needle arts and basic craft categories.

Gross Margin. Gross margins may not be comparable to those of our competitors and other retailers. For instance, some retailers include all of the costs related to their distribution network and/or occupancy costs in cost of sales. We exclude a portion of the distribution network and occupancy costs from gross margin and include them within SG&A. As a percent of net sales, gross margin increased 60 basis points to 47.7% for the first nine months of fiscal 2009 compared with 47.1% for the same period last year. The increase is due primarily to the benefit of a smaller percentage of clearance sales to total sales during the first nine months of fiscal 2009 as compared to the same period of the prior year and lower costs from global sourcing initiatives, particularly related to fabrics.

Selling, general and administrative expenses. SG&A expenses include store and administrative payroll, employee benefits, stock-based compensation, distribution costs, store occupancy costs, advertising expenses and administrative expenses. SG&A expenses, excluding other expenses separately identified in the statement of operations, were \$575.6 million in the first nine months of fiscal 2009 compared with \$572.7 million in the prior year first nine months. As a percentage of net sales, SG&A expense during the first nine months of fiscal 2009 decreased 100 basis points to 43.3% of net sales, from 44.3% of net sales in the first nine months of last year. The decrease is primarily the result of expense leverage from the increase in sales as well as continued cost control efforts, slightly offset by incremental store payroll for training related to our point-of-sale system roll out.

While we will continue to place a diligent focus on controlling our costs, for the fourth quarter of fiscal 2009 we do not expect the same level of improvement that we experienced in the first half of fiscal 2009 as we cycle through last year's expense reductions.

Store pre-opening and closing costs. Store pre-opening costs are expensed as incurred and relate to the costs incurred prior to a new store opening, which include lease costs recognized prior to the store opening, hiring and training costs for new employees and the cost of processing of initial merchandise. Store closing costs, which also are expensed as incurred, consist of lease termination costs, lease costs for closed locations, loss on disposal of fixtures and equipment, severance for employees, third-party inventory liquidator costs and other costs incidental to store closings. Store pre-opening and closing costs increased \$3.4 million during the first nine months of fiscal 2009 to \$10.0 million, compared with \$6.6 million in the first nine months last year. During the first nine months of fiscal 2009, we opened nine large-format stores and six small-format stores and closed two large-format stores and 19 small-format stores versus the same period last year when we opened six large-format stores and closed 22 small-format stores. For fiscal 2009, we expect to open 21 new stores. We also expect to close approximately 30 stores.

During the first nine months of fiscal 2009, we remodeled 28 stores, of which five were transitioned from a small-format to a large-format layout. During the first nine months of fiscal 2008, we remodeled 26 stores, of which five were transitioned from a small-format to a large-format layout which completed the remodels for the full fiscal year of 2008.

We expect to remodel approximately 29 stores during the full fiscal year of 2009, of which five are expected to transition from a small-format to a large-format layout.

Depreciation and amortization. Depreciation and amortization expense in the first nine months of fiscal 2009 increased \$1.5 million to \$40.1 million from \$38.6 million for the first nine months of the prior year. The increase is due to incremental depreciation associated with expenditures related to technology as well as spending on new stores and remodels.

Operating profit (loss). Operating profit was \$8.2 million in the first nine months of fiscal 2009 versus an operating loss of \$9.4 million in the same period of the prior year. The increase in overall operating profit is the result of a combination of growth in sales driven by higher average ticket due to new product assortments, better in-stocks, more effective marketing, the benefit of competitive withdrawals from the sewing business, the benefit of a smaller percentage of clearance sales to total sales as compared to the prior year, lower costs from global sourcing initiatives, particularly related to fabrics and our continued efforts to control expenses, slightly offset by incremental store payroll for training related to our point-of-sale system roll out.

Operating profit for large-format stores was \$41.9 million in the first nine months of fiscal 2009 versus operating profit of \$29.9 million in the first nine months last year. The improvement in large-format store operating profit was primarily the result of an increase in same-store sales driven by a higher average ticket combined with continued cost control efforts, slightly offset by incremental store payroll for training related to our point-of-sale system roll out.

Operating profit for small-format stores was \$63.4 million in the first nine months of fiscal 2009 versus \$55.9 million in the first nine months last year. The increase in operating profit was driven by an increase in same-store sales resulting primarily from a higher average ticket and an increase in customer transactions and disciplined cost controls, slightly offset by incremental store payroll for training related to our point-of-sale system roll out.

Gain on repurchase of notes. Gain on repurchase of notes in the first nine months of fiscal 2009 was \$2.1 million, pre-tax. The gain of \$2.1 million was due to the repurchase of \$20.4 million in the third quarter of fiscal 2009 of our 7.5 percent senior subordinated notes at a discount of approximately 12% to par value offset slightly by the related write-off of applicable deferred financing costs.

Interest expense. Interest expense in the first nine months of fiscal 2009 decreased \$2.1 million to \$7.2 million from \$9.3 million in the first nine months last year, primarily due to a decrease in our average borrowing levels. For the first nine months of fiscal 2009, our borrowing levels decreased to an average of \$106 million from an average of \$146 million outstanding in the first nine months of fiscal 2008.

Income taxes. Our effective income tax rate for the first nine months of fiscal 2009 and fiscal 2008 was 51.6% and 35.3%, respectively. Our effective tax rate is subject to change based on the mix of income from different state jurisdictions, which tax at different rates, as well as the change in status or outcome of uncertain tax positions. We evaluate our effective rate on a quarterly basis and update our estimate of the full-year effective rate as necessary.

Liquidity and Capital Resources

Our capital requirements are primarily for capital expenditures in connection with new store openings, store remodels, other infrastructure investments and working capital requirements for seasonal inventory builds and new store inventory purchases. Working capital requirements fluctuate during the year and reach their highest levels during the third fiscal quarter as we increase our inventory in preparation for our peak selling season during the months of September through December. These requirements are funded through a combination of internally generated cash flows from operations, credit extended by suppliers and borrowings under our credit facility.

We believe that the U.S. economy is facing very challenging times, and that general economic conditions could deteriorate further. We believe these conditions have had, and will continue to have, an adverse impact on spending by the customers we serve. Because of these challenges, we continue to review and adjust our business activities to address the changing economic environment and, as a result, we plan to prudently invest in our business, carefully manage inventory and liquidity and enforce expense controls. Due to the uncertainty in the overall economic environment and the unpredictability of consumer behavior, it is very difficult for us to predict how our business may perform in the future. Our business and financial performance may be adversely affected by current and future economic conditions that cause a decline in business and consumer spending, including a reduction in the availability of credit, increased unemployment levels, higher energy and fuel costs, rising interest rates, financial market volatility and recession. In addition, because macro-economic factors can impact charges we are required to take relating to asset impairments, these events could lead to impairment charges.

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The following table provides cash flow related information for the first nine months of fiscal 2009 and fiscal 2008:

<i>Dollars in millions</i>	2009	2008
Net cash provided by (used for) operating activities	\$34.9	\$(43.9)
Net cash used for investing activities	(55.1)	(29.4)
Net cash provided by financing activities	19.6	84.3
Net (decrease) increase in cash and cash equivalents	\$(0.6)	\$11.0
Ending cash and cash equivalents	\$24.8	\$29.4

Net cash provided by (used for) operating activities

Net cash provided by operations increased by \$78.8 million to \$34.9 million in the first nine months of fiscal 2009, compared with net cash used for operating activities of \$43.9 million in the first nine months of fiscal 2008. The increase in cash provided by operations primarily was attributable to our continued improvements in working capital. We decreased inventory purchases in the first nine months of fiscal 2009 from year-end fiscal 2008 as compared to the same time period in fiscal 2008. Inventories increased \$50.1 million in the first nine months of fiscal 2009, compared with a \$117.5 million increase in the first nine months of fiscal 2008. Comparing inventory levels as of the end of the first nine months of fiscal year 2009 and 2008, inventories decreased \$48.6 million, or 8.5%, year-over-year. The inventory decrease is primarily the result of a reduction in seasonal, fashion and clearance merchandise levels.

Net cash used for investing activities

Net cash used for investing activities totaled \$55.1 million in the first nine months of fiscal 2009, compared with \$29.4 million in the first nine months of fiscal 2008, and consisted entirely of capital spending for both periods. Capital expenditures consist of cash expenditures and cash expenditures reimbursed by landlords. Landlord-reimbursed capital expenditures represent the cost of assets acquired with landlord lease incentives. Capital expenditures are summarized as follows:

<i>Dollars in millions</i>	Thirty-Nine Weeks Ended	
	November 1, 2008	November 3, 2007
Cash	\$49.0	\$22.9
Cash – landlord reimbursed	6.1	6.5
Total	\$55.1	\$29.4

During the first nine months of fiscal 2009, we remodeled 28 stores as compared to 26 stores during the first nine months of fiscal 2008. We opened nine large-format stores and six small-format stores in the first nine months of fiscal 2009 as compared to the opening of six large-format stores in the first nine months of the prior year. Investment in information technology projects and store-related expenditures, including store remodels, represented the majority of the capital spending.

Net cash provided by financing activities

Net cash provided by financing activities was \$19.6 million during the first nine months of fiscal 2009, compared with \$84.3 million during the same period in fiscal 2008. During the third quarter of fiscal 2009, we purchased \$20.4 million in face value of our 7.5 percent senior subordinated notes at 88.375% to par. We recorded a pre-tax gain of \$2.1 million primarily for the cash discount received which was slightly offset by the related write-off of applicable deferred financing costs. These amounts are reflected in the gain on repurchase of notes line item in the statement of operations.

Borrowings were \$112.7 million at the end of the first nine months of fiscal 2009; an increase of \$12.7 from the beginning of the fiscal year and a decrease of \$89.3 million from the end of the first nine months of fiscal 2008. The increase of \$12.7 million from the beginning of the year was comprised of a \$33.1 million increase in the revolving credit facility offset by the \$20.4 million buyback of the senior subordinated notes. The decrease from the prior year was primarily the result of reduced inventory levels as well as other working capital improvements.

Our liquidity is based, in part, on our debt ratings. Currently, our long-term unsecured debt is rated “B3” by Moody’s Investor Service and “CCC+” by Standard & Poor’s Ratings Services. Moody’s rates our outlook as stable and Standard & Poor’s rate our outlook as positive. In May 2008, Standard & Poor’s raised our rating from “CCC” to “CCC+” and maintained their positive outlook. In December 2008, Moody’s raised our rating from “Caa2” to “B3” and changed their outlook from positive to stable. These changes by the rating agencies reflected the positive trends in our operating performance as well as our improved credit metrics. In assessing our credit strength, both Moody’s and Standard & Poor’s consider our capital structure and financial policies, as well as our consolidated balance sheet and other financial information. Downgrades of our credit ratings could adversely impact, among other things, our future borrowing costs, access to capital markets and new store operating lease costs, although we anticipate no short-term effect under our current credit arrangements.

On September 5, 2008, we and certain of our subsidiaries amended certain terms and extended the maturity of our Credit Facility, originally entered into as of April 24, 2001 (the “Amended Facility”). The Amended Facility, which expires on September 5, 2013, is a \$300 million revolver with Bank of America, N.A. and seven other lenders and is secured by a first priority security interest in our inventory, accounts receivable, personal property and other assets and is guaranteed by one other of our wholly-owned subsidiaries. We have the option to request an increase in the size of the Amended Facility of up to \$100 million (for a total facility of \$400 million) in increments of \$25 million subject to certain conditions, as defined; however, the lenders under the Amended Facility are not under any obligation to provide any such additional increments. Interest on borrowings under the Amended Facility is calculated at either LIBOR plus 1.75 percent to 2.25 percent or the bank’s base rate plus 0.75 percent to 1.25 percent, both of which are dependent on the level of excess availability as defined in the credit agreement. The Amended Facility contains a sub-limit for letters of credit of \$200 million. Deferred financing costs of \$2.3 million, of which \$0.4 million relates to the unamortized portion of the deferred financing costs of the previous Credit Facility, will be amortized over the term of the Amended Facility.

The Amended Facility contains customary covenants that, among other things, restrict our ability to incur additional indebtedness or guarantee obligations, engage in mergers or consolidations, dispose of assets, make investments, acquisitions, loans or advances, engage in certain transactions with affiliates, create liens, or change the nature of our business. We are restricted in our ability to prepay or modify the terms of other indebtedness, pay dividends and make other distributions when excess availability, as defined, falls below certain levels. Further, we are required to comply with a minimum fixed charge ratio covenant, as defined, if excess availability is less than 10 percent of the borrowing base at any time. The Amended Facility also defines various events of default, including cross-default provisions, defaults for any material judgments or a change in control.

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As of November 1, 2008, we had the ability to borrow \$247 million under our Amended Facility, subject to the borrowing base calculation, as defined. Our debt-to-capitalization ratio was 19.8% at November 1, 2008, 18.5% at February 2, 2008 and 32.9% at November 3, 2007.

Off-Balance Sheet Transactions

Our liquidity is currently not dependent on the use of off-balance sheet transactions other than letters of credit and operating leases, which are typical in a retail environment.

Seasonality and Inflation

Our business exhibits seasonality, which is typical for most retail companies. Our net sales are much stronger in the second half of the year than the first half of the year. Net earnings are highest during the months of September through December when sales volumes provide significant operating leverage. Working capital requirements needed to finance our operations fluctuate during the year and reach their highest levels during the second and third fiscal quarters as we increase our inventory in preparation for our peak selling season.

We believe that inflation has not had a significant effect on net sales or on our earnings performance. There can be no assurance, however, that our operating results will not be affected by inflation in the future.

Critical Accounting Policies

Our condensed consolidated interim financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies and a description of accounting policies that are considered critical can be found in our fiscal 2008 Annual Report on Form 10-K in the notes to the consolidated financial statements and the "Critical Accounting Policies and Estimates" section of Management's Discussion and Analysis of Financial Condition and Results of Operations.

Contractual Obligations

There have been no material changes to the table of contractual obligations and commitments presented on page 34 of our Annual Report on Form 10-K for the fiscal year ended February 2, 2008.

Cautionary Statement Concerning Forward-Looking Statements

Certain statements contained in this report that are not historical facts are forward-looking statements within the meaning of that term set forth in the Private Securities Litigation Reform Act of 1995. Such forward-looking statements, which reflect our current views of future events and financial performance, involve certain risks and uncertainties. When used herein, the terms "anticipates," "plans," "estimates," "expects," "believes," and similar expressions as they relate to us or future events or conditional verbs such as "will," "should," "would," "may," and "could" are intended to identify such forward-looking statements. All statements that address operating performance, events or developments that we expect or anticipate will occur in the future are forward-looking statements. Our actual results, performance or achievements may differ materially from those expressed or implied in the forward-looking statements. Risks and uncertainties that could cause or contribute to such material differences include, but are not limited to, the items described in "Item 1A. Risk Factors" of our fiscal 2008 Annual Report on Form 10K, as well as general economic conditions, changes in customer demand, changes in trends in the fabric and craft industry, seasonality, failure to manage new store growth and the store transition strategy, the availability of merchandise, changes in the competitive pricing for products, the impact of competitors' store openings and closings and changes in product offerings, longer-term unseasonable weather or widespread severe weather, our ability to effectively manage our distribution network, our ability to recruit and retain highly qualified personnel, our ability to sell-through our inventory at acceptable prices, energy costs, increases in transportation costs, our indebtedness and limits on obtaining additional financing, failure to maintain the security of our electronic and other confidential information, failure to comply with various laws and regulations, consumer confidence and debt levels, and other capital market and geo-political conditions. We caution readers not to place undue reliance on these forward-looking statements. We assume no obligation to update any of the forward-looking statements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The market risk of our financial instruments as of November 1, 2008 has not significantly changed since February 2, 2008. Information regarding our financial instruments and market risk as of February 2, 2008 is disclosed in our fiscal 2008 Annual Report on Form 10-K.

Item 4. Controls and Procedures

We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the management of Jo-Ann Stores, Inc. (the "Management"), including our Principal Executive Officer and our Principal Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, our Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives.

In connection with the preparation of this Quarterly Report on Form 10-Q as of November 1, 2008, an evaluation was performed under the supervision and with the participation of our Management, including the Principal Executive Officer and Principal Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act). Based on that evaluation, our Principal Executive Officer and Principal Financial Officer have concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of the end of the period covered by this Quarterly Report on Form 10-Q.

There have been no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) of the Exchange Act that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are involved in various litigation matters in the ordinary course of our business. We are not currently involved in any litigation that we expect, either individually or in the aggregate, will have a material adverse effect on our financial condition or results of operations.

Item 1A. Risk Factors

Except as set forth below, there were no material changes to the risk factors disclosed in our Annual Report on Form 10-K for our fiscal year ended February 2, 2008.

The effect of general economic conditions and the current financial crisis

Recent distress in the financial markets has resulted in declines in consumer confidence and spending, extreme volatility in securities prices, diminished liquidity and credit availability and declining valuations of certain investments. If the national or global economy or credit market conditions in general were to deteriorate further in the future, it is possible that such changes could put additional negative pressure on consumer spending, affecting our cash flows. There can be no assurance that our liquidity will not be affected by changes in the financial markets and the global economy.

While we do not anticipate that we will need additional financing or equity during the next fiscal year, tightening of the credit markets could make it more difficult for us to enter into agreements for new indebtedness or obtain funding through the issuance of our securities. The effects of these changes could also require us to make additional changes to our current plans and strategy.

In addition, the current credit crisis is having a significant negative impact on businesses around the world, and the impact of this crisis on our major suppliers cannot be predicted. The inability of key suppliers to access liquidity, or the insolvency of key suppliers, could lead to their failure to deliver merchandise or services. If we are unable to procure products and services when needed, or if we experience further deterioration in sales traffic in our stores over an extended period of time, our sales and cash flows could be negatively impacted in future periods. Any prolonged deterioration in sales could also result in the future impairment of goodwill and long-lived assets.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Purchases of Equity Securities by Jo-Ann Stores, Inc.

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
August 3 - 30, 2008	3,876	\$22.83	1,101,691	1,048,309
August 31 - October 4, 2008	1,018	\$25.32	1,102,709	1,047,291
October 5 - November 1, 2008	134	\$17.71	1,102,843	1,047,157
Total	<u>5,028</u>	<u>\$23.20</u>	<u>1,102,843</u>	<u>1,047,157</u>

In December 1998, our Board of Directors authorized a discretionary program that allowed us to buy back 2,150,000 common shares. That program does not have a stated expiration date. In the table above, the total number of shares purchased represents shares repurchased directly from the market, as well as shares repurchased from employees related to the lapse of restricted shares that were provided to us to satisfy minimum statutory tax withholding requirements.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Submission of Matters to a Vote of Security Holders

None.

Item 5. Other Information

None.

Item 6. Exhibits

a) Exhibits

No.	Exhibit Description
10.1	Amended and Restated Credit Agreement, dated as of September 5, 2008, among the Company as Lead Borrower, the Lenders party thereto, Bank of America, N.A., as Issuing Bank, Administrative Agent and Collateral Agent, Wells Fargo Retail Finance, LLC, National City Business Credit, Inc. and U.S. Bank National Association, as Co-Documentation Agents, and Banc of America Securities LLC, as Sole Lead Arranger and Book Manager.
31.1	Section 302 Certification By Chief Executive Officer.
31.2	Section 302 Certification By Chief Financial Officer.
32.1	Section 906 Certification of Principal Executive Officer and Principal Financial Officer.

SIGNATURES

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

JO-ANN STORES, INC.

DATE: December 11, 2008

/s/ Darrell Webb

Darrell Webb,
President and Chief Executive Officer

/s/ James Kerr

James Kerr,
Executive Vice President and Chief Financial Officer

EXHIBIT INDEX

No.	Exhibit Description
10.1	Amended and Restated Credit Agreement, dated as of September 5, 2008, among the Company as Lead Borrower, the Lenders party thereto, Bank of America, N.A., as Issuing Bank, Administrative Agent and Collateral Agent, Wells Fargo Retail Finance, LLC, National City Business Credit, Inc. and U.S. Bank National Association, as Co-Documentation Agents, and Banc of America Securities LLC, as Sole Lead Arranger and Book Manager.
31.1	Section 302 Certification By Chief Executive Officer.
31.2	Section 302 Certification By Chief Financial Officer.
32.1	Section 906 Certification of Principal Executive Officer and Principal Financial Officer.

AMENDED AND RESTATED CREDIT AGREEMENT

dated as of
September 5, 2008

among

JO-ANN STORES, INC.
as Lead Borrower for:

JO-ANN STORES, INC.
FCA OF OHIO, INC.
HOUSE OF FABRICS, INC.
JOANN.COM, INC.
JO-ANN STORES SUPPLY CHAIN MANAGEMENT, INC.

THE LENDERS PARTY HERETO,

BANK OF AMERICA, N.A.
as Issuing Bank

BANK OF AMERICA, N.A.
as Administrative Agent and Collateral Agent

WELLS FARGO RETAIL FINANCE, LLC
NATIONAL CITY BUSINESS CREDIT, INC.
U.S. BANK NATIONAL ASSOCIATION,
as Co-Documentation Agents

and

BANC OF AMERICA SECURITIES LLC
as Sole Lead Arranger and Book Manager

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AMENDED AND RESTATED CREDIT AGREEMENT dated as of September 5, 2008 among

JO-ANN STORES, INC., an Ohio corporation, having a principal place of business at 5555 Darrow Road, Hudson, Ohio 44236, as Lead Borrower for the Borrowers, being

said JO-ANN STORES, INC., and

FCA of Ohio, Inc., an Ohio corporation, having a principal place of business at 5555 Darrow Road, Hudson, Ohio 44236, and

House of Fabrics, Inc., a Delaware corporation, having a principal place of business at 5555 Darrow Road, Hudson, Ohio 44236, and

joann.com, Inc., a Delaware corporation, having a principal place of business at 5555 Darrow Road, Hudson, Ohio 44236, and

Jo-Ann Stores Supply Chain Management, Inc., an Ohio corporation, having a principal place of business at 5555 Darrow Road, Hudson, Ohio 44236;

the LENDERS party hereto; and

BANK OF AMERICA, N.A., as Issuing Bank, a national banking association having a place of business at 100 Federal Street, Boston, Massachusetts 02110; and

BANK OF AMERICA, N.A., as Administrative Agent and Collateral Agent for the Lenders, a national banking association having a place of business at 100 Federal Street, Boston, Massachusetts 02110; and

WELLS FARGO RETAIL FINANCE, LLC, U.S. BANK NATIONAL ASSOCIATION, AND NATIONAL CITY BUSINESS CREDIT, INC., as co-Documentation Agents;

in consideration of the mutual covenants herein contained and benefits to be derived herefrom.

W I T N E S S E T H:

WHEREAS, certain of the Borrowers have entered into a Credit Agreement dated as of April 24, 2001 among such Borrowers, the "Lenders" as defined therein, Bank of America, N.A., as successor in interest to Fleet Retail Group, LLC (f/k/a Fleet Retail Finance Inc.) as "Administrative Agent" and "Collateral Agent", Bank of America, N.A. (f/k/a Fleet National Bank) as "Issuing Bank", Wachovia Capital Finance Corporation (New England) (f/k/a Congress Financial Corporation) as "Documentation Agent", and GMAC Commercial Finance LLC (f/k/a GMAC Commercial Credit LLC), National City Business Credit, Inc. (f/k/a National City Commercial Finance, Inc.) and The CIT Group/Business Credit, Inc., as "Co-Agents" (as amended and in effect, the "Existing Credit Agreement"); and

WHEREAS, the Borrowers and the Lenders hereunder desire to add additional Persons as parties to the Existing Credit Agreement as provided herein and to modify certain of the terms of the Existing Credit Agreement as set forth herein; and

WHEREAS, the Borrowers and the Lenders hereunder desire to amend and restate the Existing Credit Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the Lenders, the Agents, and the Borrowers hereby agree that the Existing Credit Agreement shall be amended and restated in its entirety to read as follows:

ARTICLE 1
Definitions

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"ACH" shall mean automated clearing house transfers.

"Account" shall mean "accounts" as defined in the UCC, and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, (c) for a secondary obligation incurred or to be incurred, or (d) arising out of the use of a credit or charge card or information contained on or for use with the card.

"Acquisition" shall mean, with respect to any Person (a) an investment in, or a purchase of a Controlling interest in, the equity interests of any other Person, (b) a purchase or other acquisition of all or substantially all of the assets or properties of, another Person or of any business unit of another Person, (c) any merger or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or a Controlling interest in the equity interests, of any Person, or (d) any acquisition of any store locations of any Person, in each case in any transaction or group of transactions which are part of a common plan.

“Additional Commitment Lender” shall have the meaning set forth in SECTION 2.29 hereof.

“Adjusted LIBO Rate” means, with respect to any LIBO Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Adjustment Date” means the first day of each fiscal month of the Borrowers, commencing March 1, 2009.

“Administrative Agent” means Bank of America, in its capacity as administrative agent for the Lenders hereunder.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agents” shall mean collectively, the Administrative Agent and the Collateral Agent.

“Alternate Base Rate” shall mean, for any day, the higher of (a) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% (0.50%) per annum and (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If for any reason the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations thereof in accordance with the terms hereof, the Alternate Base Rate shall be determined without regard to clause (a) of the first sentence of this definition, until the circumstances giving rise to such inability no longer exist.

“Applicable Commitment Fee Percentage” means the applicable percentage set forth in the grid below:

<u>Average daily balance in any quarter of the Unused Commitment</u>	<u>Applicable Commitment Fee Percentage</u>	
Less than or equal to 33% of the Total Commitments	0.50	%
Greater than 33% but less than 66% of the Total Commitments	0.375	%
Equal to or greater than 66% of the Total Commitments	0.25	%

“Applicable Margin” means:

(a) From and after the Effective Date until the first Adjustment Date, the percentages set forth in Level 2 of the pricing grid below; and

(b) From and after the first Adjustment Date, the Applicable Margin shall be determined from the following pricing grid based upon the average Excess Availability as of the fiscal month of the Borrowers that ended immediately preceding such Adjustment Date; provided that upon the occurrence of an Event of Default, the Applicable Margin shall be immediately increased to the percentages set forth in Level 3 (even if the Excess Availability requirements for another Level have been met) and interest shall be determined in the manner set forth in SECTION 2.10; provided further if any Borrowing Base Certificates are at any time restated or otherwise revised or if the information set forth in any Borrowing Base Certificates otherwise proves to be false or incorrect such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand.

<u>Level</u>	<u>Average Excess Availability</u>	<u>Base Rate Loans</u>		<u>LIBO Loans</u>
1	Greater than or equal to \$175,000,000	0.75	%	1.75%
2	Greater than or equal to \$125,000,000 but less than \$175,000,000	1.00	%	2.00%
3	Less than \$125,000,000	1.25	%	2.25%

“Appraisal Percentage” means the following percentages for the periods indicated:

<u>Period</u>	<u>Appraisal Percentage</u>	
January 1 through September 14 of each year and November 16 through December 31 of each year	85	%
September 15 through November 15 of each year	90	%

“Appraised Value” means the net appraised liquidation value of the Borrowers’ Inventory as set forth in the Borrowers’ stock ledger (expressed as a percentage of the Cost of such Inventory) as determined from time to time by the Administrative Agent in accordance with its standard procedures and with the assistance of an independent appraiser satisfactory to the Administrative Agent.

“Arranger” means Banc of America Securities LLC.

“Assignment and Acceptance” means an assignment and acceptance entered into by a Lender and an assignee (with the consent of any party whose consent is required by SECTION 9.05), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Availability Reserves” means such reserves as the Administrative Agent from time to time determines in the Administrative Agent’s discretion as being appropriate (a) to reflect the impediments to the Agents’ ability to realize upon the Collateral, (b) to reflect claims and liabilities that the Administrative Agent determines will need to be satisfied in connection with the realization upon the Collateral, (c) to reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, or the assets, business, financial performance or financial condition of any Loan Party, or (d) to reflect that a Default or an Event of Default then exists. Without limiting the generality of the foregoing, Availability Reserves may include (but are not limited to) reserves based on (i) Rent; (ii) Gift Certificates and Merchandise Credit Liability; (iii) Frequent Shopper Programs; (iv) Layaways and Customer Deposits; (v) customs, duties, and other costs to release Inventory which is being imported into the United States; (vi) outstanding taxes and other governmental charges, including, ad valorem, real estate, personal property, and other taxes which might have priority over the interests of the Collateral Agent in the Collateral and either which have not been paid when due (unless such taxes are the subject of a bona fide dispute and are supported by funded reserves) or which the Administrative Agent, in its discretion, believes may impede the Agents’ ability to realize upon the Collateral; (vii) salaries, wages and benefits due to employees of any Borrower which might, in the determination of the Administrative Agent, have priority over the interests of the Collateral Agent in the Collateral, (viii) warehousemen’s or bailee’s charges and other Permitted Encumbrances which may, in the determination of the Administrative Agent, have priority over the interests of the Collateral Agent in the Collateral, (ix) Cash Management Reserves, and (x) Bank Products Reserves.

“Banker’s Acceptance” shall mean a time draft on a Commercial Letter of Credit which has been accepted by the Issuing Bank.

“Bank of America” means Bank of America, N.A. and its successors.

“Bank Products” means any services or facilities provided to any Loan Party by the Administrative Agent or any Lender or any of their respective Affiliates, including, without limitation, on account of (a) Hedging Agreements, (b) purchase cards, and (c) leasing, but excluding Cash Management Services.

“Bank Product Reserves” means such reserves as the Administrative Agent from time to time determine in its reasonable discretion as being appropriate to reflect the liabilities and obligations of the Loan Parties with respect to Bank Products then provided or outstanding.

“Base Rate Loan” shall mean any Loan bearing interest at a rate determined by reference to the Alternate Base Rate in accordance with the provisions of Article II.

“Blocked Account Agreements” has the meaning set forth in SECTION 2.21(c).

“Blocked Account Banks” shall mean the banks with whom deposit accounts are maintained in which any funds of any of the Loan Parties from one or more DDAs are concentrated and with whom a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

“Blocked Accounts” shall have the meaning set forth in SECTION 2.21(c).

“BOA Concentration Account” shall have the meaning set forth in SECTION 2.21(c).

“BOA Disbursement Accounts” has the meaning provided therefor in SECTION 2.21(f).

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrowers” means collectively, Jo-Ann Stores, Inc., an Ohio corporation, FCA of Ohio, Inc., an Ohio corporation, House of Fabrics, Inc., a Delaware corporation, joann.com, Inc., a Delaware corporation, and Jo-Ann Stores Supply Chain Management, Inc., an Ohio corporation.

“Borrowing” shall mean (a) the incurrence of Loans of a single Type, on a single date and having, in the case of LIBO Loans, a single Interest Period, or (b) a Swingline Loan.

“Borrowing Base” means, at any time of calculation, an amount equal to

(a) the Receivables Advance Rate of the face amount of Eligible Credit Card Receivables, plus

(b) (i) the Appraisal Percentage of the Appraised Value of Eligible Inventory multiplied by (ii) (A) the Cost of Eligible Inventory minus (B) Inventory Reserves; minus

(c) the then amount of all Availability Reserves.

“Borrowing Base Certificate” has the meaning assigned to such term in SECTION 5.01(e).

“Borrowing Request” means a request by the Lead Borrower on behalf of the Borrowers for a Borrowing in accordance with SECTION 2.03.

“Breakage Costs” shall have the meaning set forth in SECTION 2.19(b).

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in Boston, Massachusetts are authorized or required by law to remain closed, provided that, when used in connection with a LIBO Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Capital Expenditures” means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Borrowers that are (or would be) set forth in a consolidated statement of cash flows of the Borrowers for such period prepared in accordance with GAAP and (b) Capital Lease Obligations incurred by the Borrowers during such period; provided that, “Capital Expenditures” shall not include any expenditures which are contractually required to be, and are, reimbursed to a Borrower in cash by its landlords as tenant allowances during such period of calculation.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Cash Collateral Account” shall mean an interest-bearing account established by the Borrowers with the Collateral Agent at Bank of America, N.A. under the sole and exclusive dominion and control of the Collateral Agent designated as the “Jo-Ann Stores Cash Collateral Account”.

“Cash Control Event” means that (a) an Event of Default has occurred and is continuing or (b) Excess Availability is less than \$40,000,000.00. The occurrence of a Cash Control Event shall be deemed continuing notwithstanding that Excess Availability may thereafter exceed the amount set forth in the preceding sentence unless and until Excess Availability exceeds such amounts for sixty (60) consecutive days, in which case a Cash Control Event shall no longer be deemed to be continuing; *provided that* a Cash Control Event shall be deemed continuing (even if Excess Availability exceeds the required amounts for three consecutive months) if a Cash Control Event has occurred and been discontinued on three (3) occasions in any twelve month period.

“Cash Management Reserves” means such reserves as the Administrative Agent, from time to time, determines in its reasonable discretion as being appropriate to reflect the reasonably anticipated liabilities and obligations of the Loan Parties with respect to Cash Management Services then provided or outstanding.

“Cash Management Services” means any one or more of the following types or services or facilities provided to any Loan Party by the Administrative Agent, any Lender or any of their respective Affiliates: (a) ACH transactions, (b) cash management services, including, without limitation, controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) foreign exchange facilities, and (d) credit or debit cards.

“Cash Receipts” has the meaning provided therefor in SECTION 2.21(c).

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

“Change in Control” means, at any time, (a) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Lead Borrower by Persons who were neither (i) nominated by the board of directors of the Lead Borrower nor (ii) appointed by directors so nominated; or (b) the acquisition of thirty-five percent (35%) or more of the capital stock of the Lead Borrower by any Person or group of Persons other than the Family Group, or (c) the failure of the Lead Borrower to own, directly or indirectly, 100% of the capital stock of all of the other Borrowers (unless the Administrative Agent shall have consented to any disposition of any or all of such stock, which consent shall not be unreasonably withheld).

“Change in Law” means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or, for purposes of SECTION 2.23(b), by any lending office of such Lender or by such Lender’s or the Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

“Charges” has the meaning provided therefor in Section 9.13.

“Closing Date” means April 24, 2001.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means any and all “Collateral” as defined in any applicable Security Document.

“Collateral Access Agreement” means an agreement reasonably satisfactory in form and substance to the Agents executed by (a) a bailee or other Person in possession of Collateral, and (b) each landlord of Real Estate leased by any Loan Party, pursuant to which such Person (i) acknowledges the Collateral Agent’s Lien on the Collateral, (ii) releases such Person’s Liens in the Collateral held by such Person or located on such Real Estate, (iii) as to any landlord, provides the Collateral Agent with access to the Collateral located in or on such Real Estate and a reasonable time to sell and dispose of the Collateral from such Real Estate, and (iv) makes such other agreements with the Collateral Agent as the Agents may reasonably require.

“Collateral Agent” means Bank of America, in its capacity as collateral agent under the Security Documents.

“Commercial Letter of Credit” means any Letter of Credit issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by the Borrowers in the ordinary course of business of the Borrowers.

“Commitment Fee” has the meaning provided therefor in SECTION 2.12.

“Consolidated EBITDA” means, at any date of determination, an amount equal to Consolidated Net Income of the Loan Parties on a consolidated basis for the most recently completed Measurement Period, plus the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges, (ii) the provision for U.S. Federal, state, local and foreign income Taxes, (iii) depreciation and amortization expense, and (iv) stock-based compensation not payable in cash (in each case of or by Loan Parties on a consolidated basis for such Measurement Period).

“Consolidated Fixed Charge Coverage Ratio” means, at any date of determination, the ratio of (a) (i) Consolidated EBITDA for such period minus (ii) Capital Expenditures made during such period minus (iii) the aggregate amount of U.S. Federal, state, local and foreign income taxes paid in cash during such period to (b) the sum of (i) Debt Service Charges plus (ii) the aggregate amount of all Restricted Payments, in each case, of or by the Loan Parties on a consolidated basis for the most recently completed Measurement Period in accordance with GAAP.

“Consolidated Interest Charges” means, for any Measurement Period, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, (b) all interest paid or payable with respect to discontinued operations and (c) the portion of rent expense with respect to such period under Capital Lease Obligations that is treated as interest in accordance with GAAP, in each case of or by the Loan Parties on a consolidated basis for the most recently completed Measurement Period in accordance with GAAP.

“Consolidated Net Income” shall mean, with respect to the Loan Parties for any Measurement Period, the net income (or loss) of the Loan Parties on a consolidated basis for such Measurement Period taken as a single accounting period determined in accordance with GAAP, plus the amount of any goodwill of the Loan Parties charged off during such period (to the extent any such goodwill is included as an expense in the determination of Consolidated Net Income); provided, however, that there shall be excluded (i) the income (or loss) of a Person in which any Loan Party has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to such Loan Party during such period, (ii) the income (or loss) of a Person accrued prior to the date it becomes a Subsidiary of a Loan Party or any of such Loan Party’s Subsidiaries or is merged into or consolidated with a Loan Party or any of its Subsidiaries or that Person’s assets are acquired by such Loan Party or any of its Subsidiaries, and (iii) the income of any direct or indirect Subsidiary of a Loan Party to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter documents or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“Cost” means the average cost of purchases, as reported on the Borrowers’ stock ledger, based upon the Borrowers’ accounting practices which are in effect on the date of this Agreement. “Cost” does not include inventory capitalization costs or other non-purchase price charges (such as freight) used in the Borrowers’ calculation of cost of goods sold; *provided that* the Administrative Agent acknowledges that freight is included in the cost of the Borrowers’ imported Inventory in accordance with the Borrowers’ accounting practices which are in effect on the date of this Agreement.

“Covenant Compliance Event” means that Excess Availability at any time is less than ten percent (10%) of the then Borrowing Base. For purposes hereof, the occurrence of a Covenant Compliance Event shall be deemed continuing notwithstanding that Excess Availability may thereafter exceed the amount set forth in the preceding sentence unless and until Excess Availability equals or exceeds such amounts for sixty (60) consecutive days, in which case a Covenant Compliance Event shall no longer be deemed to be continuing.

“Credit Card Notifications” has the meaning provided therefor in SECTION 2.21(c).

“Credit Extensions” as of any day, shall be equal to the sum of (a) the principal balance of all Loans then outstanding, and (b) the then amount of the Letter of Credit Outstandings.

“DDAs” means any checking or other demand deposit account maintained by any Borrower.

“DDA Notification” has the meaning provided therefor in SECTION 2.21(c).

“Debt Service Charges” means for any Measurement Period, the sum of (a) Consolidated Interest Charges paid or required to be paid for such Measurement Period, plus (b) principal payments made or required to be made on account of Indebtedness (excluding the Obligations but including, without limitation, Capital Lease Obligations) for such Measurement Period, in each case determined on a consolidated basis in accordance with GAAP.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed to fund any portion of the Revolving Loans, participations in Letters of Credit or participations in Swingline Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Eligible Credit Card Receivables” means Accounts due to a Borrower on a non-recourse basis from Visa, Mastercard, American Express Co., Discover and other major credit card processors reasonably acceptable to the Administrative Agent as arise in the ordinary course of business, which have been earned by performance and are deemed by the Administrative Agent in its reasonable discretion to be eligible for inclusion in the calculation of the Borrowing Base. Without limiting the foregoing, unless otherwise approved in writing by the Administrative Agent, none of the following shall be deemed to be Eligible Credit Card Receivables:

(a) Accounts that have been outstanding for more than five (5) Business Days from the date of sale;

(b) Accounts with respect to which a Borrower does not have good, valid and marketable title thereto, free and clear of any Encumbrance (other than Encumbrances granted to the Collateral Agent, for its benefit and the ratable benefit of the Secured Parties, pursuant to the Security Documents);

(c) Accounts that are not subject to a first priority security interest in favor of the Collateral Agent, for the benefit of itself and the Secured Parties (it being the intent that chargebacks in the ordinary course by the credit card processors shall not be deemed violative of this clause);

(d) Accounts which are disputed, are with recourse, or with respect to which a claim, counterclaim, offset or chargeback has been asserted (to the extent of such claim, counterclaim, offset or chargeback);

(e) Accounts which the Administrative Agent determines in its reasonable discretion to be uncertain of collection.

“Eligible In-Transit Inventory” shall mean, as of the date of determination thereof, without duplication of other Eligible Inventory, Inventory (a) not yet delivered to the Borrowers, (b) for which payment has been made by the Borrowers, (c) which has been consigned to a Borrower (along with delivery to a Borrower of the documents of title with respect thereto), (d) as to which a customs broker agency agreement, satisfactory to the Administrative Agent, is in effect, and (e) which otherwise would constitute Eligible Inventory.

“Eligible Inventory” shall mean, as of the date of determination thereof, (a) Eligible In- Transit Inventory, (b) Eligible L/C Inventory but only if and to the extent that the Administrative Agent in its reasonable discretion determines to include such as Eligible Inventory, and (c) items of Inventory of the Borrowers that are finished goods, merchantable and readily saleable to the public in the ordinary course deemed by the Administrative Agent in its reasonable discretion to be eligible for inclusion in the calculation of the Borrowing Base. Without limiting the foregoing, unless otherwise approved in writing by the Administrative Agent, none of the following shall be deemed to be Eligible Inventory:

(a) Inventory that is not owned solely by the Borrowers, or is leased or on consignment or the Borrowers do not have good and valid title thereto;

(b) Inventory (including any portion thereof in transit from vendors, other than Eligible In-Transit Inventory) that is not located at a warehouse facility used by a Borrower in the ordinary course or at a property that is owned or leased by the Borrowers;

(c) Inventory that is comprised of goods which (i) are damaged, defective, “seconds,” or otherwise unmerchantable, (ii) are to be returned to the vendor, (iii) are obsolete or slow moving, or custom items, work-in-process, raw materials, or that constitute spare parts, promotional, marketing, packaging and shipping materials or supplies used or consumed in a Borrower’ s business, (iv) are not in compliance in all material respects with all standards imposed by any Governmental Authority having regulatory authority over such Inventory, its use or sale, or (v) are bill and hold goods;

(d) Inventory that is not located in the United States of America (excluding territories and possessions thereof) other than Eligible In-Transit Inventory;

(e) Inventory that is not subject to a perfected first-priority security interest in favor of the Collateral Agent for the benefit of the Secured Parties;

(f) Inventory which consists of samples, labels, bags, packaging, and other similar non-merchandise categories;

(g) Inventory as to which insurance in compliance with the provisions of SECTION 5.07 hereof is not in effect;

(h) Inventory which has been sold but not yet delivered or as to which any Borrower has accepted a deposit; and

(i) Inventory acquired in a Permitted Acquisition permitted pursuant to Section 6.04 hereof, unless and until the Collateral Agent has completed or received (A) an appraisal of such Inventory from appraisers satisfactory to the Collateral Agent, and has established Inventory Reserves (if applicable) therefor, and otherwise agrees that such Inventory shall be deemed Eligible Inventory, and (B) such other due diligence as the Agents may require, all of the results of the foregoing to be reasonably satisfactory to the Agents.

“Eligible L/C Inventory” shall mean, as of the date of determination thereof, without duplication of other Eligible Inventory, Inventory (a) which does not constitute Eligible In-Transit Inventory and for which no documents of title have then been issued, (b) the purchase of which is supported by a Commercial Letter of Credit or Banker’ s Acceptance having an expiry within sixty (60) days of such date of determination, which Commercial Letter of Credit or Banker’ s Acceptance provides that it may be drawn only after the Inventory is completed and after documents of title have been issued for such Inventory reflecting a Borrower or the Collateral Agent as consignee of such Inventory, and (c) which otherwise would constitute Eligible Inventory.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, handling, treatment, storage, disposal, Release or threatened Release of any Hazardous Material.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, natural resource damage, costs of environmental remediation, administrative oversight costs, fines, penalties or indemnities), of any Borrower directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Lead Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Lead Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Lead Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Lead Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (g) the receipt by the Lead Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Lead Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Event of Default” has the meaning assigned to such term in SECTION 7.01.

“Excess Availability” means, as of any date of determination, the excess, if any, of (a) the lesser of the Borrowing Base or the aggregate Revolving Commitments, over (b) the sum of (i) the outstanding Credit Extensions, and (ii) all then held checks, accounts payable which are beyond credit terms then accorded the Borrowers and overdrafts.

“Excluded Taxes” means, with respect to the Agents, any Lender, the Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrowers hereunder, (a) income or franchise taxes imposed on (or measured by) its gross or net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which any Borrower is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by a Borrower under SECTION 2.28(b), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office) or is attributable to such Foreign Lender’s failure to comply with SECTION 2.26(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrowers with respect to such withholding tax pursuant to SECTION 2.26(a).

“Existing Letters of Credit” means those Letters of Credit under the Existing Credit Agreement set forth on **Schedule 2.06** hereto.

“Facility Guarantee” means the Guaranty executed by the Facility Guarantors in favor of the Agents, the Issuing Bank and the Lenders.

“Facility Guarantors” means all Subsidiaries of each Borrower now existing or hereafter created other than Foreign Subsidiaries.

“Facility Guarantors Collateral Documents” means all security agreements, mortgages, pledge agreements, deeds of trust, and other instruments, documents or agreements executed and delivered by any Facility Guarantor to secure the Facility Guarantee.

“Family Group” means (i) Betty Rosskamm, Alan Rosskamm, Jacqueline Rothstein and their respective spouses, heirs, legatees, lineal descendants, executors, administrators, and other representatives, and (ii) any trust, family partnership or similar investment entity of which any of the foregoing Persons are trustee(s), managing member(s), managing partner(s) or similar officer(s) and/or that is for the benefit of any of the foregoing Persons as long as one or more of such Persons has the exclusive or joint right to control the voting and disposition of securities held by such trust, family partnership or similar investment entity.

“Federal Funds Effective Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as reasonably determined by the Administrative Agent.

“Fee Letter” means the fee letter dated July 31, 2008 among the Borrowers, the Arranger and the Administrative Agent, as such letter may from time to time be amended.

“Financial Officer” means, with respect to any Borrower, the chief financial officer, treasurer, controller or assistant controller of such Borrower.

“Fiscal Period” means the accounting periods of the Borrowers based upon the Borrowers’ accounting practices which are in effect on the date of this Agreement, such fiscal periods being reflected on **Schedule 1.2** hereto.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than the United States of America or any State thereof or the District of Columbia.

“Foreign Subsidiary” means any Subsidiary that is organized under the laws of a jurisdiction other than the United States of America or any State thereof or the District of Columbia.

“GAAP” means generally accepted accounting principles in the United States of America.

“Gift Certificate and Merchandise Credit Liability” means, at any time, the aggregate face value at such time of (a) outstanding gift certificates and gift cards of the Borrowers entitling the holder thereof to use all or a portion of the certificate to pay all or a portion of the purchase price for any Inventory, and (b) outstanding merchandise credits of the Borrowers.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation, provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law, including any material listed as a hazardous substance under Section 101(14) of CERCLA.

“Hedging Agreement” means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement, or other interest or currency exchange rate or commodity price hedging arrangement.

“Ideaforest Note” means the Promissory Note dated as of November 5, 2007 made by Jo-Ann Stores, Inc. in favor of Renee LaBran, as the designated representative of certain Persons named therein.

“Increase Effective Date” shall have the meaning set forth in SECTION 2.29 hereof.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others (including, without limitation, under any Synthetic Leases), (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty (j) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (k) all Hedging Agreements, and (l) the principal and interest portions of all rental obligations of such Person under any Synthetic Lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an operating lease in accordance with GAAP. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitee” has the meaning provided therefor in SECTION 9.03(b).

“Interest Payment Date” means (a) with respect to any Base Rate Loan (including a Swingline Loan), the last day of each calendar month, and (b) with respect to any LIBO Loan, the last day of each calendar quarter and the last day of the Interest Period applicable to the Borrowing of which such Loan is a part.

“Interest Period” means, with respect to any LIBO Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Lead Borrower may elect, provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, and (c) any Interest Period which would otherwise end after the Maturity Date shall end on the Maturity Date. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Inventory” has the meaning assigned to such term in the Security Agreement.

“Inventory Reserves” means such reserves as may be established from time to time by the Administrative Agent in the Administrative Agent’s reasonable discretion with respect to the determination of the saleability, at retail, of the Eligible Inventory or which reflect such other factors as affect the market value of the Eligible Inventory. Without limiting the generality of the foregoing, Inventory Reserves may include (but are not limited to) reserves based on (i) obsolescence; (ii) seasonality; (iii) Shrink; (iv) imbalance; (v) change in Inventory character; (vi) change in Inventory composition; (vii) change in Inventory mix; (viii) markdowns (both permanent and point of sale); (ix) retail markons and markups inconsistent with prior period practice and performance; industry standards; current business plans; or advertising calendar and planned advertising events.

“Issuing Bank” means Bank of America and any other Lender selected by the Lead Borrower, in their respective capacities as the issuers of Letters of Credit hereunder and any successors to Bank of America or such Lenders in such capacity. The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“L/C Disbursement” means a payment made by the Issuing Bank pursuant to a Letter of Credit.

“Lead Borrower” means Jo-Ann Stores, Inc., an Ohio corporation.

“Lenders” shall mean the Persons identified on **Schedule 1.1** hereto and each assignee that becomes a party to this Agreement as set forth in SECTION 9.05(b).

“Letter of Credit” shall mean a letter of credit that is (i) issued pursuant to this Agreement for the account of any Borrower, (ii) a Standby Letter of Credit or Commercial Letter of Credit, (iii) issued in connection with the purchase of Inventory by any Borrower and for other purposes for which a Borrower has historically obtained letters of credit, or for any other purpose that is reasonably acceptable to the Administrative Agent, and (iv) in form and substance reasonably satisfactory to the Issuing Bank. “Letter of Credit” shall also mean and include all Banker’s Acceptances and all Existing Letters of Credit.

“Letter of Credit Fees” shall mean the fees payable in respect of Letters of Credit pursuant to SECTION 2.13.

“Letter of Credit Outstandings” shall mean, at any time, the sum of (a) with respect to Letters of Credit outstanding at such time, the aggregate maximum amount that then is or at any time thereafter may become available for drawing or payment thereunder plus (b) all amounts theretofore drawn or paid under Letters of Credit for which the Issuing Bank has not then been reimbursed.

“LIBO Borrowing” shall mean a Borrowing comprised of LIBO Loans.

“LIBO Loan” shall mean any Loan bearing interest at a rate determined by reference to the Adjusted LIBO Rate in accordance with the provisions of Article II.

“LIBO Rate” means for any Interest Period with respect to a LIBO Loan, the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the “LIBO Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBO Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Documents” means this Agreement, the Notes, the Letters of Credit, the Fee Letter, all Borrowing Base Certificates, the Blocked Account Agreements, the DDA Notifications, the Credit Card Notifications, the Security Documents, the Facility Guarantee, and any other instrument or agreement executed and delivered in connection therewith.

“Loan Party” or “Loan Parties” means the Borrowers and the Facility Guarantors.

“Loans” shall mean all loans (including, without limitation, Revolving Loans and Swingline Loans) at any time made to the Borrowers or for account of the Borrowers pursuant to this Agreement.

“Margin Stock” has the meaning assigned to such term in Regulation U.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, property, assets, prospects, or condition, financial or otherwise, of the Lead Borrower and its Subsidiaries taken as a whole, or (b) the validity or enforceability of this Agreement or any of the other Loan Documents or any of the material rights or remedies of the Administrative Agent, the Collateral Agent or the Lenders hereunder or thereunder.

“Material Agreements” means, with respect to any Person, each contract to which such Person is a party evidencing any Material Indebtedness, and each agreement to which such Person is a party, the termination of which would reasonably be expected to have a Material Adverse Effect. Without limiting the foregoing, the Subordinated Debt Indenture, the IdeaForest Note and the Lease Agreement dated October 19, 2006 between Jo-Ann Stores Supply Chain Management, Inc. and BPVisalia LLC relating to the Borrowers’ Visalia, California distribution center shall all be deemed to be Material Agreements.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit) or obligations in respect of one or more Hedging Agreements of any one or more of the Borrowers in an aggregate principal amount exceeding \$10,000,000.00. For purposes of determining the amount of Material Indebtedness at any time, the “principal amount” of the obligations in respect of any Hedging Agreement at such time shall be the maximum aggregate amount that a Borrower would be required to pay if such Hedging Agreement were terminated at that time.

“Maturity Date” means September 5, 2013.

“Maximum Rate” has the meaning provided therefor in SECTION 9.13.

“Measurement Period” means, at any date of determination, the most recently completed four fiscal quarters of the Borrowers.

“Minority Lenders” has the meaning provided therefor in SECTION 9.02(d).

“Moody’s” means Moody’s Investors Service, Inc.

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

“Net Proceeds” means, with respect to any event, (a) the cash proceeds received in respect of such event, including (i) any cash received in respect of any non-cash proceeds, but only as and when received, (ii) in the case of a casualty, insurance proceeds, and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, in each case net of (b) the sum of (i) all reasonable fees and out-of-pocket expenses (including appraisals, and brokerage, legal, title and recording tax expenses and commissions) paid by any Borrower to third parties (other than Affiliates) in connection with such event, and (ii) in the case of a sale or other disposition of an asset (including pursuant to a casualty or condemnation), the amount of all payments required to be made by any Borrower as a result of such event to repay (or to establish an escrow for the repayment of) Indebtedness (other than Loans) which is secured by such asset and constitutes a Permitted Encumbrance that is senior to the Lien of the Collateral Agent.

“Noncompliance Notice” has the meaning provided therefor in SECTION 2.05(b).

“Notes” shall mean (i) the promissory notes of the Borrowers substantially in the form of Exhibit B-1, each payable to the order of a Revolving Lender, evidencing the Revolving Loans, and (ii) the promissory note of the Borrowers substantially in the form of Exhibit B-2, payable to the Swingline Lender, evidencing the Swingline Loans.

“Obligations” means (a) all advances to, and debts (including principal, interest, fees, costs, and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise solely with respect to any Loan or Letter of Credit (including payments in respect of reimbursement of disbursements, interest thereon and obligations to provide cash collateral therefor), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Loan Parties under or pursuant to the Credit Agreement and the other Loan Documents, and (c) any Other Liabilities.

“Other Liabilities” means any obligation on account of (a) any Cash Management Services furnished to any of the Loan Parties or any of their Subsidiaries by the Administrative Agent, any Lender or any of their respective Affiliates and/or (b) any transaction with any Agent, any Lender or any of their respective Affiliates, which arises out of any Bank Product entered into with any Loan Party and any such Person, as each may be amended from time to time.

“Other Taxes” means any and all current or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

“Overadvance” means, at any time of calculation, a circumstance in which the Credit Extensions exceed the lesser of (a) the Revolving Commitments or (b) the Borrowing Base.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Payment Conditions” means, at the time of determination, that (a) no Default or Event of Default then exists or would arise as a result of the making of the subject payment, and (b) prior to, and, on a pro forma basis for twelve months after giving effect to, the subject payment, Excess Availability shall be equal to or greater than (i) with respect to any calculation of Payment Conditions in connection with a Permitted Acquisition, \$75,000,000, and (ii) with respect to any other calculation of Payment Conditions, twenty percent (20%) of the lesser of (x) the Total Commitments and (y) the then Borrowing Base.

“Perfection Certificate” means a certificate in the form of Annex 1 to the Security Agreement or any other form approved by the Collateral Agent.

“Permitted Acquisition” means an Acquisition that meets one of the following criteria: (i) the consideration for which is equal to or less than \$10,000,000 and no Default or Event of Default then exists or would arise from the consummation of such Acquisition; or (ii) for which all of the following conditions are satisfied:

(a) Such Acquisition shall have been approved by the Board of Directors of the Person (or similar governing body if such Person is not a corporation) which is the subject of such Acquisition and such Person shall not have announced that it will oppose such Acquisition or shall not have commenced any action which alleges that such Acquisition shall violate applicable law;

(b) The Lead Borrower shall have furnished the Administrative Agent with fifteen (15) days’ prior written notice of such intended Acquisition and shall have furnished the Administrative Agent with a current draft of the acquisition documents (and final copies thereof as and when executed), a summary of any due diligence undertaken by the Loan Parties in connection with such Acquisition, appropriate financial statements of the Person which is the subject of such Acquisition, pro forma projected financial statements for the twelve (12) month period following such Acquisition after giving effect to such Acquisition (including balance sheets, cash flows and income statements by month for the acquired Person, individually, and on a consolidated basis with all Loan Parties), and such other information as the Administrative Agent may reasonably require;

(c) The legal structure of the Acquisition shall be reasonably acceptable to the Administrative Agent in its discretion;

(d) Any assets acquired shall be utilized in, and if the Acquisition involves a merger, consolidation or stock acquisition, the Person which is the subject of such Acquisition shall be engaged in, a business otherwise permitted to be engaged in by a Borrower under this Agreement;

(e) If the Person which is the subject of such Acquisition will be maintained as a Subsidiary of a Loan Party, such Subsidiary shall have been joined as a "Borrower" hereunder, and the Collateral Agent shall have received a first priority security interest in such Subsidiary's equity interests, Inventory, Accounts, and other property of the same nature as constitutes collateral under the Security Documents; and

(f) The Loan Parties shall have satisfied the Payment Conditions.

"Permitted Encumbrances" means:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.05;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.05;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under SECTION 7.01(k); and

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrowers or any Subsidiary.

provided that, except as provided in any one or more of clauses (a) through (f) above, the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

“Permitted Investments” means each of the following:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody’ s;

(c) investments in certificates of deposit, banker’ s acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and demand deposit and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof that has a combined capital and surplus and undivided profits of not less than \$500,000,000; and

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above (without regard to the limitation on maturity contained in such clause) and entered into with a financial institution satisfying the criteria described in clause (c) above or with any primary dealer.

provided that, notwithstanding the foregoing, no such investments shall be permitted unless (i) either (A) no Loans are then outstanding, or (B) the investment is a temporary investment pending expiration of an Interest Period for a LIBO Loan, the proceeds of which investment will be applied to the Obligations after the expiration of such Interest Period, and (b) such investments are pledged to the Administrative Agent as additional collateral for the Obligations pursuant to such agreements as may be reasonably required by the Administrative Agent.

“Permitted Overadvance” means an Overadvance determined by the Administrative Agent, in its reasonable discretion, (a) which is made to maintain, protect or preserve the Collateral and/or the Lenders’ rights under the Loan Documents, or (b) which is otherwise in the Lenders’ interests; provided that Permitted Overadvances shall not (i) exceed five percent (5%) of the then Borrowing Base in the aggregate outstanding at any time or (ii) remain outstanding for more than forty-five (45) consecutive Business Days, unless in case of clause (ii), the Required Lenders otherwise agree; and provided further that the foregoing shall not (1) modify or abrogate any of the provisions of SECTION 2.06(f) hereof regarding the Lender’ s obligations with respect to L/C Disbursements, or (2) result in any claim or liability against the Administrative Agent (regardless of the amount of any Overadvance) for “inadvertent Overadvances” (i.e. where an Overadvance results from changed circumstances beyond the control of the Administrative Agent (such as a reduction in the collateral value)), and further provided that in no event shall the Administrative Agent make an Overadvance, if after giving effect thereto, the principal amount of the Credit Extensions would exceed the Revolving Commitments.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Lead Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Prepayment Amount” means, (a) if Excess Availability is equal to or greater than \$60,000,000.00 after giving effect to the subject Prepayment Event, zero, or (b) if Excess Availability is less than \$60,000,000.00 after giving effect to the subject Prepayment Event, such amount as shall result in Excess Availability becoming equal to at least \$60,000,000.00. The amounts payable under clause (b) of this definition shall be payable whether or not a Cash Control Event then exists.

“Prepayment Event” means any of the following events:

(a) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of a Borrower, other than any sale, transfer or other disposition permitted by Sections 6.05 (a)(i) or (b) made prior to a Cash Control Event;

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of a Borrower, unless (i) the proceeds therefrom are required to be paid to the holder of a Lien on such property or asset having priority over the Lien of the Collateral Agent, or (ii) prior to the occurrence of a Cash Control Event, the proceeds therefrom are utilized for purposes of replacing or repairing the assets in respect of which such proceeds, awards or payments were received within 12 months of the occurrence of the damage to or loss of the assets being repaired or replaced;

(c) the issuance by a Borrower of any equity securities, other than (i) any such issuance of equity securities to another Borrower, (ii) any such issuance of equity securities in connection with any employee benefit plans; or

(d) the incurrence by a Borrower of any Indebtedness of the type described in clause (a), (b) or (c) of the definition of the term “Indebtedness”, other than Indebtedness permitted by SECTION 6.01(a).

“Real Estate” means all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Borrower, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

“Receivables Advance Rate” means eighty-five percent (85%).

“Register” has the meaning set forth in SECTION 9.05(c).

“Regulation U” means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Fund” shall mean with respect to any Lender which is a fund that invests in loans, any other fund that invests in loans that is managed by the same investment advisor as the Lender or by an Affiliate of such Lender or investment advisor.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Release” has the meaning set forth in Section 101(22) of CERCLA.

“Reports” has the meaning set forth in SECTION 8.11(b).

“Required Lenders” shall mean, at any time, Lenders having Revolving Commitments at least equal to 51% of the Total Commitments, or if the Revolving Commitments have been terminated, Lenders whose percentage of the outstanding Obligations (after settlement and repayment of all Swingline Loans by the Lenders) aggregate not less than 51% of all such Obligations; provided that the Commitment of, and the portion of the outstanding Credit Extensions held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Reserves” means all (if any) Inventory Reserves, and Availability Reserves.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any shares of any class of capital stock of any Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such shares of capital stock of a member of any Borrower or any Subsidiary or any option, warrant or other right to acquire any such shares of capital stock of any Borrower or any Subsidiary.

“Revolving Commitment” means, with respect to each Lender, the commitment of such Lender set forth as its Revolving Commitment opposite its name on **Schedule 1.1** hereto or as may subsequently be set forth in the Register from time to time, as the same may be reduced from time to time pursuant to SECTION 2.15 or increased pursuant to SECTION 2.29.

“Revolving Commitment Percentage” means with respect to each Revolving Lender, that percentage of the Revolving Commitments of all Revolving Lenders hereunder in the amount set forth opposite its name on **Schedule 1.1** hereto or as may subsequently be set forth in the Register from time to time, as the same may be reduced from time to time pursuant to SECTION 2.15 or increased pursuant to SECTION 2.29.

“Revolving Lender” means each Lender having a Revolving Commitment as set forth on **Schedule 1.1** hereto or in the Assignment and Acceptance by which it becomes a Lender.

“Revolving Loans” means all Loans at any time made by a Revolving Lender pursuant to Section 2.01.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

“Secured Parties” has the meaning assigned to such term in the Security Agreement.

“Security Agreement” means the Amended and Restated Security Agreement dated as of the Effective Date among the Borrowers and the Collateral Agent for the benefit of the Secured Parties, as amended and in effect from time to time.

“Security Documents” means the Security Agreement, the Facility Guarantors Collateral Documents, and each other security agreement or other instrument or document executed and delivered pursuant to Section 5.12 to secure any of the Obligations.

“Settlement Date” has the meaning provided in SECTION 2.07(b) hereof.

“Shrink” means Inventory which has been lost, misplaced, stolen, or is otherwise unaccounted for.

“Solvent” means, with respect to any Person on a particular date, that on such date (a) at fair valuations, all of the properties and assets of such Person are greater than the sum of the debts, including contingent liabilities, of such Person, (b) the present fair saleable value of the properties and assets of such Person is not less than the amount that would be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person is able to realize upon its properties and assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts beyond such Person’s ability to pay as such debts mature, and (e) such Person is not engaged in a business or a transaction, and is not about to engage in a business or transaction, for which such Person’s properties and assets would constitute unreasonably small capital after giving due consideration to the prevailing practices in the industry in which such Person is engaged.

“Standby Letter of Credit” means any Letter of Credit other than a Commercial Letter of Credit.

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

“Subordinated Debt Indenture” shall mean the Indenture dated February 26, 2004 among the Lead Borrower, certain of its Subsidiaries, as Guarantors and National City Bank, as Trustee with respect to the Lead Borrower’s issuance of 7.50% Senior Subordinated Notes in the aggregate face amount of \$100,000,000 due in 2012, as such Indenture may be refinanced in accordance with the provisions of SECTION 5.14 hereof.

“Subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Swingline Lender” means Bank of America, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” shall mean a Loan made by the Swingline Lender to the Borrowers pursuant to SECTION 2.05 hereof.

“Synthetic Lease” means any lease or other agreement for the use or possession of property creating obligations which do not appear as Indebtedness on the balance sheet of the lessee thereunder but which, upon the insolvency or bankruptcy of such Person, may be characterized as Indebtedness of such lessee without regard to the accounting treatment.

“Taxes” means any and all current or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

“Termination Date” shall mean the earliest to occur of (i) the Maturity Date, or (ii) the date on which the maturity of the Loans are accelerated and the Revolving Commitments are terminated, or (iii) the date of the occurrence of any Event of Default pursuant to SECTION 7.01(h) or SECTION 7.01(i) hereof.

“Total Commitment” shall mean, at any time, the sum of the Revolving Commitments at such time.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“Unused Commitment” shall mean, on any day, (a) the then Total Commitments minus (b) the sum of (i) the principal amount of Loans then outstanding (but excluding the principal amount of Swingline Loans then outstanding) and (ii) the then Letter of Credit Outstandings.

“Unrestricted Subsidiary” means a Subsidiary of a Loan Party designated by the Lead Borrower’s board of directors as such, provided that no Subsidiary may be designated as an Unrestricted Subsidiary unless (a) none of its assets are included in the calculation of Borrowing Base immediately prior to such Subsidiary’s being designated as an Unrestricted Subsidiary, (b) the value of its total assets do not exceed \$1,000,000.00 in the aggregate, (c) such Subsidiary may be designated as an Unrestricted Subsidiary under the Subordinated Debt Indenture, and (d) no Default or Event of Default exists at the time of such designation.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

SECTION 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

SECTION 1.03 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect on the Effective Date, provided that, if the Borrowers notify the Administrative Agent that the Borrowers request an amendment to any provision hereof to reflect the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such provision shall have been amended in accordance herewith.

SECTION 1.04 Rounding.

Any financial ratios required to be maintained by the Borrowers pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.05 Letter of Credit Amounts.

Unless otherwise specified, all references herein to the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms of any issuer documents related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

ARTICLE 2
Amount and Terms of Credit

SECTION 2.01 Commitment of the Lenders.

(a) Each Revolving Lender severally and not jointly with any other Lender, agrees, upon the terms and subject to the conditions herein set forth, to extend credit to the Borrowers on a revolving basis, in the form of Revolving Loans and Letters of Credit and in an amount not to exceed the lesser of such Lender' s Revolving Commitment or such Lender' s Revolving Commitment Percentage of the Borrowing Base, subject to the following limitations:

(i) The aggregate outstanding amount of the Credit Extensions and Swingline Loans shall not at any time exceed the lower of (i) \$300,000,000 or, in each case, any lesser amount to which the Revolving Commitments have then been reduced by the Borrowers pursuant to SECTION 2.15 or any greater amount to which the Revolving Commitments have then been increased pursuant to SECTION 2.29, and (ii) the then amount of the Borrowing Base.

(ii) No Lender shall be obligated to issue any Letter of Credit, and Letters of Credit shall be available from the Issuing Bank, subject to the ratable participation of all Revolving Lenders, as set forth in SECTION 2.06. The Borrowers will not at any time permit the aggregate Letter of Credit Outstandings to exceed \$200,000,000.

(iii) Subject to all of the other provisions of this Agreement, Revolving Loans that are repaid may be reborrowed prior to the Termination Date. No new Credit Extension, however, shall be made to the Borrowers after the Termination Date.

(b) Each Borrowing of Revolving Loans (other than Swingline Loans) shall be made by the Revolving Lenders pro rata in accordance with their respective Revolving Commitments. The failure of any Lender to make any Loan shall neither relieve any other Lender of its obligation to fund its Loan in accordance with the provisions of this Agreement nor increase the obligation of any such other Lender.

SECTION 2.02 Reserves; Changes to Reserves.

(a) The initial Inventory and Availability Reserves as of the date of this Agreement are the following:

(i) Rent (an Availability Reserve): An amount equal to two months base rents for a leased premises located in the states of Washington, Virginia, Pennsylvania and any other state which grants a landlord a priority lien for unpaid rent.

(ii) Import Load (an Inventory Reserve): An amount equal to 100% of the amounts reflected in the Borrowers' perpetual inventory for Inventory imported into the United States of America in excess of the actual cost of such Inventory.

(iii) Gift Certificate and Merchandise Credit Liability (an Availability Reserve): An amount equal to fifty percent (50%) of the Borrowers' Gift Certificate and Merchandise Credit Liability outstanding from time to time.

(iv) Packaway Inventory (an Inventory Reserve): An amount equal to all packaway Inventory of the Borrowers in excess of \$20,000,000.00 at Cost.

(v) Customer Deposits (an Availability Reserve): An amount equal to 100% of the Borrowers' customer deposit liability, whether for layaways, special orders or otherwise.

(vi) Shrink (an Inventory Reserve): In an amount not to exceed the sum of the Loan Parties' average Shrink rate for the prior six (6) months plus .50%.

(b) The Administrative Agent may hereafter establish additional Reserves or change any of the foregoing Reserves, in the exercise of the reasonable judgment of the Administrative Agent; provided that the Administrative Agent agrees that it shall not establish Bank Product Reserves or Cash Management Reserves until such time as (i) an Event of Default has occurred and is continuing or (ii) Excess Availability is less than \$100,000,000.

SECTION 2.03 Making of Loans.

(a) Except as set forth in SECTION 2.16 and SECTION 2.24, Loans (other than Swingline Loans) by the Lenders shall be either Base Rate Loans or LIBO Loans as the Lead Borrower on behalf of the Borrowers may request subject to and in accordance with this SECTION 2.03, provided that all Swingline Loans shall be only Base Rate Loans. All Loans made pursuant to the same Borrowing shall, unless otherwise specifically provided herein, be Loans of the same Type. Each Lender may fulfill its Revolving Commitment with respect to any Loan by causing any lending office of such Lender to make such Loan; but any such use of a lending office shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of the applicable Note. Each Lender shall, subject to its overall policy considerations, use reasonable efforts (but shall not be obligated) to select a lending office which will not result in the payment of increased costs by the Borrowers pursuant to SECTION 2.23. Subject to the other provisions of this SECTION 2.03 and the provisions of SECTION 2.24, Borrowings of Loans of more than one Type may be incurred at the same time, but no more than five (5) Borrowings of LIBO Loans may be outstanding at any time.

(b) The Lead Borrower shall give the Administrative Agent three Business Days' prior telephonic notice (thereafter confirmed in writing) of each Borrowing of LIBO Loans and one Business Day' s prior notice of each Borrowing of Base Rate Loans. Any such notice, to be effective, must be received by the Administrative Agent not later than 11:00 a.m., Boston time, on the third Business Day in the case of LIBO Loans prior to, and on the first Business Day in the case of Base Rate Loans prior to, the date on which such Borrowing is to be made. Such notice shall be irrevocable and shall specify the amount of the proposed Borrowing (which shall be in an integral multiple of \$1,000,000, but not less than \$5,000,000 in the case of LIBO Loans) and the date thereof (which shall be a Business Day) and shall contain disbursement instructions. Such notice shall specify whether the Borrowing then being requested is to be a Borrowing of Base Rate Loans or LIBO Loans and, if LIBO Loans, the Interest Period with respect thereto. If no election of Interest Period is specified in any such notice for a Borrowing of LIBO Loans, such notice shall be deemed a request for an Interest Period of one month. If no election is made as to the Type of Loan, such notice shall be

deemed a request for Borrowing of Base Rate Loans. The Administrative Agent shall promptly notify each Lender of its proportionate share of such Borrowing, the date of such Borrowing, the Type of Borrowing being requested and the Interest Period or Interest Periods applicable thereto, as appropriate. On the borrowing date specified in such notice, each Lender shall make its share of the Borrowing available at the office of the Administrative Agent at 100 Federal Street, Boston, Massachusetts 02110, no later than 1:00 p.m., Boston time, in immediately available funds. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with this Section and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrowers, the interest rate applicable to Base Rate Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. Upon receipt of the funds made available by the Lenders to fund any Borrowing hereunder, the Administrative Agent shall disburse such funds in the manner specified in the notice of borrowing delivered by the Lead Borrower and shall use reasonable efforts to make the funds so received from the Lenders available to the Borrowers no later than 4:00 p.m., Boston time.

SECTION 2.04 Overadvances. The Agents and the Lenders have no obligation to make any Loan or to provide any Letter of Credit if an Overadvance would result. The Administrative Agent may, in its discretion, make Permitted Overadvances without the consent of the Lenders and each Lender shall be bound thereby. Any Permitted Overadvances may constitute Swingline Loans. The making of any Permitted Overadvance is for the benefit of the Borrowers; such Permitted Overadvances constitute Revolving Loans and Obligations. The making of any such Permitted Overadvances on any one occasion shall not obligate the Administrative Agent or any Lender to make or permit any Permitted Overadvances on any other occasion or to permit such Permitted Overadvances to remain outstanding.

SECTION 2.05 Swingline Loans.

(a) The Swingline Lender is authorized by the Lenders, but is not obligated, to make Swingline Loans up to \$25,000,000 plus the Permitted Overadvance in the aggregate outstanding at any time, consisting only of Base Rate Loans, upon a notice of Borrowing received by the Administrative Agent and the Swingline Lender (which notice, at the Swingline Lender's discretion, may be submitted prior to 1:00 p.m., Boston time, on the Business Day on which such Swingline Loan is requested). Swingline Loans shall be subject to periodic settlement with the Revolving Lenders under SECTION 2.07 below.

(b) Swingline Loans may be made only in the following circumstances: (A) for administrative convenience, the Swingline Lender may, but is not obligated to, make Swingline Loans in reliance upon the Borrowers' actual or deemed representations under SECTION 4.02, that the applicable conditions for borrowing are satisfied or (B) for Permitted Overadvances, or (C) if the conditions for borrowing under SECTION 4.02 cannot be fulfilled, the Borrowers shall give immediate notice thereof to the Administrative Agent and the Swingline Lender (a "Noncompliance Notice"), and the Administrative Agent shall promptly provide each Lender with a copy of the Noncompliance Notice. If the conditions for borrowing under SECTION 4.02 cannot be fulfilled, the Required Lenders may direct the Swingline Lender to, and the Swingline Lender thereupon shall, cease making Swingline Loans (other than Permitted Overadvances) until such conditions can be satisfied or are waived in accordance with SECTION 9.02 hereof. Unless the Required Lenders so direct the Swingline Lender, the Swingline Lender may, but is not obligated to, continue to make Swingline Loans beginning one Business Day after the Non-Compliance Notice is furnished to the Lenders. Notwithstanding the foregoing, no Swingline Loans shall be made pursuant to this subsection (b) (other than Permitted Overadvances) if the aggregate outstanding amount of the Credit Extensions and Swingline Loans would exceed the lower of (i) \$300,000,000 or any lesser amount to which the Revolving Commitments have then been reduced by the Borrowers pursuant to SECTION 2.15 or any greater amount to which the Revolving Commitments have then been increased pursuant to SECTION 2.29, and (ii) the then amount of the Borrowing Base.

SECTION 2.06 Letters of Credit.

(a) Upon the terms and subject to the conditions herein set forth, the Lead Borrower on behalf of the Borrowers may request the Issuing Bank, at any time and from time to time after the date hereof and prior to the Termination Date, to issue, and subject to the terms and conditions contained herein, the Issuing Bank shall issue, for the account of the Borrowers one or more Letters of Credit; provided that no Letter of Credit shall be issued if after giving effect to such issuance (i) the aggregate Letter of Credit Outstandings shall exceed \$200,000,000, or (ii) the aggregate Credit Extensions (including Swingline Loans) would exceed the limitation set forth in SECTION 2.01(a)(i); and provided, further, that no Letter of Credit shall be issued if the Issuing Bank shall have received notice from the Administrative Agent or the Required Lenders that the conditions to such issuance have not been met. The Lead Borrower and the Issuing Bank shall furnish the Administrative Agent with written notice of the issuance of any Letter of Credit on the same Business Day as such Letter of Credit is issued. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Effective Date shall be subject to and governed by the terms and conditions hereof.

(b) Each Standby Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Maturity Date, provided that each Standby Letter of Credit may, upon the request of the Lead Borrower, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of 12 months or less (but not beyond the date that is five Business Days prior to the Maturity Date) unless the Issuing Bank notifies the beneficiary thereof at least 30 days prior to the then-applicable expiration date that such Letter of Credit will not be renewed.

(c) Each Commercial Letter of Credit and Banker's Acceptance shall expire at or prior to the close of business on the earlier of (i) the date 210 days after the date of the issuance of such Commercial Letter of Credit and (ii) the date that is five Business Days prior to the Maturity Date.

(d) Drafts drawn under each Letter of Credit shall be reimbursed by the Borrowers in dollars on the same Business Day of any such drawing by paying to the Administrative Agent an amount equal to such drawing not later than 12:00 noon, Boston time, on (i) the date that the Borrowers shall have received notice of such payment, if such notice is received prior to 10:00 a.m., Boston time, on such date, or (ii) the Business Day immediately following the day that the Borrowers receive such notice, if such notice is received after 10:00 a.m., Boston time on the day of receipt, provided that the Lead Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with SECTION 2.03 that such payment be financed with a Revolving Loan consisting of a Base Rate Loan or Swingline Loan in an equivalent amount and, to the extent so financed, the Borrowers' obligation to make such payment shall be discharged and replaced by the resulting Base Rate Loan or Swingline Loan. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Borrowers by telephone (confirmed by telecopy) of such demand for payment and whether the Issuing Bank has made or will make payment thereunder, provided that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse the Issuing Bank and the Lenders with respect to any such payment.

(e) If the Issuing Bank shall make any L/C Disbursement, then, unless the Borrowers shall reimburse the Issuing Bank in full on the date such payment is made, the unpaid amount thereof shall bear interest, for each day from and including the date such payment is made to but excluding the date that the Borrowers reimburse the Issuing Bank therefor, at the rate per annum then applicable to Base Rate Loans, provided that, if the Borrowers fail to reimburse such Issuing Bank when due pursuant to paragraph (d) of this Section, then SECTION 2.10 shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (g) of this Section to reimburse the Issuing Bank shall be for the account of such Revolving Lender to the extent of such payment.

(f) Immediately upon the issuance of any Letter of Credit by the Issuing Bank (or the amendment of a Letter of Credit increasing the amount thereof), and without any further action on the part of the Issuing Bank, the Issuing Bank shall be deemed to have sold to each Revolving Lender, and each such Revolving Lender shall be deemed unconditionally and irrevocably to have purchased from the Issuing Bank, without recourse or warranty, an undivided interest and participation, to the extent of such Lender's Revolving Commitment Percentage, in such Letter of Credit, each drawing thereunder and the obligations of the Borrowers under this Agreement and the other Loan Documents with respect thereto. Upon any change in the Revolving Commitments pursuant to SECTION 9.05, it is hereby agreed that with respect to all Letter of Credit Outstandings, there shall be an automatic adjustment to the participations hereby created to reflect the new Revolving Commitment Percentages of the assigning and assignee Revolving Lenders. Any action taken or omitted by the Issuing Bank under or in connection with a Letter of Credit, if taken or omitted in the absence of gross negligence or willful misconduct, shall not create for the Issuing Bank any resulting liability to any Lender.

(g) In the event that the Issuing Bank makes any L/C Disbursement and the Borrowers shall not have reimbursed such amount in full to the Issuing Bank pursuant to this SECTION 2.06, the Issuing Bank shall promptly notify the Administrative Agent, which shall promptly notify each Revolving Lender of such failure, and each Revolving Lender shall promptly and unconditionally pay to the Administrative Agent for the account of the Issuing Bank the amount of such Revolving Lender's Revolving Commitment Percentage of such unreimbursed payment in dollars and in same day funds. If the Issuing Bank so notifies the Administrative Agent, and the Administrative Agent so notifies the Revolving Lenders prior to 11:00 a.m., Boston time, on any Business Day, each such Revolving Lender shall make available to the Issuing Bank such Revolving Lender's Revolving Commitment Percentage of the amount of such payment on such Business Day in same day funds; if any such notice is made after 11:00 a.m., Boston time, on any Business Day, each such Revolving Lender shall make available to the Issuing Bank such Revolving Lender's Revolving Commitment Percentage of the amount of such payment on the immediately succeeding Business Day in same day funds. If and to the extent such Revolving Lender shall not have so made its Revolving Commitment Percentage of the amount of such payment available to the Issuing Bank, such Revolving Lender agrees to pay to the Issuing Bank, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent for the account of the Issuing Bank at the Federal Funds Effective Rate. Each Revolving Lender agrees to fund its Revolving Commitment Percentage of such unreimbursed payment notwithstanding a failure to satisfy any applicable lending conditions or the provisions of SECTION 2.01 or SECTION 2.06, or the occurrence of the Termination Date. The failure of any Revolving Lender to make available to the Issuing Bank its Revolving Commitment Percentage of any payment under any Letter of Credit shall neither relieve any Revolving Lender of its obligation hereunder to make available to the Issuing Bank its Revolving Commitment Percentage of any payment under any Letter of Credit on the date required, as specified above, nor increase the obligation of such other Revolving Lender. Whenever any Revolving Lender has made payments to the Issuing Bank in respect of any reimbursement obligation for any Letter of Credit, such Revolving Lender shall be entitled to share ratably, based on its Revolving Commitment Percentage, in all payments and collections thereafter received on account of such reimbursement obligation.

(h) Whenever the Borrowers desire that the Issuing Bank issue a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Lead Borrower shall give to the Issuing Bank and the Administrative Agent at least two Business Days' prior written (including telegraphic, telex, facsimile or cable communication) notice (or such shorter period as may be agreed upon in writing by the Issuing Bank and the Lead Borrower) specifying the date on which the proposed Letter of Credit is to be issued, amended, renewed or extended (which shall be a Business Day), the stated amount of the Letter of Credit so requested, the expiration date of such Letter of Credit, the name and address of the beneficiary thereof, and the provisions thereof. If requested by the Issuing Bank, the Borrowers shall also submit a letter of credit application on the Issuing Bank' s standard form in connection with any request for the issuance, amendment, renewal or extension of a Letter of Credit.

(i) The obligations of the Borrowers to reimburse the Issuing Bank for any L/C Disbursement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including, without limitation (it being understood that any such payment by the Borrowers shall be without prejudice to, and shall not constitute a waiver of, any rights the Borrowers might have or might acquire as a result of the payment by the Issuing Bank of any draft or the reimbursement by the Borrowers thereof): (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, setoff, defense or other right which the Borrowers may have at any time against a beneficiary of any Letter of Credit or against any of the Lenders, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction; (iii) any draft, demand, certificate or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by the Issuing Bank of any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit; (v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder; or (vi) the fact that any Event of Default shall have occurred and be continuing. None of the Administrative Agent, the Lenders, the Issuing Bank or any of their Affiliates shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank, provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by the Borrowers that are caused by the Issuing Bank' s failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(j) If any Event of Default shall occur and be continuing, on the Business Day that the Borrowers receive notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrowers shall deposit in the Cash Collateral Account an amount in cash equal to 105% of the Letter of Credit Outstandings as of such date plus any accrued and unpaid interest thereon. Each such deposit shall be held by the Collateral Agent as collateral for the payment and performance of the Obligations of the Borrowers under this Agreement. The Collateral Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such Cash Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Collateral Agent at the request of the Borrowers and at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such Cash Collateral Account shall be applied by the Collateral Agent to reimburse the Issuing Bank for payments on account of drawings under Letters of Credit for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the Letter of Credit Outstandings at such time or, if the Loans have matured or the maturity of the Loans has been accelerated, be applied to satisfy other Obligations of the Borrowers under this Agreement.

SECTION 2.07 Settlements Amongst Revolving Lenders.

(a) The Swingline Lender may (and shall not less frequently than weekly as provided in SECTION 2.07(b) below), at any time, on behalf of the Borrowers (which hereby authorize the Swingline Lender to act in their behalf in that regard) request the Administrative Agent to cause the Revolving Lenders to make a Revolving Loan (which shall be a Base Rate Loan) in an amount equal to such Lender' s Revolving Commitment Percentage of the outstanding amount of Swingline Loans made in accordance with SECTION 2.05, which request may be made regardless of whether the conditions set forth in Article IV have been satisfied. Upon such request, each Revolving Lender shall make available to the Administrative Agent the proceeds of such Revolving Loan for the account of the Swingline Lender. If the Swingline Lender requires a Revolving Loan to be made by the Revolving Lenders and the request therefor is received prior to 12:00 Noon, Boston time, on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m., Boston time, that day; and, if the request therefor is received after 12:00 Noon, Boston time, then no later than 3:00 p.m., Boston time, on the next Business Day. The obligation of each Revolving Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Administrative Agent or the Swingline Lender. If and to the extent any Revolving Lender shall not have so made its transfer to the Administrative Agent, such Revolving Lender agrees to pay to the Administrative Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent at the Federal Funds Effective Rate.

(b) The amount of each Lender's Revolving Commitment Percentage of outstanding Revolving Loans (including Swingline Loans) shall be computed weekly (or more frequently in the Administrative Agent's discretion) and shall be adjusted upward or downward based on all Revolving Loans (including Swingline Loans) and repayments of Revolving Loans (including Swingline Loans) received by the Administrative Agent as of 3:00 p.m., Boston time, on the first Business Day following the end of the period specified by the Administrative Agent (such date, the "Settlement Date").

(c) The Administrative Agent shall deliver to each of the Revolving Lenders promptly after the Settlement Date a summary statement of the amount of outstanding Revolving Loans (including Swingline Loans) for the period and the amount of repayments received for the period. As reflected on the summary statement: (x) the Administrative Agent shall transfer to each Revolving Lender its applicable Revolving Commitment Percentage of repayments, and (y) each Revolving Lender shall transfer to the Administrative Agent (as provided below), or the Administrative Agent shall transfer to each Revolving Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Revolving Loans made by each Revolving Lender with respect to Revolving Loans (including Swingline Loans) shall be equal to such Revolving Lender's applicable Revolving Commitment Percentage of Revolving Loans (including Swingline Loans) outstanding as of such Settlement Date. If the summary statement requires transfers to be made to the Administrative Agent by the Revolving Lenders and is received prior to 12:00 Noon, Boston time, on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m., Boston time, that day; and, if received after 12:00 Noon, Boston time, then no later than 3:00 p.m., Boston time, on the next Business Day. The obligation of each Revolving Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Administrative Agent. If and to the extent any Revolving Lender shall not have so made its transfer to the Administrative Agent, such Revolving Lender agrees to pay to the Administrative Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent at the Federal Funds Effective Rate.

SECTION 2.08 Notes; Repayment of Loans.

(a) The Loans made by each Lender (and to the Swingline Lender, with respect to Swingline Loans) shall, if requested by such Lender, be evidenced by a Note duly executed on behalf of the Borrowers, dated the Effective Date, in substantially the form attached hereto as Exhibit B-1 or B-2, as applicable, payable to the order of each such Lender (or the Swingline Lender, as applicable) in an aggregate principal amount equal to such Lender's Revolving Commitment (or, in the case of the Note evidencing the Swingline Loans, \$25,000,000).

(b) The outstanding principal balance of all Obligations shall be payable on the Termination Date (subject to earlier repayment as provided below). Each Note shall bear interest from the date thereof on the outstanding principal balance thereof as set forth in this Article II. Each Lender is hereby authorized by the Borrowers to endorse on a schedule attached to each Note delivered to such Lender (or on a continuation of such schedule attached to such Note and made a part thereof), or otherwise to record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Loan from such Lender, each payment and prepayment of principal of any such Loan, each payment of interest on any such Loan and the other information provided for on such schedule; provided, however, that the failure of any Lender to make such a notation or any error therein shall not affect the obligation of the Borrowers to repay the Loans made by such Lender in accordance with the terms of this Agreement and the applicable Notes. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note in form and substance reasonably acceptable to the Lead Borrower and upon cancellation of such Note, the Borrowers will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

SECTION 2.09 Interest on Loans.

(a) Subject to SECTION 2.10, each Base Rate Loan shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as applicable) at a rate per annum that shall be equal to the then Alternate Base Rate, plus the Applicable Margin for Base Rate Loans.

(b) Subject to SECTION 2.10, each LIBO Loan shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days) at a rate per annum equal, during each Interest Period applicable thereto, to the Adjusted LIBO Rate for such Interest Period, plus the Applicable Margin for LIBO Loans.

(c) Accrued interest on all Loans shall be payable in arrears on each Interest Payment Date applicable thereto, at maturity (whether by acceleration or otherwise), after such maturity on demand and (with respect to LIBO Loans) upon any repayment or prepayment thereof (on the amount prepaid).

SECTION 2.10 Default Interest.

Effective upon the occurrence of any Event of Default and at all times thereafter while such Event of Default is continuing, at the option of the Administrative Agent or upon the direction of the Required Lenders, interest shall accrue on all outstanding Loans (including Swingline Loans) (after as well as before judgment, as and to the extent permitted by law) at a rate per annum (computed on the basis of the actual number of days elapsed over a year of 360 days) equal to the rate (including the Applicable Margin for Loans) in effect from time to time plus 2.00% per annum, and such interest shall be payable on demand.

SECTION 2.11 Certain Fees.

The Borrowers shall pay to the Administrative Agent, for the account of the Administrative Agent, the fees set forth in the Fee Letter as and when payment of such fees is due as therein set forth.

SECTION 2.12 Unused Commitment Fee.

The Borrowers shall pay to the Administrative Agent for the account of the Revolving Lenders, a commitment fee (the "Commitment Fee") equal to the Applicable Commitment Fee Percentage (on the basis of actual days elapsed in a year of 360 days) of the average daily balance of the Unused Commitment for each day commencing on and including the Effective Date and ending on but excluding the Termination Date. The Commitment Fee so accrued in any calendar quarter shall be payable on the first Business Day of the immediately succeeding calendar quarter, except that all Commitment Fees so accrued as of the Termination Date shall be payable on the Termination Date. The Administrative Agent shall pay the Commitment Fee to the Revolving Lenders based upon their Revolving Commitment Percentage.

SECTION 2.13 Letter of Credit Fees.

(a) The Borrowers shall pay the Administrative Agent, for the account of the Revolving Lenders, on the last day of each calendar quarter, in arrears, a fee (each, a "Letter of Credit Fee") equal to the following per annum percentages of the average face amount of the following categories of Letters of Credit outstanding during the subject quarter:

(i) Standby Letters of Credit: The Applicable Margin for LIBO Loans.

(ii) Commercial Letters of Credit (including Banker' s Acceptances): The Applicable Margin for LIBO Loans minus .50%.

(iii) After the occurrence and during the continuance of an Event of Default, at the option of the Administrative Agent or upon the direction of the Required Lenders, the Letter of Credit Fee shall be increased by an amount equal to two percent (2%) per annum.

(b) The Borrowers shall pay to the Administrative Agent, for the account of the Issuing Bank, and in addition to all Letter of Credit Fees otherwise provided for hereunder, such fronting fees and other fees and charges in connection with the issuance, negotiation, settlement, amendment and processing of each Letter of Credit issued by the Issuing Bank as are customarily imposed by the Issuing Bank from time to time in connection with letter of credit transactions.

(c) The Borrowers shall also pay to the Administrative Agent, for the account of the Issuing Bank, and in addition to all Letter of Credit Fees otherwise provided for hereunder, such commissions, drawing fees, and other fees and charges in connection with the issuance, negotiation, settlement, amendment and processing of each Banker' s Acceptance issued by the Issuing Bank as are customarily imposed by the Issuing Bank from time to time in connection with Banker' s Acceptance transactions.

SECTION 2.14 Nature of Fees.

All fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent, for the respective accounts of the Administrative Agent, the Issuing Bank, and the Lenders, as provided herein. Once paid, all fees shall be fully earned and shall not be refundable under any circumstances.

SECTION 2.15 Termination or Reduction of Commitments.

Upon at least two Business Days' prior written notice to the Administrative Agent, the Borrowers may at any time in whole permanently terminate, or from time to time in part permanently reduce, the Revolving Commitments. Each such reduction shall be in the principal amount of \$5,000,000 or any integral multiple thereof. Each such reduction or termination shall (i) be applied ratably to the Revolving Commitments of each Lender and (ii) be irrevocable when given. At the effective time of each such reduction or termination, the Borrowers shall pay to the Administrative Agent for application as provided herein (i) all Commitment Fees accrued on the amount of the Revolving Commitments so terminated or reduced through the date thereof, and (ii) any amount by which the Credit Extensions outstanding on such date exceed the amount to which the Revolving Commitments are to be reduced effective on such date, in each case pro rata based on the amount prepaid.

SECTION 2.16 Alternate Rate of Interest.

If prior to the commencement of any Interest Period for a LIBO Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrowers and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrowers and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Borrowing Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a LIBO Borrowing shall be ineffective and (ii) if any Borrowing Request requests a LIBO Borrowing, such Borrowing shall be made as a Borrowing of Base Rate Loans.

SECTION 2.17 Conversion and Continuation of Loans.

The Lead Borrower on behalf of the Borrowers shall have the right at any time, on three Business Days' prior irrevocable notice to the Administrative Agent (which notice, to be effective, must be received by the Administrative Agent not later than 11:00 a.m., Boston time, on the third Business Day preceding the date of any conversion), (x) to convert any outstanding Borrowings of Loans (but in no event Swingline Loans) of one Type (or a portion thereof) to a Borrowing of Loans of the other Type or (y) to continue an outstanding Borrowing of LIBO Loans for an additional Interest Period, subject to the following:

(a) no Borrowing of Loans may be converted into, or continued as, LIBO Loans at any time when an Event of Default has occurred and is continuing (nothing contained herein being deemed to obligate the Borrowers to incur Breakage Costs upon the occurrence of an Event of Default unless the Obligations are accelerated);

(b) if less than a full Borrowing of Loans is converted, such conversion shall be made pro rata among the Lenders, as applicable, in accordance with the respective principal amounts of the Loans comprising such Borrowing held by such Lenders immediately prior to such refinancing;

(c) the aggregate principal amount of Loans being converted into or continued as LIBO Loans shall be in an integral of \$1,000,000 and at least \$5,000,000;

(d) each Lender shall effect each conversion by applying the proceeds of its new LIBO Loan or Base Rate Loan, as the case may be, to its Loan being so converted;

(e) the Interest Period with respect to a Borrowing of LIBO Loans effected by a conversion or in respect to the Borrowing of LIBO Loans being continued as LIBO Loans shall commence on the date of conversion or the expiration of the current Interest Period applicable to such continuing Borrowing, as the case may be;

(f) a Borrowing of LIBO Loans may be converted only on the last day of an Interest Period applicable thereto;

(g) each request for a conversion or continuation of a Borrowing of LIBO Loans which fails to state an applicable Interest Period shall be deemed to be a request for an Interest Period of one month; and

(h) no more than five (5) Borrowings of LIBO Loans may be outstanding at any time.

If the Lead Borrower does not give notice to convert any Borrowing of LIBO Loans, or does not give notice to continue, or does not have the right to continue, any Borrowing as LIBO Loans, in each case as provided above, such Borrowing shall automatically be converted to a Borrowing of Base Rate Loans at the expiration of the then-current Interest Period. The Administrative Agent shall, after it receives notice from the Lead Borrower, promptly give each Lender notice of any conversion, in whole or part, of any Loan made by such Lender.

SECTION 2.18 Mandatory Prepayment; Commitment Termination; Cash Collateral.

The outstanding Obligations shall be subject to mandatory prepayment as follows:

- (a) If at any time the amount of the Credit Extensions exceeds the lower of (i) the then amount of the Revolving Commitments and (ii) the then amount of the Borrowing Base, the Borrowers will immediately upon notice from the Administrative Agent (A) prepay the Loans in an amount necessary to eliminate such excess, with payments first being applied to Revolving Loans, and (B) if, after giving effect to the prepayment in full of all outstanding Loans such excess has not been eliminated, deposit cash into the Cash Collateral Account in an amount equal to 105% of the Letters of Credit Outstanding.
- (b) The Revolving Loans shall be repaid daily in accordance with the provisions of SECTION 2.21(h) hereof.
- (c) In the event and on each occasion that any Net Proceeds are received by or on behalf of a Borrower in respect of any Prepayment Event, the Borrowers shall, immediately after such Net Proceeds are received, prepay the Loans in an aggregate principal amount equal to (i) if a Cash Control Event then exists, such Net Proceeds, or (ii) if no Cash Control Event then exists, the Prepayment Amount. The Net Proceeds prepaid from any Prepayment Event shall be paid FIRST, in reduction of the Swingline Loans, SECOND, in reduction of the other Loans, with payments first being applied, if no Event of Default then exists, to Revolving Loans, THIRD, if an Event of Default then exists, to the Cash Collateral Account as collateral for the Letter of Credit Outstandings up to 105% thereof, FOURTH, to all other Obligations. If all Obligations are paid, any excess Net Proceeds shall be deposited in a separate cash collateral account, and as long as no Event of Default then exists, shall be released to the Borrowers upon the request of the Lead Borrower and utilized by the Borrowers prior to any further Revolving Loans being made.
- (d) Subject to the foregoing, outstanding Base Rate Loans shall be prepaid before outstanding LIBO Loans are prepaid. Each partial prepayment of LIBO Loans shall be in an integral multiple of \$1,000,000. No prepayment of LIBO Loans shall be permitted pursuant to this SECTION 2.18 other than on the last day of an Interest Period applicable thereto, unless the Borrowers simultaneously reimburse the Lenders for all "Breakage Costs" (as defined below) associated therewith. In order to avoid such Breakage Costs, as long as no Event of Default has occurred and is continuing, at the request of the Lead Borrower, the Administrative Agent shall hold all amounts required to be applied to LIBO Loans in the Cash Collateral Account and will apply such funds to the applicable LIBO Loans at the end of the then pending Interest Period therefor (provided that the foregoing shall in no way limit or restrict the Agents' rights upon the subsequent occurrence of an Event of Default). No partial prepayment of a Borrowing of LIBO Loans shall result in the aggregate principal amount of the LIBO Loans remaining outstanding pursuant to such Borrowing being less than \$5,000,000.

(e) All amounts required to be applied to all Loans hereunder (other than Swingline Loans) shall be applied ratably in accordance with each Lender's Revolving Commitment Percentage.

(f) Upon the Termination Date, the credit facility provided hereunder shall be terminated in full and the Borrowers shall pay, in full and in cash, all outstanding Loans and all other outstanding Obligations.

SECTION 2.19 Optional Prepayment of Loans; Reimbursement of Lenders.

(a) The Borrowers shall have the right at any time and from time to time to prepay outstanding Loans in whole or in part, (x) with respect to LIBO Loans, upon at least two Business Days' prior written, telex or facsimile notice to the Administrative Agent prior to 11:00 a.m., Boston time, and (y) with respect to Base Rate Loans, on the same Business Day if written, telex or facsimile notice is received by the Administrative Agent prior to 1:00 p.m., Boston time, subject to the following limitations:

(i) Subject to SECTION 2.18, all prepayments shall be paid to the Administrative Agent for application, first, to the prepayment of outstanding Swingline Loans, second, to the prepayment of other outstanding Loans ratably in accordance with each Lender's Revolving Commitment Percentage, and third, to the funding of a cash collateral deposit in the Cash Collateral Account in an amount equal to 105% of all Letter of Credit Outstandings.

(ii) Subject to the foregoing, outstanding Base Rate Loans shall be prepaid before outstanding LIBO Loans are prepaid. Each partial prepayment of LIBO Loans shall be in an integral multiple of \$1,000,000. No prepayment of LIBO Loans shall be permitted pursuant to this SECTION 2.19 other than on the last day of an Interest Period applicable thereto, unless the Borrowers simultaneously reimburse the Lenders for all "Breakage Costs" (as defined below) associated therewith. No partial prepayment of a Borrowing of LIBO Loans shall result in the aggregate principal amount of the LIBO Loans remaining outstanding pursuant to such Borrowing being less than \$5,000,000.

(iii) Each notice of prepayment shall specify the prepayment date, the principal amount and Type of the Loans to be prepaid and, in the case of LIBO Loans, the Borrowing or Borrowings pursuant to which such Loans were made. Each notice of prepayment shall be irrevocable and shall commit the Borrowers to prepay such Loan by the amount and on the date stated therein. The Administrative Agent shall, promptly after receiving notice from the Borrowers hereunder, notify each Lender of the principal amount and Type of the Loans held by such Lender which are to be prepaid, the prepayment date and the manner of application of the prepayment.

(b) The Borrowers shall reimburse each Lender on demand for any loss incurred or to be incurred by it in the reemployment of the funds released (i) resulting from any prepayment (for any reason whatsoever, including, without limitation, conversion to Base Rate Loans or acceleration by virtue of, and after, the occurrence of an Event of Default) of any LIBO Loan required or permitted under this Agreement, if such Loan is prepaid other than on the last day of the Interest Period for such Loan or (ii) in the event that after the Lead Borrower delivers a notice of borrowing under SECTION 2.03 in respect of LIBO Loans, such Loans are not made on the first day of the Interest Period specified in such notice of borrowing for any reason other than a breach by such Lender of its obligations hereunder or the delivery of any notice pursuant to SECTION 2.16. Such loss shall be the amount as reasonably determined by such Lender as the excess, if any, of (A) the amount of interest which would have accrued to such Lender on the amount so paid or not borrowed at a rate of interest equal to the Adjusted LIBO Rate for such Loan, for the period from the date of such payment or failure to borrow to the last day (x) in the case of a payment or refinancing with Base Rate Loans other than on the last day of the Interest Period for such Loan, of the then current Interest Period for such Loan or (y) in the case of such failure to borrow, of the Interest Period for such Loan which would have commenced on the date of such failure to borrow, over (B) the amount of interest which would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the London interbank market (collectively, "Breakage Costs"). Any Lender demanding reimbursement for such loss shall deliver to the Borrowers from time to time one or more certificates setting forth the amount of such loss as determined by such Lender and setting forth in reasonable detail the manner in which such amount was determined.

(c) In the event the Borrowers fail to prepay any Loan on the date specified in any prepayment notice delivered pursuant to SECTION 2.19(a), the Borrowers on demand by any Lender shall pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any loss incurred by such Lender as a result of such failure to prepay, including, without limitation, any loss, cost or expenses incurred by reason of the acquisition of deposits or other funds by such Lender to fulfill deposit obligations incurred in anticipation of such prepayment. Any Lender demanding such payment shall deliver to the Borrowers from time to time one or more certificates setting forth the amount of such loss as determined by such Lender and setting forth in reasonable detail the manner in which such amount was determined.

(d) Whenever any partial prepayment of Loans are to be applied to LIBO Loans, such LIBO Loans shall be prepaid in the chronological order of their Interest Payment Dates.

SECTION 2.20 Maintenance of Loan Account; Statements of Account.

(a) The Administrative Agent shall maintain an account on its books in the name of the Borrowers (the "Loan Account") which will reflect (i) all Swingline Loans and all Loans and advances made by the Lenders to the Borrowers or for the Borrowers' account, including the Loans, (ii) all L/C Disbursements, fees and interest that have become payable as herein set forth, and (iii) any and all other Obligations that have become payable.

(b) The Loan Account will be credited with all amounts received by the Administrative Agent from the Borrowers or from others for the Borrowers' account, including all amounts received in the BOA Concentration Account from the Blocked Account Banks, and the amounts so credited shall be applied as set forth in SECTION 2.22(a) and (b). After the end of each month, the Administrative Agent shall send to the Borrowers a statement accounting for the charges, loans, advances and other transactions occurring among and between the Administrative Agent, the Lenders and the Borrowers during that month. The monthly statements shall, absent manifest error, be an account stated, which is final, conclusive and binding on the Borrowers.

SECTION 2.21 Cash Receipts.

(a) Annexed hereto as **Schedule 2.21(a)** is a list of all present DDAs, which Schedule includes, with respect to each depository (i) the name and address of that depository; (ii) the account number(s) maintained with such depository; and (iii) to the extent known, a contact person at such depository.

(b) Annexed hereto as **Schedule 2.21(b)** is a list describing all arrangements to which any Borrower is a party with respect to the payment to any Borrower of the proceeds of all credit card charges for sales by any Borrower.

(c) To the extent not already provided to the Administrative Agent, on or prior to the Effective Date, the Borrowers shall (i) deliver to the Administrative Agent notifications executed on behalf of the Borrowers to each depository institution with which any DDA is maintained in form satisfactory to the Administrative Agent, of the Administrative Agent' s interest in such DDA (each, a "DDA Notification"), and (ii) deliver to the Administrative Agent notifications executed on behalf of the Borrowers to each of the Borrower' s credit card clearinghouses and processors of notice in form satisfactory to the Administrative Agent, (each, a "Credit Card Notification"), and (iii) enter into control agreements with the banks maintaining the deposit accounts identified on **Schedule 2.21(c)** (collectively, the "Blocked Accounts"), which agreements (the "Blocked Account Agreements") shall be in form and substance satisfactory to the Administrative Agent. The DDA Notifications, Credit Card Notifications and Blocked Account Agreements shall require, after the occurrence of a Cash Control Event, the sweep on each Business Day of all available cash receipts from the sale of Inventory and other assets, all collections of Accounts, and all other cash payments received by the Borrowers from any Person or from any source or on account of any sale or other

transaction or event (all such cash receipts and collections, "Cash Receipts"), to a concentration account maintained by the Collateral Agent at Bank of America (the "BOA Concentration Account"). In that regard, after the occurrence of a Cash Control Event, the Borrowers shall cause the ACH or wire transfer to a Blocked Account or to the BOA Concentration Account, no less frequently than daily (and whether or not there is then an outstanding balance in the Loan Account) of (A) the then contents of each DDA, each such transfer to be net of any minimum balance, not to exceed \$5,000.00, as may be required to be maintained in the subject DDA by the bank at which such DDA is maintained; and (B) the proceeds of all credit card charges not otherwise provided for pursuant hereto. Further, whether or not any Obligations are then outstanding, after the occurrence of a Cash Control Event, the Borrowers shall cause the ACH or wire transfer to the BOA Concentration Account, no less frequently than daily, of the then entire ledger balance of each Blocked Account, net of such minimum balance, not to exceed \$5,000.00, as may be required to be maintained in the subject Blocked Account by the bank at which such Blocked Account is maintained. In the event that, notwithstanding the provisions of this SECTION 2.21, after the occurrence of a Cash Control Event, the Borrowers receive or otherwise have dominion and control of any such proceeds or collections, such proceeds and collections shall be held in trust by the Borrowers for the Administrative Agent and shall not be commingled with any of the Borrowers' other funds or deposited in any account of any Borrower other than as instructed by the Administrative Agent.

(d) The Borrowers shall accurately report to the Administrative Agent all amounts deposited in the Blocked Accounts to ensure the proper transfer of funds as set forth above. If at any time other than the times set forth above any cash or cash equivalents owned by the Borrowers are deposited to any account, or held or invested in any manner, otherwise than in a Blocked Account that is subject to a Blocked Account Agreement, the Administrative Agent shall require the Borrowers to close such account and have all funds therein transferred to an account maintained by the Administrative Agent at Bank of America and all future deposits made to a Blocked Account which is subject to a Blocked Account Agreement.

(e) The Borrowers may close DDAs or Blocked Accounts and/or open new DDAs or Blocked Accounts, subject to the execution and delivery to the Administrative Agent of appropriate DDA Notifications or Blocked Account Agreements (unless expressly waived by the Administrative Agent) consistent with the provisions of this SECTION 2.21 and otherwise satisfactory to the Administrative Agent. Unless consented to in writing by the Administrative Agent, the Borrowers may not maintain any bank accounts or enter into any agreements with credit card processors other than the ones expressly contemplated herein.

(f) The Borrowers may also maintain with the Administrative Agent at Bank of America one or more disbursement accounts (the "BOA Disbursement Accounts") to be used by the Borrowers for disbursements and payments (including payroll) in the ordinary course of business or as otherwise permitted hereunder. The only Disbursement Accounts as of the Effective Date are those described in **Schedule 2.21(f)**.

(g) The BOA Concentration Account is, and shall remain, under the sole dominion and control of the Collateral Agent. Each Borrower acknowledges and agrees that (i) such Borrower has no right of withdrawal from the BOA Concentration Account, (ii) the funds on deposit in the BOA Concentration Account shall continue to be collateral security for all of the Obligations and (iii) the funds on deposit in the BOA Concentration Account shall be applied as provided in SECTION 2.22(a) or SECTION 7.04, as applicable.

(h) So long as no Cash Control Event has occurred, daily, the Borrowers may direct, and shall have sole control over, the manner of disposition of its funds in the DDA Accounts and Blocked Accounts. Effective upon notice to the Lead Borrower from the Collateral Agent in the event of a Cash Control Event (which notice may be given by telephone if promptly confirmed in writing), the BOA Concentration Account will, without any further action on the part of any Borrower or the Collateral Agent convert into a closed account under the exclusive dominion and control of the Collateral Agent in which funds are held subject to the rights of the Collateral Agent hereunder. In such event, all amounts in the BOA Concentration Account from time to time may be applied to the Obligations in such order and manner as provided in SECTION 2.22 or SECTION 7.04 hereof, as applicable, and the Administrative Agent may, in its discretion, but shall not be obligated to, transfer any amounts in the BOA Concentration Account to the BOA Disbursement Accounts.

SECTION 2.22 Application of Payments.

(a) Subject to the provisions of SECTION 2.21, as long as the Obligations have not been accelerated pursuant to SECTION 7.03 hereof, all amounts received in the BOA Concentration Account from any source, including the Blocked Account Banks, shall be applied, on the day immediately following receipt, in the following order: first, to pay interest due and payable on Credit Extensions and to pay fees and expense reimbursements and indemnification then due and payable to the Administrative Agent, the Arranger, the Issuing Bank, the Collateral Agent, and the Lenders; second to repay outstanding Swingline Loans; third, to repay other outstanding Revolving Loans that are Base Rate Loans and all outstanding reimbursement obligations under Letters of Credit; fourth, to repay outstanding Revolving Loans that are LIBO Loans and all Breakage Costs due in respect of such repayment pursuant to SECTION 2.19(b) or, at the Borrowers' option (if no Event of Default has occurred and is then continuing), to fund a cash collateral deposit to the Cash Collateral Account sufficient to pay, and with direction to pay, all such outstanding LIBO Loans on the last day of the then-pending Interest Period therefor; fifth if any Event of Default has occurred and is continuing, to fund a cash collateral deposit in the Cash Collateral Account in an amount equal to 105% of all Letter of Credit Outstandings; sixth, to pay all other Obligations that are then outstanding and then due and payable. If all Obligations are paid, any excess amounts shall be deposited in a separate cash collateral account, and as long as no Event of Default then exists, shall be released to the Borrowers upon the request of the Lead Borrower and utilized by the Borrowers prior to any further Revolving Loans being made. Any other amounts received by the Administrative Agent, the Issuing Bank, the Collateral Agent, or any Lender as contemplated by SECTION 2.21 shall also be applied in the order set forth above in this SECTION 2.22.

(b) All credits against the Obligations shall be conditioned upon final payment to the Administrative Agent of the items giving rise to such credits and shall be subject to one (1) Business Day's clearance and collection. If any item deposited to the BOA Concentration Account and credited to the Loan Account is dishonored or returned unpaid for any reason, whether or not such return is rightful or timely, the Administrative Agent shall have the right to reverse such credit and charge the amount of such item to the Loan Account and the Borrowers shall indemnify the Administrative Agent, the Collateral Agent, the Issuing Bank and the Lenders against all claims and losses resulting from such dishonor or return.

SECTION 2.23 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any holding company of any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank; or

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition affecting this Agreement or LIBO Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any LIBO Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or the Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrowers will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and setting forth in reasonable detail the manner in which such amount or amounts were determined shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation.

SECTION 2.24 Change in Legality.

(a) Notwithstanding anything to the contrary contained elsewhere in this Agreement, if (x) any Change in Law shall make it unlawful for a Lender to make or maintain a LIBO Loan or to give effect to its obligations as contemplated hereby with respect to a LIBO Loan or (y) at any time any Lender determines that the making or continuance of any of its LIBO Loans has become impracticable as a result of a contingency occurring after the date hereof which adversely affects the London interbank market or the position of such Lender in the London interbank market, then, by written notice to the Borrowers, such Lender may (i) declare that LIBO Loans will not thereafter be made by such Lender hereunder, whereupon any request by the Borrowers for a LIBO Borrowing shall, as to such Lender only, be deemed a request for an Base Rate Loan unless such declaration shall be subsequently withdrawn; and (ii) require that all outstanding LIBO Loans made by it be converted to Base Rate Loans, in which event all such LIBO Loans shall be automatically converted to Base Rate Loans as of the effective date of such notice as provided in paragraph (b) below. In the event any Lender shall exercise its rights under clause (i) or (ii) of this paragraph (a), all payments and prepayments of principal which would otherwise have been applied to repay the LIBO Loans that would have been made by such Lender or the converted LIBO Loans of such Lender shall instead be applied to repay the Base Rate Loans made by such Lender in lieu of, or resulting from the conversion of, such LIBO Loans.

(b) For purposes of this SECTION 2.24, a notice to the Borrowers by any Lender pursuant to paragraph (a) above shall be effective, if lawful, and if any LIBO Loans shall then be outstanding, on the last day of the then-current Interest Period; and otherwise such notice shall be effective on the date of receipt by the Borrowers.

SECTION 2.25 Payments; Sharing of Setoff.

(a) The Borrowers shall make each payment required to be made by it hereunder or under any other Loan Document (whether of principal, interest, fees or reimbursement of drawings under Letters of Credit, or of amounts payable under SECTION 2.19(b), SECTION 2.23 or SECTION 2.26, or otherwise) prior to 12:00 noon, Boston time, on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 100 Federal Street, Boston, Massachusetts, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to SECTION 2.19(b), SECTION 2.23, SECTION 2.26 and SECTION 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, except with respect to LIBO Borrowings, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under each Loan Document shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed drawings under Letters of Credit, interest and fees then due hereunder, such funds shall be applied as set forth in SECTION 2.22(a) or SECTION 7.04 hereof, as applicable.

(c) Unless the Administrative Agent shall have received notice from the Borrowers prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(d) If any Lender shall fail to make any payment required to be made by it pursuant to this Agreement, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

SECTION 2.26 Taxes.

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

(b) In addition, the Borrowers shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrowers shall indemnify the Administrative Agent, each Lender and the Issuing Bank, within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or the Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrowers hereunder or under any other Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto (except to the extent that any such penalties or interest result through the fault of the Administrative Agent, such Lender or the Issuing Bank, as applicable), whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Lender or the Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Bank setting forth in reasonable detail the manner in which such amount was determined, shall be conclusive absent manifest error.

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

(e) Any Foreign Lender that is entitled to an exemption from or reduction in withholding tax shall deliver to the Borrowers and the Administrative Agent two copies Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party, duly completed copies of Internal Revenue Service Form W-8ECI, in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a “bank” within the meaning of section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrowers within the meaning of section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN, or any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Lead Borrower to determine the withholding or deduction required to be made. Such forms shall be delivered by each Foreign Lender on or before the date it becomes a party to this Agreement (or, in the case of a transferee that is a participation holder, on or before the date such participation holder becomes a transferee hereunder) and on or before the date, if any, such Foreign Lender changes its applicable lending office by designating a different lending office (a “New Lending Office”). In addition, each Foreign Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Foreign Lender. Notwithstanding any other provision of this SECTION 2.26(e), a Foreign Lender shall not be required to deliver any form pursuant to this SECTION 2.26(e) that such Foreign Lender is not legally able to deliver.

(f) The Borrowers shall not be required to indemnify any Foreign Lender or to pay any additional amounts to any Foreign Lender in respect of U.S. Federal withholding tax pursuant to paragraph (a) or (c) above to the extent that the obligation to pay such additional amounts would not have arisen but for a failure by such Foreign Lender to comply with the provisions of paragraph (e) above. Should a Lender become subject to Taxes because of its failure to deliver a form required hereunder, the Borrowers shall, at such Lender’s expense, take such steps as such Lender shall reasonably request to assist such Lender to recover such Taxes.

SECTION 2.27 Security Interests in Collateral.

To secure their Obligations under this Agreement and the other Loan Documents, the Borrowers have granted to the Collateral Agent, for its benefit and the ratable benefit of the other Secured Parties, a first-priority security interest in all of the Collateral pursuant hereto and to the Security Documents.

SECTION 2.28 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under SECTION 2.23, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to SECTION 2.26, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to SECTION 2.23 or SECTION 2.26, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment; provided, however, that the Borrowers shall not be liable for such costs and expenses of a Lender requesting compensation if (i) such Lender becomes a party to this Agreement on a date after the Effective Date and (ii) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto.

(b) If any Lender requests compensation under SECTION 2.23, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to SECTION 2.26, or if any Lender defaults in its obligation to fund Loans hereunder, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in SECTION 9.05), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that (i) the Borrowers shall have received the prior written consent of the Administrative Agent, the Issuing Bank and Swingline Lender, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in unreimbursed drawings under Letters of Credit and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under SECTION 2.23 or payments required to be made pursuant to SECTION 2.26, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

SECTION 2.29 Increase in Revolving Commitments.

(a) Request for Increase. Provided no Default then exists or would arise therefrom, upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Lead Borrower may from time to time, request an increase in the Revolving Commitments by an amount (for all such requests) not exceeding \$100,000,000; provided that (i) any such request for an increase shall be in a minimum amount of \$25,000,000, and (ii) the Lead Borrower may make a maximum of four such requests. At the time of sending such notice, the Lead Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections to Increase. Each Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its Revolving Commitment and, if so, whether by an amount equal to, greater than, or less than its Revolving Commitment Percentage of such requested increase. Any Lender not responding within such time period shall be deemed to have declined to increase its Revolving Commitment.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Lead Borrower and each Lender of the Lenders' responses to each request made hereunder. To achieve the full amount of a requested increase and subject to the approval of the Administrative Agent, the Issuing Bank and the Swingline Lender (which approvals shall not be unreasonably withheld), to the extent that the existing Lenders decline to increase their Revolving Commitments, or decline to increase their Revolving Commitments to the amount requested by the Lead Borrower, the Administrative Agent, in consultation with the Lead Borrower, will use its reasonable efforts to arrange for other assignees to become a Lender hereunder (any such Lender or assignee, an "Additional Commitment Lender") and to issue commitments in an amount equal to the amount of the increase in the Revolving Commitments requested by the Lead Borrower and not accepted by the existing Lenders (and the Lead Borrower may also invite additional assignees to become Lenders), *provided, however*, that without the consent of the Administrative Agent, at no time shall the Revolving Commitment of any Additional Commitment Lender be less than \$10,000,000.

(d) Effective Date and Allocations. If the Revolving Commitments are increased in accordance with this Section, the Administrative Agent and the Lead Borrower shall determine the effective date (the “Increase Effective Date”) and the final allocation of such increase. The Administrative Agent shall promptly notify the Lead Borrower and the Lenders of the final allocation of such increase and the Increase Effective Date and on the Increase Effective Date (i) the Total Commitments under, and for all purposes of, this Agreement shall be increased by the aggregate amount of such Commitment Increases, and (ii) **Schedule 1.1** shall be deemed modified, without further action, to reflect the revised Revolving Commitments and Revolving Commitment Percentages of the Lenders.

(e) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) the Lead Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by the chief executive officer, president or a Financial Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (B) in the case of the Borrowers, certifying that, before and after giving effect to such increase, (1) the representations and warranties contained in Article 3 and the other Loan Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this SECTION 2.29, the representations and warranties contained in SECTION 3.04 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (c), respectively, of SECTION 5.01, (ii) the Borrowers, the Administrative Agent, and any Additional Commitment Lender shall have executed and delivered a joinder to the Loan Documents in such form as the Administrative Agent shall reasonably require; (iii) the Borrowers shall have paid such fees and other compensation to the Additional Commitment Lenders as the Lead Borrower and such Additional Commitment Lenders shall agree; (iv) the Borrowers shall have paid such arrangement fees to the Administrative Agent as the Lead Borrower and the Administrative Agent may agree; (v) the Borrowers shall deliver to the Administrative Agent and the Lenders an opinion or opinions, in form and substance reasonably satisfactory to the Administrative Agent, from counsel to the Borrowers reasonably satisfactory to the Administrative Agent and dated such date (which opinion shall be substantially the same in form and substance as the opinion delivered pursuant to SECTION 4.01(b) hereof; (vi) the Borrowers and the Additional Commitment Lender shall have delivered such other instruments, documents and agreements as the Administrative Agent may reasonably have requested; and (vii) no Default exists. The Borrowers shall prepay any Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to SECTION 2.26) to the extent necessary to keep the outstanding Loans ratable with any revised Revolving Credit Percentages arising from any nonratable increase in the Revolving Commitments under this Section.

(f) Conflicting Provisions. This Section shall supersede any provisions in SECTION 2.25 or SECTION 8.03 to the contrary.

ARTICLE 3
Representations and Warranties

Each Loan Party represents and warrants to the Agents and the Lenders that:

SECTION 3.01 Organization; Powers. Each Loan Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

SECTION 3.02 Authorization; Enforceability. The transactions contemplated hereby and by the other Loan Documents to be entered into by each Loan Party are within such Loan Party's corporate powers and have been duly authorized by all necessary corporate and, if required, stockholder action. This Agreement has been duly executed and delivered by each Loan Party that is a party hereto and constitutes, and each other Loan Document to which any Loan Party is a party, when executed and delivered by such Loan Party will constitute, a legal, valid and binding obligation of such Loan Party (as the case may be), enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03 Governmental Approvals; No Conflicts. The transactions to be entered into contemplated by the Loan Documents (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except for such as have been obtained or made and are in full force and effect and except filings and recordings necessary to perfect Liens created under the Loan Documents, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of any Loan Party or any order of any Governmental Authority, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or its assets, or give rise to a right thereunder to require any payment to be made by any Loan Party, and (d) will not result in the creation or imposition of any Lien on any asset of any Loan Party, except Liens created under the Loan Documents.

SECTION 3.04 Financial Condition. The Lead Borrower has heretofore furnished to the Lenders the consolidated balance sheet, and statements of income, stockholders' equity, and cash flows for the Lead Borrower and its Subsidiaries as of and for the fiscal year ending February 2, 2008 and as of and for the fiscal quarter ending May 3, 2008, certified by the chief executive officer, president or a Financial Officer of the Borrowers. Such financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Lead Borrower and its Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year end audit adjustments and the absence of footnotes. Since the date of such financial statements, there have been no changes in the assets, liabilities, financial condition, business or prospects of the Borrowers other than changes in the ordinary course of business, the effect of which has not been materially adverse.

SECTION 3.05 Properties.

(a) Except as disclosed in **Schedules 3.05(c)(i)** and **3.05(c)(ii)**, each Loan Party has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for defects which could not reasonably be expected to have a Material Adverse Effect.

(b) Each Loan Party owns, or is licensed to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and the use thereof by the Loan Parties does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(c) **Schedule 3.05(c)(i)** sets forth the address (including county) of all Real Estate that is owned by the Loan Parties as of the Closing Date, together with a list of the holders of any mortgage or other Lien thereon. **Schedule 3.05(c)(ii)** sets forth the address (including county) of all Real Estate that is leased by the Loan Parties as of the Closing Date.

SECTION 3.06 Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Borrower, threatened against or affecting any Loan Party (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than those set forth on **Schedule 3.06**) or (ii) that involve any of the Loan Documents.

(b) Except for the matters set forth on **Schedule 3.06** and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, no Loan Party (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the matters set forth on **Schedule 3.06** that, individually or in the aggregate, has resulted in, or could reasonably be expected to result in, a Material Adverse Effect.

SECTION 3.07 Compliance with Laws and Agreements. Each Loan Party is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, Material Agreements and other instruments binding upon it or its property, and except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08 Investment Company Status. No Loan Party is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09 Taxes. Each Loan Party has timely filed or caused to be filed all tax returns and reports required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except (a) taxes that are being contested in good faith by appropriate proceedings, for which such Loan Party has set aside on its books adequate reserves, and as to which no Lien has arisen, or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10 ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than \$500,000 the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than \$1,000,000 the fair market value of the assets of all such underfunded Plans.

SECTION 3.11 Disclosure. The Borrowers have disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which any Loan Party is subject, and all other matters known to any of them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of any of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or any other Loan Document or delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

SECTION 3.12 Subsidiaries. **Schedule 3.12** sets forth the name of, and the ownership interest of each Loan Party in each Subsidiary as of the Closing Date. The Loan Parties are not party to any joint venture, general or limited partnership, or limited liability company, agreements or any other business ventures or entities.

SECTION 3.13 Insurance. **Schedule 3.13** sets forth a description of all insurance maintained by or on behalf of the Borrowers and their Subsidiaries as of the Effective Date. As of the Effective Date, all premiums in respect of such insurance that are due and payable have been paid.

SECTION 3.14 Labor Matters. As of the Effective Date, there are no strikes, lockouts or slowdowns against any Loan Party pending or, to the knowledge of the Borrowers, threatened. The hours worked by and payments made to employees of the Loan Parties have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or foreign law dealing with such matters to the extent that any such violation could reasonably be expected to have a Material Adverse Effect. All payments due from any Loan Party, or for which any claim may be made against any Loan Party, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of such member. The consummation of the transactions contemplated by the Loan Documents will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Loan Party is bound.

SECTION 3.15 Security Documents. The Security Documents create in favor of the Collateral Agent, for the ratable benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral, as applicable, and the Security Documents constitute the creation of a fully perfected first priority Lien on, and security interest, as applicable, in, all right, title and interest of the Loan Parties thereunder in such Collateral, in each case prior and superior in right to any other Person.

SECTION 3.16 Federal Reserve Regulations.

(a) No Loan Party is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(b) No part of the proceeds of any Loan or any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to buy or carry Margin Stock or to extend credit to others for the purpose of buying or carrying Margin Stock or to refund indebtedness originally incurred for such purpose or (ii) for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation U or X.

(c) Less than 25% of the assets of the Borrowers on a consolidated basis consist of Margin Stock.

SECTION 3.17 Solvency. Each of the Loan Parties is Solvent. No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of any Loan Party.

ARTICLE 4
Conditions

SECTION 4.01 Effective Date. The obligation of the Lenders to make each Loan and of the Issuing Bank to issue each Letter of Credit, including any Loan to be made or Letter of Credit to be issued on the Effective Date, is subject to the following conditions precedent:

(a) The Agents (or their counsel) shall have received from each party hereto either (i) a counterpart of this Agreement and all other Loan Documents signed on behalf of such party or (ii) written evidence satisfactory to the Agents (which may include telecopy transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and all other Loan Documents.

(b) The Agents shall have received a favorable written opinion (addressed to each Agent and the Lenders and dated the Effective Date) of counsel for the Loan Parties regarding the legal existence and good standing of the Loan Parties, the due authorization of the Loan Parties to enter into the Loan Documents, the due execution by the Loan Parties of the Loan Documents, and stating that the consummation of the transactions contemplated hereby shall not conflict with, or result in a default or event of default under, any Material Agreement (including, without limitation, the Subordinated Debt Indenture) or organizational documents of any Loan Party, and otherwise substantially in the form of Exhibit C hereto. The Borrowers hereby request such counsel to deliver such opinion.

(c) The Agents shall have received such documents and certificates as the Agents or their counsel may reasonably request relating to the organization, existence and good standing of each Loan Party, the authorization of the transactions contemplated by the Loan Documents and any other legal matters relating to the Borrowers, the Facility Guarantors, the Loan Documents or the transactions contemplated thereby, all in form and substance satisfactory to the Agents and their counsel.

(d) After giving effect to the consummation of the transactions contemplated hereby, no Event of Default shall exist.

(e) The Agents shall have received a certificate, reasonably satisfactory in form and substance to the Agents, with respect to the solvency of the Lead Borrower and its Subsidiaries on a consolidated basis as of the Effective Date.

(f) The consummation of the transactions contemplated hereby shall not (a) violate any applicable law, statute, rule or regulation or (b) conflict with, or result in a default or event of default under, any Material Agreement of any Loan Party.

(g) All necessary consents and approvals to the transactions contemplated hereby shall have been obtained and shall be satisfactory to the Agents.

(h) The Agents shall be reasonably satisfied that any financial statements delivered to them fairly present the business and financial condition of the Borrowers and their Subsidiaries, and that there has been no material adverse change in the assets, business, financial condition, income or prospects of the Borrowers and their Subsidiaries since the date of the most recent financial information delivered to the Agents.

(i) There shall not be any action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties threatened in any court or before any arbitrator or Governmental Authority that could reasonably be expected to have a Material Adverse Effect.

(j) There shall not have occurred any default of any Material Agreement of any Loan Party, including, without limitation, under the Subordinated Debt Indenture.

(k) The Collateral Agent shall have received results of updated searches or other evidence reasonably satisfactory to the Collateral Agent (in each case dated as of a date reasonably satisfactory to the Collateral Agent) indicating the absence of liens on the assets of the Loan Parties, except for Liens granted to the Collateral Agent, for the benefit of the Secured Parties, and liens for which termination statements and releases reasonably satisfactory to the Collateral Agent are being tendered concurrently herewith.

(l) The Collateral Agent shall have received all documents and instruments, including Uniform Commercial Code financing statements and Blocked Account Agreements, required by law or reasonably requested by the Collateral Agent to be filed, registered or recorded to create or perfect the first priority Liens intended to be created under the Loan Documents and all such documents and instruments shall have been so filed, registered or recorded to the satisfaction of the Collateral Agent.

(m) All fees due at or immediately after the Effective Date and all costs and expenses incurred by the Agents in connection with the establishment of the credit facility contemplated hereby (including the fees and expenses of counsel to the Agents) shall have been paid in full.

(n) No material changes in governmental regulations or policies affecting the Loan Parties, the Agents, the Arranger or any Lender involved in this transaction shall have occurred prior to the Effective Date.

(o) There shall not have occurred any disruption or material adverse change in the financial or capital markets in general that would, in the reasonable opinion of the Agents, have a material adverse effect on the market for loan syndications or adversely affecting the syndication of the Loans, and the Arranger shall have achieved syndication of the Loans.

(p) There shall be no events of default on the Effective Date on any long term debt held by any of the Borrowers or Facility Guarantors.

(q) There shall have been delivered to the Administrative Agent such additional instruments and documents as the Agents or counsel to the Agents reasonably may require or request.

The Administrative Agent shall notify the Borrowers and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02 Conditions Precedent to Each Loan and Each Letter of Credit.

In addition to those conditions described in Section 4.01, the obligation of the Revolving Lenders to make each Revolving Loan and of the Issuing Bank to issue each Letter of Credit, is subject to the following conditions precedent:

(a) Notice. The Administrative Agent shall have received a notice with respect to such Borrowing or issuance, as the case may be, as required by Article II.

(b) Representations and Warranties. All representations and warranties contained in this Agreement and the other Loan Documents or otherwise made in writing in connection herewith or therewith shall be true and correct in all material respects on and as of the date of each Borrowing or the issuance of each Letter of Credit hereunder with the same effect as if made on and as of such date, other than representations and warranties that relate solely to an earlier date.

(c) No Default. On the date of each Borrowing hereunder and the issuance of each Letter of Credit, the Loan Parties shall be in compliance with all of the terms and provisions set forth herein and in the other Loan Documents to be observed or performed and no Default or Event of Default shall have occurred and be continuing.

(d) Borrowing Base Certificate. The Administrative Agent shall have received the timely delivery of the most recently required Borrowing Base Certificate, with each such Borrowing Base Certificate including schedules as required by the Administrative Agent.

The request by the Borrowers for, and the acceptance by the Borrowers of, each extension of credit hereunder shall be deemed to be a representation and warranty by the Borrowers that the conditions specified in this SECTION 4.02 have been satisfied at that time and that after giving effect to such extension of credit the Borrowers shall continue to be in compliance with the Borrowing Base. The conditions set forth in this SECTION 4.02 are for the sole benefit of the Administrative Agent and each Revolving Lender and may be waived by the Administrative Agent in whole or in part without prejudice to the Administrative Agent or any Revolving Lender.

ARTICLE 5
Affirmative Covenants

Until the Revolving Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated and all L/C Disbursements shall have been reimbursed, each Loan Party covenants and agrees with the Agents and the Lenders that:

SECTION 5.01 Financial Statements and Other Information. The Borrowers will furnish to the Agents:

(a) within 95 days after the end of each fiscal year of the Lead Borrower, its consolidated and consolidating balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all audited (in the case of such consolidated statements) and reported on by independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without a qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Lead Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 50 days after the end of each fiscal quarter of the Lead Borrower, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows, and a summary of all Capital Expenditures, as of the end of and for such fiscal quarter and the elapsed portion of the fiscal year, all certified by one of its Financial Officers as presenting in all material respects the financial condition and results of operations of the Lead Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year end audit adjustments and the absence of footnotes;

(c) within 30 days after the end of each fiscal month of the Lead Borrower, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows, and a summary of all Capital Expenditures, as of the end of and for such fiscal month and the elapsed portion of the fiscal year, all certified by one of its Financial Officers as presenting in all material respects the financial condition and results of operations of the Lead Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year end audit adjustments and the absence of footnotes;

(d) concurrently with any delivery of financial statements under clause (a), (b), or (c) above, a certificate of a Financial Officer of the Lead Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, and (ii) setting forth reasonably detailed calculations (A) with respect to the performance covenants included in the definition of "Applicable Margin", and (B) demonstrating compliance with SECTION 6.11 (whether or not the provisions of SECTION 6.11 are then applicable), and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the Lead Borrower's audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(e) within thirty (30) days after the commencement of each fiscal year of the Lead Borrower, a detailed consolidated budget by month for such fiscal year (including a projected consolidated balance sheet and related statements of projected operations and cash flow as of the end of and for such fiscal year) and, promptly when available, any significant revisions of such budget;

(f) within five (5) Business Days after the end of each Fiscal Period, a certificate in the form of Exhibit E (a “Borrowing Base Certificate”) showing the Borrowing Base as of the close of business on the last day of the immediately preceding Fiscal Period, each such Certificate to be certified as complete and correct on behalf of the Borrowers by a Financial Officer of the Lead Borrower, *provided, however*, if a Cash Control Event exists, such Borrowing Base Certificate (showing the Borrowing Base as of the close of business on the last day of the immediately preceding week) shall be furnished weekly on Wednesday of each week for such period as such Cash Control Event is deemed to exist;

(g) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by any Loan Party with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, as the case may be;

(h) promptly upon receipt thereof, copies of all reports submitted to any Loan Party by independent certified public accountants in connection with each annual, interim or special audit of the books of the Loan Parties or any of their Subsidiaries made by such accountants, including any management letter commenting on the Loan Parties’ internal controls submitted by such accountants to management in connection with their annual audit;

(i) the financial and collateral reports described on **Schedule 5.01(i)** hereto, at the times set forth in such Schedule;

(j) a detailed summary of the Net Proceeds received from any Prepayment Event within one (1) Business Day after receipt of such proceeds;

(k) notice of any intended sale or other disposition of assets of any Loan Party permitted hereunder or incurrence of any Indebtedness permitted hereunder at least thirty (30) Business Days prior to the date of consummation such sale or disposition or incurrence of such Indebtedness; and

(l) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of any Loan Party, or compliance with the terms of any Loan Document, as the Agents or any Lender may reasonably request.

SECTION 5.02 Notices of Material Events. The Borrowers will furnish to the Administrative Agent, the Issuing Bank, the Collateral Agent, and each Lender prompt written notice of the following:

- (a) the occurrence of any Default or Event of Default;
- (b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting any Loan Party or any Affiliate thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and
- (d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.
- (e) any change in any Borrower' s executive officers.
- (f) any failure by any Loan Party to pay rent at any of such Loan Party' s locations, which failure continues for more than ten (10) days following the day on which such rent first came due.
- (g) the discharge by any Borrower of their present independent accountants or any withdrawal or resignation by such independent accountants.
- (h) any material change in the business, operations, or financial affairs of any Loan Party.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Lead Borrower setting forth the details of the event or development requiring such notice and, if applicable, any action taken or proposed to be taken with respect thereto.

SECTION 5.03 Information Regarding Collateral.

(a) The Lead Borrower will furnish to the Agents prompt written notice of any change (i) in any Loan Party' s corporate name or in any trade name used to identify it in the conduct of its business or in the ownership of its properties, (ii) in the location of any Loan Party' s chief executive office, its principal place of business, any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility), (iii) in any Loan Party' s identity or corporate structure or jurisdiction of formation or (iv) in any Loan Party' s Federal Taxpayer Identification Number. The Lead Borrower also agrees promptly to notify the Agents if any material portion of the Collateral is damaged or destroyed.

(b) Each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to clause (a) of Section 5.01, the Lead Borrower shall deliver to the Agents a certificate of a Financial Officer of the Lead Borrower setting forth the information required pursuant to Section II of the Perfection Certificate or confirming that there has been no change in such information since the date of the Perfection Certificate delivered on the Closing Date or the date of the most recent certificate delivered pursuant to this Section.

SECTION 5.04 Existence; Conduct of Business. Each Loan Party will, and will cause each of the Subsidiaries to, do or cause to be done all things necessary to comply with its respective charter, certificate of incorporation, articles of organization, and/or other organizational documents, as applicable; and by-laws and/or other instruments which deal with corporate governance, and to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business, provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under SECTION 6.03.

SECTION 5.05 Payment of Obligations. Each Loan Party will, and will cause each of the Subsidiaries to, pay its Indebtedness and other obligations, including tax liabilities, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) such Loan Party or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (c) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation and (d) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect. Nothing contained herein shall be deemed to limit the rights of the Administrative Agent under SECTION 2.02(b) hereof.

SECTION 5.06 Maintenance of Properties. Each Loan Party will, and will cause each of the Subsidiaries to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted and with the exception of storing closings and asset dispositions permitted hereunder.

SECTION 5.07 Insurance.

(a) Each Loan Party shall (i) maintain insurance with financially sound and reputable insurers reasonably acceptable to the Administrative Agent (or, to the extent consistent with prudent business practice, a program of self-insurance approved by the Administrative Agent) on such of its property and in at least such amounts and against at least such risks as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death occurring upon, in or about or in connection with the use of any properties owned, occupied or controlled by it (including the insurance required pursuant to the Security Documents); (ii) maintain such other insurance as may be required by law; and (iii) furnish to the Administrative Agent, upon written request, full information as to the insurance carried.

(b) Fire and extended coverage policies maintained with respect to any Collateral shall be endorsed or otherwise amended to include (i) a non-contributing mortgage clause (regarding improvements to real property) and lenders' loss payable clause (regarding personal property), in form and substance satisfactory to the Collateral Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Collateral Agent, (ii) a provision to the effect that none of the Loan Parties, the Administrative Agent, the Collateral Agent, or any other party shall be a coinsurer and (iii) such other provisions as the Collateral Agent may reasonably require from time to time to protect the interests of the Lenders. Commercial general liability policies shall be endorsed to name the Collateral Agent as an additional insured. Business interruption policies shall name the Collateral Agent as a loss payee and shall be endorsed or amended to include (i) a provision that, from and after the Effective Date, the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Administrative Agent or the Collateral Agent, (ii) a provision to the effect that none of the Loan Parties, the Administrative Agent, the Collateral Agent or any other party shall be a co-insurer and (iii) such other provisions as the Collateral Agent may reasonably require from time to time to protect the interests of the Lenders. Each such policy referred to in this paragraph also shall provide that it shall not be canceled, modified or not renewed (i) by reason of nonpayment of premium except upon not less than 30 days' prior written notice thereof by the insurer to the Collateral Agent (giving the Collateral Agent the right to cure defaults in the payment of premiums) or (ii) for any other reason except upon not less than 60 days' prior written notice thereof by the insurer to the Collateral Agent. The Borrowers shall deliver to the Collateral Agent, prior to the cancellation, modification or nonrenewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Collateral Agent) together with evidence satisfactory to the Collateral Agent of payment of the premium therefor.

SECTION 5.08 Casualty and Condemnation. Each Borrower will furnish to the Agents and the Lenders prompt written notice of any casualty or other insured damage to any material portion of any Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or any part thereof or interest therein under power of eminent domain or by condemnation or similar proceeding.

SECTION 5.09 Books and Records; Inspection and Audit Rights; Appraisals.

(a) Each Loan Party will, and will cause each of the Subsidiaries to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. Each Loan Party will, and will cause each of the Subsidiaries to, permit any representatives designated by any Agent, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.

(b) Each Loan Party will, and will cause each of the Subsidiaries to, from time to time upon the request of the Collateral Agent or the Required Lenders through the Administrative Agent, permit any Agent or professionals (including investment bankers, consultants, accountants, lawyers and appraisers) retained by the Agents to conduct appraisals, commercial finance examinations and other evaluations, including, without limitation, of (i) the Borrowers' practices in the computation of the Borrowing Base and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves, and pay the reasonable fees and expenses of the Agents or such professionals with respect to such evaluations and appraisals; provided that, so long as Excess Availability is equal to or greater than \$100,000,000 for any twelve consecutive month period, the Borrowers shall be responsible only for the costs and expenses of two (2) such appraisals and two (2) commercial finance examinations in such twelve consecutive month period following the Effective Date, and if Excess Availability at any time is less than \$100,000,000 during any such twelve consecutive month period, then the Borrowers shall be responsible only for the costs and expenses of three (3) such appraisals and three (3) commercial finance examinations in such twelve consecutive month period; and provided further that, in the event that no Loans have been outstanding for a period of twelve consecutive months and Excess Availability is equal to or greater than \$200,000,000, the Borrowers shall be responsible only for the costs and expenses of one (1) such appraisal and one (1) commercial finance examination in such twelve consecutive month period. Notwithstanding the foregoing limitations on the Borrowers' obligation to pay the expenses for appraisals and commercial finance examinations prior to the occurrence of an Event of Default, the Administrative Agent may (i) undertake such additional appraisals and commercial finance examinations prior to the occurrence of an Event of Default as it deems appropriate, at the expense of the Lenders, and (ii) if an Event of Default shall have occurred and be continuing, undertake such additional appraisals and commercial finance examinations at the Borrowers' expense as it deems appropriate.

SECTION 5.10 Compliance with Laws. Each Loan Party will, and will cause each of the Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.11 Use of Proceeds and Letters of Credit. The proceeds of Loans made hereunder and Letters of Credit issued hereunder will be used only (a) to finance the acquisition of working capital assets of the Borrowers, including the purchase of inventory and equipment, in each case in the ordinary course of business, (b) to finance Capital Expenditures of the Borrowers, and (c) for general corporate purposes, including stock and bond repurchases to the extent permitted herein. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations U and X.

SECTION 5.12 Additional Subsidiaries. If any additional Subsidiary is formed or acquired after the Effective Date, the Lead Borrower will notify the Agents and the Lenders thereof and (a) if such Subsidiary is not a Foreign Subsidiary or an Unrestricted Subsidiary, the Borrowers will cause such Subsidiary to become a Loan Party hereunder and each applicable Security Document in the manner provided therein within three Business Days after such Subsidiary is formed or acquired and promptly take such actions to create and perfect Liens on such Subsidiary's assets to secure the Obligations as any Agent or the Required Lenders shall reasonably request and (b) if any shares of capital stock or Indebtedness of such Subsidiary are owned by or on behalf of any Loan Party, the Borrowers will cause such shares and promissory notes evidencing such Indebtedness to be pledged within three Business Days after such Subsidiary is formed or acquired (except that, if such Subsidiary is a Foreign Subsidiary, shares of stock of such Subsidiary to be pledged may be limited to 65% of the outstanding shares of voting stock of such Subsidiary).

SECTION 5.13 Further Assurances.

(a) Each Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that may be required under any applicable law, or which any Agent or the Required Lenders may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created by the Security Documents or the validity or priority of any such Lien, all at the expense of the Loan Parties. The Loan Parties also agree to provide to the Agents, from time to time upon request, evidence reasonably satisfactory to the Agents as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

(b) If any material assets are acquired by any Loan Party after the Effective Date (other than assets constituting Collateral under the Security Agreement that become subject to the Lien of the Security Agreement upon acquisition thereof), the Lead Borrower will notify the Agents and the Lenders thereof, and the Loan Parties will cause such assets to be subjected to a Lien securing the Obligations and will take such actions as shall be necessary or reasonably requested by any Agent or the Required Lenders to grant and perfect such Liens, including actions described in paragraph (a) of this Section, all at the expense of the Loan Parties.

(c) Upon the request of the Administrative Agent, the Borrowers shall cause each of its customs brokers to deliver an agreement to the Administrative Agent covering such matters and in such form as the Administrative Agent may reasonably require.

SECTION 5.14 Subordinated Debt Indenture.

On or prior to the date that is sixty (60) days prior to the Maturity (as defined in the Subordinated Debt Indenture) of the Indebtedness under the Subordinated Note Indenture, the Borrowers shall have defeased, repaid or refinanced such Indebtedness, or shall have obtained a commitment from a third party to refinance such Indebtedness prior to the Maturity thereof, or shall have notified the Administrative Agent that the Borrowers shall repay such Indebtedness from proceeds of the Loans and/or available cash; provided that, after giving effect to any such refinancing (i) the principal amount of the Indebtedness outstanding at such time is not increased (except by the amount of any accrued interest, reasonable closing costs, expenses, fees, and premium paid in connection with such extension, renewal or replacement), (ii) the result of such refinancing of or replacement shall not be an earlier maturity date or decreased weighted average life, (iii) the holders of such refinancing Indebtedness are not afforded covenants, defaults, rights or remedies, taken as a whole, which are materially more burdensome to the obligor or obligors than those contained in the Indebtedness being extended, renewed or replaced, (iv) the obligor or obligors under any such refinancing Indebtedness are the same as the obligor(s) under the Indebtedness being extended, renewed or replaced, (v) the refinancing Indebtedness is unsecured, (vi) the subordination, to the extent applicable, and other material provisions of the refinancing Indebtedness are no less favorable to the Lenders than those terms of the Indebtedness being refinanced, and (vii) the refinancing Indebtedness is not exchangeable or convertible into any other Indebtedness which does not comply with clauses (i) through (v) above; and provided further that, upon such notification by the Borrowers to the Administrative Agent that the Borrowers shall repay such Indebtedness from proceeds of the Loans, the Administrative Agent shall establish a Reserve under the Borrowing Base in the amount to be repaid until the date such payment is made.

ARTICLE 6
Negative Covenants

Until the Revolving Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated and all L/C Disbursements shall have been reimbursed, each Loan Party covenants and agrees with the Agents and the Lenders that:

SECTION 6.01 Indebtedness and Other Obligations.

(a) The Loan Parties will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

- (i) Indebtedness created under the Loan Documents;
- (ii) Indebtedness set forth in **Schedule 6.01**;

(iii) Indebtedness of any Loan Party to any other Loan Party;

(iv) Guarantees by any Loan Party of Indebtedness of any other Loan Party or Subsidiary provided that Guarantees by any Borrower of Indebtedness of any Subsidiary that is not a Borrower shall be subject to Section 6.04;

(v) Indebtedness of any Loan Party to finance the acquisition of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof or result in an earlier maturity date or decreased weighted average life thereof, provided that the aggregate principal amount of Indebtedness permitted by this clause (v) shall not exceed \$10,000,000.00 at any time outstanding;

(vi) Intentionally Omitted;

(vii) Indebtedness incurred to finance any Real Estate owned by any Loan Party or incurred in connection with sale-leaseback transactions permitted hereunder, provided that the terms of such Indebtedness are reasonably acceptable to the Administrative Agent;

(viii) Indebtedness under Hedging Agreements with (A) Bank of America or an Affiliate of Bank of America or (B) any other Lender or an Affiliate of such other Lender to the extent approved in writing by the Administrative Agent in its sole discretion, not to be unreasonably withheld;

(ix) Indebtedness under the Subordinated Debt Indenture, provided that the Indebtedness permitted hereunder shall not exceed \$100,000,000;

(x) Indebtedness on account of the IdeaForest Note; and

(xi) other unsecured Indebtedness; provided that the Indebtedness permitted hereunder, when aggregated with the Indebtedness outstanding pursuant to Section 6.01(a)(ix) hereof, shall not exceed \$200,000,000, and provided further that the terms of such Indebtedness are reasonably acceptable to the Administrative Agent.

(b) None of the Loan Parties will, nor will they permit any Subsidiary to, issue any preferred stock (except for preferred stock (i) all dividends in respect of which are to be paid (and all other payments in respect of which are to be made) in additional shares of such preferred stock, in lieu of cash, until all Obligations have been repaid in full and all Revolving Commitments terminated, (ii) that is not subject to redemption other than redemption at the option of the Loan Party issuing such preferred stock and (iii) all payments in respect of which are expressly subordinated to the Obligations) or be or become liable in respect of any obligation (contingent or otherwise) to purchase, redeem, retire, acquire or make any other payment in respect of (i) any shares of capital stock of any Loan Party or (ii) any option, warrant or other right to acquire any such shares of capital stock.

SECTION 6.02 Liens. The Loan Parties will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created under the Loan Documents;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of any Loan Party set forth in **Schedule 6.02**, provided that (i) such Lien shall not apply to any other property or asset of any Loan Party and (ii) such Lien shall secure only those obligations that it secures as of the Effective Date, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(d) Liens on fixed or capital assets acquired by any Loan Party, provided that (i) such Liens secure Indebtedness permitted by clause (v) of Section 6.01(a), (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of the Loan Parties; and

(e) Liens to secure Indebtedness permitted by clause (vii) of Section 6.01(a) provided that such Liens shall not apply to any property or assets of the Loan Parties other than the Real Estate so refinanced or which is the subject of a sale-leaseback transaction, provided further that the Collateral Agent may in its reasonable discretion, require that the purchaser under any such sale-leaseback transaction deliver a Collateral Access Agreement on terms and conditions reasonably satisfactory to the Agents.

SECTION 6.03 Fundamental Changes.

(a) The Loan Parties will not merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing, (i) any Subsidiary may merge into a Borrower in a transaction in which a Borrower is the surviving corporation, and (ii) any Subsidiary that is not a Borrower may merge into any Subsidiary that is not a Borrower, provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04.

(b) The Loan Parties will not engage to any material extent in any business other than businesses of the type conducted by the Loan Parties on the date of execution of this Agreement and businesses reasonably related thereto.

SECTION 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. The Loan Parties will not purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit, except:

(a) Permitted Investments;

(b) investments existing on the Effective Date, and set forth on **Schedule 6.04**, to the extent such investments would not be permitted under any other clause of this Section;

(c) loans or advances made by any Loan Party to any other Loan Party, provided that any such loans and advances made by a Borrower shall be evidenced by a promissory note pledged pursuant to the Security Agreement;

(d) Guarantees constituting Indebtedness permitted by Section 6.01, provided that such Guarantees by the Borrowers shall not exceed \$5,000,000.00 in the aggregate at any time outstanding;

(e) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(f) loans or advances to employees for the purpose of travel, entertainment or relocation in the ordinary course of business in an amount not to exceed \$500,000.00 to any employee or \$2,000,000.00 in the aggregate at any time outstanding;

(g) in addition to Guarantees permitted pursuant to Section 6.04(d) hereof, Guarantees of Indebtedness permitted under Section 6.01(a)(x) hereof;

(h) investments constituting Permitted Acquisitions; and

(i) Other investments (excluding Acquisitions), provided that (i) no Default or Event of Default exists at the time of, or after giving effect to, the proposed Investment, and (ii) average Excess Availability (A) for the thirty days prior to the making of any such investment and (B) on a pro forma basis for the ninety days immediately following the making of any such investment, shall be equal to or greater than \$50,000,000.

SECTION 6.05 Asset Sales. The Loan Parties will not, and will not permit any of the Subsidiaries to, sell, transfer, lease or otherwise dispose of any asset, including any capital stock, nor will the Loan Parties permit any of the Subsidiaries to issue any additional shares of its capital stock or other ownership interest in such Subsidiary, except:

(a) (i) sales of Inventory in the ordinary course of business, or (ii) used or surplus equipment, or (iii) Permitted Investments, in each case in the ordinary course of business;

(b) sales, transfers and dispositions among the Loan Parties and their Subsidiaries, provided that any such sales, transfers or dispositions involving a Subsidiary that is not a Loan Party shall be made in compliance with Section 6.08;

(c) sale-leaseback transactions involving any Borrower's Real Estate;

(d) the sale of the Borrowers' Real Estate;

(e) Provided that no Overadvance shall result after giving effect thereto, bulk sales or dispositions of the Borrowers' Inventory not in the ordinary course of business in an amount not to exceed, in the aggregate from and after the Effective Date, ten percent (10%) of the Cost of the Borrowers' Eligible Inventory as of the Effective Date;

provided that all sales, transfers, leases and other dispositions permitted hereby (other than sales, transfers and other disposition permitted under clause (b)) shall be made at arm's length and for fair value and solely for cash consideration (other than (x) sales, transfers and other dispositions permitted under clause (b)); and further provided that the authority granted under clauses (a) through (e) hereof may be terminated in whole or in part by the Agents upon the occurrence and during the continuance of any Event of Default.

SECTION 6.06 Restricted Payments; Certain Payments of Indebtedness.

(a) The Loan Parties will not, and will not permit any Subsidiary to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except as long as no Default or Event of Default exists or would arise therefrom (i) the Loan Parties may declare and pay dividends with respect to their capital stock payable solely in additional shares of their common stock, (ii) the wholly owned Subsidiaries of the Lead Borrower may declare and pay dividends ratably with respect to their capital stock, and (iii) only if the Payment Conditions are then satisfied, the Lead Borrower may (A) pay cash dividends on its capital stock in an amount not to exceed \$20,000,000.00 in any fiscal year, and/or (B) repurchase its capital stock.

(b) The Loan Parties will not, and will not permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except:

(i) payment of regularly scheduled interest and principal payments as and when due in respect of any permitted Indebtedness;

(ii) refinancings of Indebtedness described in clause (i), above, to the extent permitted by Section 6.01;

(iii) prepayments of the IdeaForest Note as long as (A) no Default or Event of Default then exists or would arise therefrom, (B) prior to making such prepayment, Excess Availability is at least \$20,000,000, and (C) after giving effect to such prepayment, Excess Availability is at least \$20,000,000;

(iv) repayment, refinancing or redemption of the Indebtedness due under the Subordinated Debt Indenture as required by Section 5.14 hereof; and

(v) other repayments, refinancing or redemptions of (A) the Indebtedness due under the Subordinated Debt Indenture, or (B) other Indebtedness pursuant to Section 6.01(a)(xi) hereof, in each case if the Payment Conditions are then satisfied.

SECTION 6.07 Transactions with Affiliates. The Loan Parties will not, and will not permit any Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions in the ordinary course of business that are at prices and on terms and conditions not less favorable to the Loan Parties or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, and (b) transactions between or among the Loan Parties not involving any other Affiliate.

SECTION 6.08 Restrictive Agreements. The Loan Parties will not, and will not permit any Subsidiary to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Loan Parties or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Loan Parties or any other Subsidiary or to guarantee Indebtedness of the Loan Parties or any other Subsidiary, provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document, (ii) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness and (iii) clause (a) of the foregoing shall not apply to customary provisions in leases restricting the assignment or subleasing thereof; and (iv) the foregoing shall not apply to restrictions set forth in the Subordinated Debt Indenture as in effect on February 26, 2004.

SECTION 6.09 Amendment of Material Documents. The Loan Parties will not, and will not permit any Subsidiary to, amend, modify or waive any of its rights under (a) its certificate of incorporation, by-laws or other organizational documents to the extent that such amendment, modification or waiver would be materially adverse to the interests of the Lenders, (b) any leases or subleases relating to real estate, including, without limitation, the Real Estate to the extent that such amendment, modification or waiver would be adverse to the interests of the Lenders, (c) any Material Agreement to the extent that such amendment, modification or waiver would be adverse to the interests of the Lenders, or (d) any other instruments, documents or agreements, in each case to the extent that such amendment, modification or waiver would be adverse to the interests of the Lenders.

SECTION 6.10 Additional Subsidiaries. The Loan Parties will not, and will not permit any Subsidiary to, create any additional Subsidiary unless the requirements of Section 5.12 are satisfied contemporaneously therewith.

SECTION 6.11 Consolidated Fixed Charge Coverage Ratio.

If a Covenant Compliance Event shall occur, the Loan Parties shall not permit the Consolidated Fixed Charge Coverage Ratio, calculated on a trailing twelve month basis as of the last day of each month, commencing with the month immediately preceding the Covenant Compliance Event and continuing until a Covenant Compliance Event shall no longer be continuing, to be less than 1.1:1.0.

ARTICLE 7 Events of Default

SECTION 7.01 Events of Default.

If any of the following events (“Events of Default”) shall occur:

(a) the Loan Parties shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any L/C Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Loan Parties shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Loan Parties shall fail to observe or perform any covenant, condition or agreement contained in Sections 2.21, 5.01(f), 5.07, 5.09, or 5.11, or in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b), (c), or (d) of this Article), and such failure shall continue unremedied for a period of 15 Business Days after notice thereof from the Administrative Agent to the Lead Borrower (which notice will be given at the request of any Lender);

(f) any Loan Party shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness when and as the same shall become due and payable (after giving effect to the expiration of any grace or cure period set forth therein);

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any such Material Indebtedness or any trustee or agent on its or their behalf to cause any such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Loan Party or its debts, or of a substantial part of its assets, under any federal or state bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 30 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) any Loan Party shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal or state bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) any Loan Party shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$15,000,000.00 shall be rendered against any Loan Party or any combination thereof and the same shall not have been vacated, discharged, stayed or bonded and shall continue unsatisfied and in effect for a period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, is not in effect, or any action shall be legally taken by a judgment creditor to attach or levy upon any material assets of any Loan Party to enforce any such judgment;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of the Loan Parties in an aggregate amount exceeding \$2,000,000.00;

(m) (i) any challenge by or on behalf of any Loan Party to the validity of any Loan Document or the applicability or enforceability of any Loan Document strictly in accordance with the subject Loan Document's terms or which seeks to void, avoid, limit, or otherwise adversely affect any security interest created by or in any Loan Document or any payment made pursuant thereto.

(ii) any challenge by or on behalf of any other Person to the validity of any Loan Document or the applicability or enforceability of any Loan Document strictly in accordance with the subject Loan Document's terms or which seeks to void, avoid, limit, or otherwise adversely affect any security interest created by or in any Loan Document or any payment made pursuant thereto, in each case, as to which an order or judgment has been entered adverse to the Agents and the Lenders.

(iii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any Collateral, with the priority required by the applicable Security Document, except as a result of the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents;

(n) a Change in Control shall occur;

(o) the occurrence of any uninsured loss to any material portion of the Collateral which would reasonably be expected to result in a Material Adverse Effect;

(p) the indictment of, or institution of any legal process or proceeding against, any Loan Party, under any federal, state, municipal, and other civil or criminal statute, rule, regulation, order, or other requirement having the force of law where the relief, penalties, or remedies sought or available include the forfeiture of any material property of any Loan Party and/or the imposition of any stay or other order, the effect of which could reasonably be to restrain in any material way the conduct by the Loan Parties, taken as a whole, of their business in the ordinary course;

(q) the determination by any Borrower, whether by vote of such Borrower's board of directors or otherwise to: suspend the operation of such Borrower's business in the ordinary course, liquidate more than twenty-five (25%) percent of such Borrower's assets or store locations, or employ an agent or other third party to conduct any so-called store closing, store liquidation or "Going-Out-Of-Business" sales; or

then, and in every such event (other than an event with respect to any Loan Party described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Lead Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Revolving Commitments, and thereupon the Revolving Commitments shall terminate immediately, and (ii) declare the Obligations then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; and in case of any event with respect to any Loan Party described in clause (h) or (i) of this Article, the Revolving Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties.

SECTION 7.02 When Continuing.

For all purposes under this Agreement, each Default and Event of Default that has occurred shall be deemed to be continuing at all times thereafter unless it either (a) is cured or corrected to the reasonable written satisfaction of the Lenders in accordance with Section 9.02, or (b) is waived in writing by the Lenders in accordance with Section 9.02.

SECTION 7.03 Remedies on Default.

In case any one or more of the Events of Default shall have occurred and be continuing, and whether or not the maturity of the Loans shall have been accelerated pursuant hereto, the Administrative Agent may proceed to protect and enforce its rights and remedies under this Agreement, the Notes or any of the other Loan Documents by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Agents or the Lenders. No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of law.

SECTION 7.04 Application of Proceeds.

After the occurrence of an Event of Default and acceleration of the Obligations, all proceeds realized from any Loan Party or on account of any Collateral or, without limiting the foregoing, on account of any Prepayment Event shall be applied as follows:

FIRST, to the payment of all reasonable costs and expenses incurred by the Agents in connection with any collection or sale of the Collateral or otherwise in connection with this Agreement, the Security Agreement or any of the Obligations, including all court costs and the reasonable fees and expenses of its agents and legal counsel, the repayment of all advances made by the Agents under the Security Agreement, or under any other Loan Document, on behalf of any Loan Party and any other reasonable costs or expenses incurred in connection with the exercise of any right or remedy hereunder, or under any other Loan Document;

SECOND, to the payment of all fees due to the Agents and the Lenders under the Loan Documents;

THIRD, to the extent that Swingline Loans have not been refinanced by a Revolving Loan, payment to the Swingline Lender of that portion of the Obligations constituting accrued and unpaid interest on the Swingline Loans;

FOURTH, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans;

FIFTH, to the extent that Swingline Loans have not been refinanced by a Revolving Loan, payment to the Swingline Lender of that portion of the Obligations constituting unpaid principal of the Swingline Loans;

SIXTH, to payment of that portion of the Obligations constituting unpaid principal of the Loans;

SEVENTH, to the Cash Collateral Account as collateral for Letter of Credit Outstandings up to 105% thereof;

EIGHTH, to payment of that portion of the Obligations arising from Cash Management Services to the extent secured under the Security Documents;

NINTH, to payment of all other Obligations arising from Bank Products to the extent secured under the Security Documents; and

TENTH, to the Loan Parties, their successors or assigns, or as a court of competent jurisdiction may otherwise direct.

All amounts required to be applied to Loans hereunder (other than Swingline Loans) shall be applied ratably in accordance with each Lender's Revolving Commitment Percentage. The Administrative Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement and the Security Agreement. Upon any sale or other disposition of the Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding) undertaken in accordance with the provisions of the Uniform Commercial Code, the receipt of the Collateral Agent or of the officer making the sale or other disposition shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold or otherwise disposed of and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof.

ARTICLE 8
The Agents

SECTION 8.01 Administration by Administrative Agent.

The general administration of the Loan Documents shall be by the Administrative Agent. The Lenders, the Collateral Agent and the Issuing Bank each hereby irrevocably authorizes the Administrative Agent (i) to enter into the Loan Documents to which it is a party and (ii) at its discretion, to take or refrain from taking such actions as agent on its behalf and to exercise or refrain from exercising such powers under the Loan Documents and the Notes as are delegated by the terms hereof or thereof, as appropriate, together with all powers reasonably incidental thereto. The Administrative Agent shall have no duties or responsibilities except as set forth in this Agreement and the remaining Loan Documents.

SECTION 8.02 The Collateral Agent.

Each Lender, the Administrative Agent and the Issuing Bank hereby irrevocably (i) designate Bank of America as Collateral Agent under this Agreement and the other Loan Documents, (ii) authorize the Collateral Agent to enter into the Collateral Documents and the other Loan Documents to which it is a party and to perform its duties and obligations thereunder and (iii) agree and consent to all of the provisions of the Security Documents. All Collateral shall be held or administered by the Collateral Agent (or its duly-appointed agent) for its benefit and for the ratable benefit of the other Secured Parties. Any proceeds received by the Collateral Agent from the foreclosure, sale, lease or other disposition of any of the Collateral and any other proceeds received pursuant to the terms of the Security Documents or the other Loan Documents shall be paid over to the Administrative Agent for application as provided in Sections 2.18, 2.22, or 7.04, as applicable.

SECTION 8.03 Sharing of Excess Payments.

Each of the Lenders, the Agents and the Issuing Bank agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against the Loan Parties, including, but not limited to, a secured claim under Section 506 of the Bankruptcy Code or other security or interest arising from, or in lieu of, such secured claim and received by such Lender, any Agent or the Issuing Bank under any applicable bankruptcy, insolvency or other similar law, or otherwise, obtain payment in respect of the Obligations owed it (an "excess payment") as a result of which such Lender, such Agent or the Issuing Bank has received payment of any Loans or other Obligations outstanding to it in excess of the amount that it would have received if all payments at any time applied to the Loans and other Obligations had been applied in the order of priority set forth in Section 2.22, then such Lender, Agent or the Issuing Bank shall promptly purchase at par (and shall be deemed to have thereupon purchased) from the other Lenders, such Agent and the Issuing Bank, as applicable, a participation in the Loans and Obligations outstanding to such other Persons, in an amount determined by the Administrative Agent in good faith as the amount necessary to ensure that the economic benefit of such excess payment is reallocated in such manner as to cause such excess payment and all other payments at any time applied to the Loans and other Obligations to be effectively applied in the order of priority set forth in Section 2.22 pro rata in proportion to its Revolving Commitment; provided, that if any such excess payment is thereafter recovered or otherwise set aside such purchase of participations shall be correspondingly rescinded (without interest). The Loan Parties expressly consent to the foregoing arrangements and agrees that any Lender, any Agent or the Issuing Bank holding (or deemed to be holding) a participation in any Loan or other Obligation may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by such Loan Party to such Lender, such Agent or the Issuing Bank as fully as if such Lender, Agent or the Issuing Bank held a Note and was the original obligee thereon, in the amount of such participation.

SECTION 8.04 Agreement of Required Lenders.

(a) Upon any occasion requiring or permitting an approval, consent, waiver, election or other action on the part of only the Required Lenders, action shall be taken by the Agents for and on behalf or for the benefit of all Lenders upon the direction of the Required Lenders, and any such action shall be binding on all Lenders. No amendment, modification, consent, or waiver shall be effective except in accordance with the provisions of Section 9.02.

(b) Upon the occurrence of an Event of Default, the Agents shall (subject to the provisions of Section 9.02) take such action with respect thereto as may be reasonably directed by the Required Lenders; provided that unless and until the Agents shall have received such directions, the Agents may (but shall not be obligated to) take such action as it shall deem advisable in the best interests of the Lenders. In no event shall the Agents be required to comply with any such directions to the extent that the Agents believe that the Agents' compliance with such directions would be unlawful.

SECTION 8.05 Liability of Agents.

(a) Each of the Agents, when acting on behalf of the Lenders and the Issuing Bank, may execute any of its respective duties under this Agreement by or through any of its respective officers, agents and employees, and none of the Agents nor their respective directors, officers, agents or employees shall be liable to the Lenders or the Issuing Bank or any of them for any action taken or omitted to be taken in good faith, or be responsible to the Lenders or the Issuing Bank or to any of them for the consequences of any oversight or error of judgment, or for any loss, except to the extent of any liability imposed by law by reason of such Agent's own gross negligence or willful misconduct. The Agents and their respective directors, officers, agents and employees shall in no event be liable to the Lenders or the Issuing Bank or to any of them for any action taken or omitted to be taken by them pursuant to instructions received by them from the Required Lenders, or all Lenders, as applicable, or in reliance upon the advice of counsel selected by it. Without limiting the foregoing, none of the Agents, nor any of their respective directors, officers, employees, or agents shall be responsible to any Lender or the Issuing Bank for the due execution, validity, genuineness, effectiveness, sufficiency, or enforceability of, or for any statement, warranty or representation in, this Agreement, any Loan Document or any related agreement, document or order, or shall be required to ascertain or to make any inquiry concerning the performance or observance by any Loan Party of any of the terms, conditions, covenants, or agreements of this Agreement or any of the Loan Documents.

(b) None of the Agents nor any of their respective directors, officers, employees, or agents shall have any responsibility to the Loan Parties on account of the failure or delay in performance or breach by any Lender (other than by the Agent in its capacity as a Lender) or the Issuing Bank of any of their respective obligations under this Agreement or the Notes or any of the Loan Documents or in connection herewith or therewith.

(c) The Administrative Agent and the Collateral Agent, in such capacities hereunder, shall be entitled to rely on any communication, instrument, or document reasonably believed by such person to be genuine or correct and to have been signed or sent by a person or persons believed by such person to be the proper Person or Persons, and, such Person shall be entitled to rely on advice of legal counsel, independent public accountants, and other professional advisers and experts selected by such Person.

SECTION 8.06 Reimbursement and Indemnification.

Each Lender agrees (i) to reimburse (x) each Agent for such Lender's Revolving Commitment Percentage of any expenses and fees incurred by such Agent for the benefit of the Lenders or the Issuing Bank under this Agreement, the Notes and any of the Loan Documents, including, without limitation, counsel fees and compensation of agents and employees paid for services rendered on behalf of the Lenders or the Issuing Bank, and any other expense incurred in connection with the operations or enforcement thereof not reimbursed by the Loan Parties and (y) each Agent for such Lender's Revolving Commitment Percentage of any expenses of such Agent incurred for the benefit of the Lenders or the Issuing Bank that the Loan Parties have agreed to reimburse pursuant to Section 9.03 and has failed to so reimburse and (ii) to indemnify and hold harmless the Agents and any of their directors, officers, employees, or agents, on demand, in the amount of such Lender's Revolving Commitment Percentage, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against it or any of them in any way relating to or arising out of this Agreement, the Notes or any of the Loan Documents or any action taken or omitted by it or any of them under this Agreement, the Notes or any of the Loan Documents to the extent not reimbursed by the Loan Parties (except such as shall result from their respective gross negligence or willful misconduct).

SECTION 8.07 Rights of Agents.

It is understood and agreed that Bank of America shall have the same rights and powers hereunder (including the right to give such instructions) as the other Lenders and may exercise such rights and powers, as well as its rights and powers under other agreements and instruments to which it is or may be party, and engage in other transactions with the Borrowers, as though it were not the Administrative Agent or the Collateral Agent, respectively, of the Lenders under this Agreement.

SECTION 8.08 Independent Lenders and Issuing Bank.

The Lenders and the Issuing Bank each acknowledge that they have decided to enter into this Agreement and to make the Loans or issue the Letters of Credit hereunder based on their own analysis of the transactions contemplated hereby and of the creditworthiness of the Loan Parties and agrees that the Agents shall bear no responsibility therefor.

SECTION 8.09 Notice of Transfer.

The Agents may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Loans for all purposes, unless and until, and except to the extent, an Assignment and Acceptance shall have become effective as set forth in Section 9.05(b).

SECTION 8.10 Successor Agent.

Any Agent may resign at any time by giving five (5) Business Days' written notice thereof to the Lenders, the Issuing Bank, the other Agents and the Lead Borrower. Upon any such resignation of any Agent, the Required Lenders shall have the right to appoint a successor Agent, which so long as there is no Default, or Event of Default, shall be reasonably satisfactory to the Lead Borrower (whose consent shall not be unreasonably withheld or delayed). If no successor Agent shall have been so appointed by the Required Lenders and shall have accepted such appointment, within 30 days after the retiring Agent's giving of notice of resignation, the retiring Agent may, on behalf of the Lenders, the other Agents and the Issuing Bank, appoint a successor Agent which shall be (i) a commercial bank (or affiliate thereof) organized under the laws of the United States of America or of any State thereof and having a combined capital and surplus of a least \$100,000,000, (ii) or a Lender capable of complying with all of the duties of such Agent (and the Issuing Bank), hereunder (in the opinion of the retiring Agent and as certified to the Lenders in writing by such successor Agent) which, in the case of (i) and (ii) above, so long as there is no Default, or Event of Default, shall be reasonably satisfactory to the Lead Borrower (whose consent shall not be unreasonably withheld or delayed). Upon the acceptance of any appointment as Agent by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent and the retiring Agent shall be discharged from its duties and obligations under this Agreement. After any retiring Agent's resignation hereunder as such Agent, the provisions of this Article VIII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was such Agent under this Agreement.

SECTION 8.11 Reports and Financial Statements.

By signing this Agreement, each Lender:

(a) agrees to furnish the Administrative Agent after such Lender's receipt from the Administrative Agent of notice of the occurrence of a Cash Control Event (and thereafter during the continuance of such Cash Control Event at such frequency as the Administrative Agent may reasonably request) with a summary of all Other Liabilities due or to become due to such Lender. In connection with any distributions to be made hereunder, the Administrative Agent shall be entitled to assume that no amounts are due to any Lender on account of Other Liabilities unless the Administrative Agent has received written notice thereof from such Lender;

(b) is deemed to have requested that the Administrative Agent furnish such Lender, promptly after they become available, copies of all financial statements required to be delivered by the Loan Parties hereunder and all commercial finance examinations and appraisals of the Collateral received by the Agents (collectively, the "Reports");

(c) expressly agrees and acknowledges that the Administrative Agent makes no representation or warranty as to the accuracy of the Reports, and shall not be liable for any information contained in any Report;

(d) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agents or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(e) agrees to keep all Reports confidential in accordance with Section 9.18 below; and

(f) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agents and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Credit Extensions that the indemnifying Lender has made or may make to the Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (ii) to pay and protect, and indemnify, defend, and hold the Agents and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agents and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender (other than as permitted by Section 9.18 below).

SECTION 8.12 Documentation Agent, Co-Agents, Syndication Agent and Arranger. Notwithstanding the provisions of this Agreement or any of the other Loan Documents, the Documentation Agent, the Co-Agents, the Syndication Agent and, except as provided in the commitment letter for this transaction, the Arranger shall have no powers, rights, duties, responsibilities or liabilities with respect to this Agreement and the other Loan Documents.

SECTION 8.13 Collateral and Guaranty Matters.

The Lenders irrevocably authorize the Agents, at their option and in their discretion:

(a) to release any Lien on any property granted to or held by the Collateral Agent under any Loan Document (i) upon termination of the Total Commitments and payment in full of all Obligations (other than contingent indemnification obligations for which no claim has been asserted) and the expiration or termination of all Letters of Credit, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the applicable Lenders in accordance with SECTION 9.02;

(b) to subordinate any Lien on any property granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by SECTION 6.02(d); and

(c) to release any Facility Guarantor from its obligations under the Facility Guarantee if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by any Agent at any time, the Lenders will confirm in writing such Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Facility Guarantor from its obligations under the Facility Guarantee pursuant to this SECTION 8.13. In each case as specified in this SECTION 8.13, the Agents will, at the Loan Parties' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Facility Guarantor from its obligations under the Facility Guarantee, in each case in accordance with the terms of the Loan Documents and this SECTION 8.13.

SECTION 8.14 Defaulting Lender.

(a) If for any reason any Lender shall fail or refuse to abide by its obligations under this Agreement, including without limitation its obligation to make available to Administrative Agent its Revolving Commitment Percentage of any Loans, expenses or setoff or purchase its Revolving Commitment Percentage of a participation interest in the Swingline Loans or Letters of Credit and such failure is not cured within two (2) days of receipt from the Administrative Agent of written notice thereof, then, in addition to the rights and remedies that may be available to the Agents, the other Lenders, the Loan Parties or any other party at law or in equity, and not at limitation thereof, (i) such Defaulting Lender's right to participate in the administration of, or decision-making rights related to, the Obligations, this Agreement or the other Loan Documents shall be suspended during the pendency of such failure or refusal, and (ii) a Defaulting Lender shall be deemed to have assigned any and all payments due to it from the Loan Parties, whether on account of outstanding Loans, interest, fees or otherwise, to the remaining non-Defaulting Lenders for application to, and reduction of, their proportionate shares of all outstanding Obligations until, as a result of application of such assigned payments the Lenders' respective Revolving Commitment Percentages of all outstanding Obligations shall have returned to those in effect immediately prior to such delinquency and without giving effect to the nonpayment causing such delinquency. The Defaulting Lender's decision-making and participation rights and rights to payments as set forth in clauses (i) and (ii) hereinabove shall be restored only upon the payment by the Defaulting Lender of its Revolving Commitment Percentage of any Obligations, any participation obligation, or expenses as to which it is delinquent, together with interest thereon from the date when originally due until the date upon which any such amounts are actually paid.

(b) The non-Defaulting Lenders shall also have the right, but not the obligation, in their respective, sole and absolute discretion, to cause the termination and assignment, without any further action by the Defaulting Lender for no cash consideration (pro rata, based on the respective Revolving Commitments of those Lenders electing to exercise such right), of the Defaulting Lender's Revolving Commitment to fund future Loans. Upon any such purchase of the Revolving Commitment Percentage of any Defaulting Lender, the Defaulting Lender's share in future Credit Extensions and its rights under the Loan Documents with respect thereto shall terminate on the date of purchase, and the Defaulting Lender shall promptly execute all documents reasonably requested to surrender and transfer such interest, including, if so requested, an Assignment and Acceptance.

(c) Each Defaulting Lender shall indemnify the Administrative Agent and each non-Defaulting Lender from and against any and all loss, damage or expenses, including but not limited to reasonable attorneys' fees and funds advanced by the Administrative Agent or by any non-Defaulting Lender, on account of a Defaulting Lender's failure to timely fund its Revolving Credit Percentage of a Loan or to otherwise perform its obligations under the Loan Documents.

ARTICLE 9
Miscellaneous

SECTION 9.01 Notices. Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(a) if to any Loan Party, to it at 5555 Darrow Road, Hudson, Ohio 44236, Attention of Treasurer, with a copy to General Counsel (Telecopy No. (330) 463-6675);

(b) if to the Administrative Agent or the Collateral Agent, or the Swingline Lender to Bank of America, N.A., 100 Federal Street, Boston, Massachusetts 02110, Attention of Richard D. Hill (Telecopy No. (617) 434-4131), with a copy to Riemer & Braunstein, LLP, Three Center Plaza, Boston, Massachusetts 02108, Attention: David S. Berman, Esquire (Telecopy No. (617) 880-3456);

(c) if to any other Lender, to it at its address (or telecopy number) set forth on the signature pages hereto or on any Assignment and Acceptance for such Lender.

Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

SECTION 9.02 Waivers; Amendments.

(a) No failure or delay by the Agents, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Agents, the Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Agents, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Agents and the Loan Parties that are parties thereto, in each case with the consent of the Required Lenders, provided that no such agreement shall (i) increase the Revolving Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or L/C Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or L/C Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of the Revolving Commitments or the Maturity Date, without the written consent of each Lender affected thereby, (iv) change Sections 2.18, 2.21, 2.22 or 7.04 without the written consent of each Lender, (v) change any of the provisions of this Section 9.02 or the definition of the term "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender, (vi) release any Loan Party from its obligations under any Loan Document, or limit its liability in respect of such Loan Document, without the written consent of each Lender, (vii) except (A) for Real Estate which is financed in accordance with the provisions of Section 6.01, (B) for sales described in Section 6.05, and (C) as permitted in the Security Documents, release any material portion of the Collateral from the Liens of the Security Documents without the written consent of each Lender, (viii) change the definition of the term "Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrowers would be increased, without the written consent of each Lender, *provided that* the foregoing shall not limit the discretion of the Administrative Agent to change, establish or eliminate any Reserves, (ix) increase the Permitted Overadvance, without the written consent of each Lender, (x) except for Real Estate which is financed in accordance with the provisions of Section 6.01, subordinate the Obligations hereunder, or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be, without the prior written consent of each Lender, and provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Agents or the Issuing Bank without the prior written consent of the Agents or the Issuing Bank, as the case may be.

(c) Notwithstanding anything to the contrary contained herein, no modification, amendment or waiver which increases the maximum amount of the Swingline Loans to an amount in excess of \$25,000,000.00 (or such greater amount to which such limit has been previously increased in accordance with the provisions of this Section 9.02(c)) shall be made without the written consent of each Lender.

(d) Notwithstanding anything to the contrary contained in this Section 9.02, in the event that the Borrowers request that this Agreement or any other Loan Document be modified, amended or waived in a manner which would require the consent of the Lenders pursuant to Sections 9.02(b) or 9.02(c) and such amendment is approved by the Required Lenders, but not by the requisite percentage of the Lenders, the Borrowers, and the Required Lenders shall be permitted to amend this Agreement without the consent of the Lender or Lenders which did not agree to the modification or amendment requested by the Borrowers (such Lender or Lenders, collectively the “Minority Lenders”) to provide for (w) the termination of the Revolving Commitment of each of the Minority Lenders, (x) the addition to this Agreement of one or more other financial institutions, or an increase in the Revolving Commitment of one or more of the Required Lenders, so that the aggregate Revolving Commitments after giving effect to such amendment shall be in the same amount as the aggregate Revolving Commitments immediately before giving effect to such amendment, (y) if any Loans are outstanding at the time of such amendment, the making of such additional Loans by such new or increasing Lender or Lenders, as the case may be, as may be necessary to repay in full the outstanding Loans (including principal, interest, and fees) of the Minority Lenders immediately before giving effect to such amendment and (z) such other modifications to this Agreement or the Loan Documents as may be appropriate and incidental to the foregoing.

(e) No notice to or demand on any Loan Party shall entitle any Loan Party to any other or further notice or demand in the same, similar or other circumstances. Each holder of a Note shall be bound by any amendment, modification, waiver or consent authorized as provided herein, whether or not a Note shall have been marked to indicate such amendment, modification, waiver or consent and any consent by a Lender, or any holder of a Note, shall bind any Person subsequently acquiring a Note, whether or not a Note is so marked. No amendment to this Agreement shall be effective against the Borrowers unless signed by the Borrowers.

SECTION 9.03 Expenses; Indemnity; Damage Waiver.

(a) The Loan Parties shall jointly and severally pay (i) all reasonable out-of-pocket expenses incurred by the Agents and their Affiliates, including the reasonable fees, charges and disbursements of counsel for the Agents, outside consultants for the Agents, appraisers, for commercial finance examinations and environmental site assessments, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable out-of-pocket expenses incurred by the Agents, the Issuing Bank or any Lender, including the reasonable fees, charges and disbursements of any counsel and any outside consultants for the Agents, the Issuing Bank or any Lender, for appraisers, commercial finance examinations, and environmental site assessments, in connection with the enforcement or protection of its rights in connection with the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral or in connection with any proceeding under any Debtor Relief Laws, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit; *provided that* the Lenders who are not the Agents or the Issuing Bank shall be entitled to reimbursement for no more than one counsel representing all such Lenders (absent a conflict of interest in which case the Lenders may engage and be reimbursed for additional counsel).

(b) The Loan Parties shall, jointly and severally, indemnify the Agents, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any other agreement or instrument contemplated hereby, the performance by the parties to the Loan Documents of their respective obligations thereunder or the consummation of the transactions contemplated by the Loan Documents or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by any Loan Party or any of the Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of the Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the gross negligence or wilful misconduct of such Indemnitee or any Affiliate of such Indemnitee (or of any officer, director, employee, advisor or agent of such Indemnitee or any such Indemnitee’s Affiliates).

(c) To the extent that any Loan Party fails to pay any amount required to be paid by it to the Agents or the Issuing Bank under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Agents or the Issuing Bank, as the case may be, such Lender’s pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agents or the Issuing Bank. For purposes hereof, a Lender’s “pro rata share” shall be determined based upon its share of the Total Commitments at the time.

(d) To the extent permitted by applicable law, no Loan Party shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the transactions contemplated by the Loan Documents, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04 Designation of Lead Borrower as Borrowers' Agent.

(a) Each Borrower hereby irrevocably designates and appoints the Lead Borrower as that Borrower's agent to obtain Loans and Letters of Credit hereunder, the proceeds of which shall be available to each Borrower for those uses as those set forth herein. As the disclosed principal for its agent, each Borrower shall be obligated to the Agents and each Lender on account of Loans so made and Letters of Credit so issued hereunder as if made directly by the Lenders to that Borrower, notwithstanding the manner by which such Loans and Letters of Credit are recorded on the books and records of the Lead Borrower and of any Borrower.

(b) Each Borrower recognizes that credit available to it hereunder is in excess of and on better terms than it otherwise could obtain on and for its own account and that one of the reasons therefor is its joining in the credit facility contemplated herein with all other Borrowers. Consequently, each Borrower hereby assumes and agrees to discharge all Obligations of all other Borrowers as if the Borrower so assuming were each other Borrower.

(c) The Lead Borrower shall act as a conduit for each Borrower (including itself, as a "Borrower") on whose behalf the Lead Borrower has requested a Loan.

(i) The Lead Borrower shall cause the transfer of the proceeds of each Loan to the (those) Borrower(s) on whose behalf such Loan was obtained. Neither the Agents nor any Lender shall have any obligation to see to the application of such proceeds.

(ii) If, for any reason, and at any time during the term of this Agreement,

(A) any Borrower, including the Lead Borrower, as agent for the Borrowers, shall be unable to, or prohibited from carrying out the terms and conditions of this Agreement (as determined by the Administrative Agent in the Administrative Agent's sole and absolute discretion); or

(B) the Administrative Agent deems it inexpedient (in the Administrative Agent's sole and absolute discretion) to continue making Loans and cause Letters of Credit to be issued to or for the account of any particular Borrower, or to channel such Loans and Letters of Credit through the Lead Borrower,

then the Lenders may make Loans directly to, and cause the issuance of Letters of Credit directly for the account of such of the Borrowers as the Administrative Agent determines to be expedient, which Loans may be made without regard to the procedures otherwise included herein.

(d) In the event that the Administrative Agent determines to forgo the procedures included herein pursuant to which Loans and Letters of Credit are to be channeled through the Lead Borrower, then the Administrative Agent may designate one or more of the Borrowers to fulfill the financial and other reporting requirements otherwise imposed herein upon the Lead Borrower.

(e) Each of the Borrowers shall remain liable to the Agents and the Lenders for the payment and performance of all Obligations (which payment and performance shall continue to be secured by all Collateral granted by each of the Borrowers) notwithstanding any determination by the Administrative Agent to cease making Loans or causing Letters of Credit to be issued to or for the benefit of any Borrower.

(f) The authority of the Lead Borrower to request Loans on behalf of, and to bind, the Borrowers, shall continue unless and until the Administrative Agent acts as provided in subparagraph (c), above, or the Administrative Agent actually receives

(i) written notice of: (i) the termination of such authority, and (ii) the subsequent appointment of a successor Lead Borrower, which notice is signed by the respective Presidents of each Borrower (other than the President of the Lead Borrower being replaced) then eligible for borrowing under this Agreement; and

(ii) written notice from such successive Lead Borrower (i) accepting such appointment; (ii) acknowledging that such removal and appointment has been effected by the respective Presidents of such Borrowers eligible for borrowing under this Agreement; and (iii) acknowledging that from and after the date of such appointment, the newly appointed Lead Borrower shall be bound by the terms hereof, and that as used herein, the term "Lead Borrower" shall mean and include the newly appointed Lead Borrower.

SECTION 9.05 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any such attempted assignment or transfer without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may assign to one or more assignees (other than to any Loan Party or any of its Affiliates) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Commitment and the Loans at the time owing to it), provided that (i) except in the case of an assignment to a Lender or an Affiliate of a Lender or to a Related Fund, each of the Lead Borrower (but only if no Default then exists), the Agents and the Issuing Bank must give their prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed), (ii) except in the case of an assignment to a Lender or an Affiliate of a Lender or to a Related Fund, or an assignment of the entire remaining amount of the assigning Lender's Revolving Commitment or Loans, the amount of the Revolving Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$10,000,000 unless the Administrative Agent otherwise consents, (iii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations, (iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of \$3,500, provided that no such fee shall be payable in the case of an assignment to a Lender or an Affiliate of a Lender or to a Related Fund. Subject to acceptance and recording thereof pursuant to paragraph (d) of this Section, from and after the effective date specified in each Assignment and Acceptance the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section.

(c) The Administrative Agent, acting for this purpose as an agent of the Loan Parties, shall maintain at one of its offices in Boston, Massachusetts a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Commitment of, and principal amount of the Loans and L/C Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive and the Loan Parties, the Administrative Agent, the Issuing Bank and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Lead Borrower, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(e) Any Lender may, without the consent of the Loan Parties, the Agents, and the Issuing Bank, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Revolving Commitment and the Loans owing to it), provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Loan Parties, the Agents, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation in the Revolving Commitments, the Loans and the Letters of Credit Outstandings shall provide that such Lender shall retain the sole right to enforce the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents, provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (f) of this Section, the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 2.23, 2.25 and 2.26 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender, provided such Participant agrees to be subject to Section 2.25(c) as though it were a Lender.

(f) A Participant shall not be entitled to receive any greater payment under Section 2.23 or 2.26 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Lead Borrower’s prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.26 unless (i) the Lead Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.26(f) as though it were a Lender and (ii) such Participant is eligible for exemption from the withholding tax referred to therein, following compliance with Section 2.26(f).

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including (i) any pledge or assignment to secure obligations to a Federal Reserve Bank, and (ii) in the case of a Lender which is a fund, any pledge or assignment of all or any portion of such Lender’s rights under this Agreement to any holders of obligations owed, or securities issued, by such Lender as security for such obligations or securities, or to any trustee for, or any other representative of, such holders and this Section shall not apply to any such pledge or assignment of a security interest, provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.06 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Agents, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement and the other Loan Documents is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Revolving Commitments have not expired or terminated. The provisions of Sections 2.23, 2.26 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Revolving Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.07 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Agents, Borrowers and the Lenders and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.08 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.09 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent or the Required Lenders, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Loan Parties against any of and all the obligations of the Loan Parties now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender may have.

SECTION 9.10 Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (EXCEPT FOR THE CONFLICT OF LAWS RULES THEREOF, BUT INCLUDING GENERAL OBLIGATIONS LAW SECTIONS 5-1401 AND 5-1402).

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(c) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.11 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.12 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14 Intentionally Omitted.

SECTION 9.15 Additional Waivers.

(a) The Obligations are the joint and several obligations of each Loan Party. To the fullest extent permitted by applicable law, the obligations of each Loan Party hereunder shall not be affected by (i) the failure of any Agent or any other Secured Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement, any other Loan Document, or any other agreement, including with respect to any other Borrower of the Obligations under this Agreement, or (iii) the failure to perfect any security interest in, or the release of, any of the security held by or on behalf of the Collateral Agent or any other Secured Party.

(b) The obligations of each Loan Party hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Obligations), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Loan Party hereunder shall not be discharged or impaired or otherwise affected by the failure of any Agent or any other Secured Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, by any default, failure or delay, wilful or otherwise, in the performance of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the indefeasible payment in full in cash of all the Obligations).

(c) To the fullest extent permitted by applicable law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the indefeasible payment in full in cash of all the Obligations. The Collateral Agent and the other Secured Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all the Obligations have been indefeasibly paid in full in cash. Pursuant to applicable law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party, as the case may be, or any security.

(d) Each Borrower is obligated to repay the Obligations as joint and several obligors under this Agreement. Upon payment by any Loan Party of any Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all the Obligations and the termination of the Commitments. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior indefeasible payment in full of the Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Administrative Agent to be credited against the payment of the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Borrower shall, under this Agreement as a joint and several obligor, repay any of the Obligations constituting Revolving Loans made to another Borrower hereunder or other Obligations incurred directly and primarily by any other Borrower (an “Accommodation Payment”), then the Borrower making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Borrowers in an amount, for each of such other Borrowers, equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Borrower’s Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Borrowers. As of any date of determination, the “Allocable Amount” of each Borrower shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Borrower hereunder without (a) rendering such Borrower “insolvent” within the meaning of Section 101 (31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act (“UFTA”) or Section 2 of the Uniform Fraudulent Conveyance Act (“UFCA”), (b) leaving such Borrower with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Borrower unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA.

SECTION 9.16 Designated Senior Indebtedness. The Obligations shall constitute Designated Senior Indebtedness for all purposes under the Subordinated Debt Indenture.

SECTION 9.17 Existing Credit Agreement Amended and Restated.

This Agreement shall amend and restate the Existing Credit Agreement in its entirety. On the Effective Date, the rights and obligations of the parties under the Existing Credit Agreement shall be subsumed within and be governed by this Agreement; provided, however, that each of the “Loans” (as such term is defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement on the Effective Date shall, for purposes of this Agreement, be included as Loans hereunder and each of the “Letters of Credit” (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement on the Effective Date shall be Letters of Credit hereunder.

SECTION 9.18 Treatment of Certain Information; Confidentiality.

(a) Each of the Agents, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to any Loan Party and its obligations, (g) with the consent of the Lead Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to any such Person or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties.

(b) For purposes of this Section, "Information" means all information received from the Loan Parties or any Subsidiary thereof relating to the Loan Parties or any Subsidiary thereof or their respective businesses, other than any such information that is available to any Agent, the Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Loan Parties or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(c) Each of the Agents, the Issuing Bank and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Loan Parties or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable law, including federal and state securities laws.

[Signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as a sealed instrument as of the day and year first above written.

JO-ANN STORES, INC.,
as Lead Borrower and as a Borrower

By: /s/ James Kerr
James Kerr, Executive Vice President
and Chief Financial Officer

FCA OF OHIO, INC., as a Borrower

By: /s/ James Kerr
James Kerr, Vice President

HOUSE OF FABRICS, INC., as a Borrower

By: /s/ James Kerr
James Kerr, Vice President

JOANN.COM, INC., as a Borrower

By: /s/ James Kerr
James Kerr, Vice President

JO-ANN STORES SUPPLY CHAIN
MANAGEMENT, INC., as a Borrower

By: /s/ James Kerr
James Kerr, Vice President

Signature Page to Amended and Restated Credit Agreement

BANK OF AMERICA, N.A.,
as Administrative Agent, as Collateral Agent,
as Swingline Lender, and as Lender

By: /s/ Richard D. Hill, Jr.

Name: Richard D. Hill, Jr.
Title: Managing Director

Address:

100 Federal Street, 9th Floor
Boston, Massachusetts 02110
Attn: Richard D. Hill
Telephone: (617) 434-4080
Telecopy: (617) 434-4131

BANK OF AMERICA, N.A.,
as Issuing Bank

By: /s/ Richard D. Hill, Jr.

Name: Richard D. Hill, Jr.
Title: Managing Director

Address:

100 Federal Street, 9th Floor
Boston, Massachusetts 02110
Attn: Richard D. Hill
Telephone: (617) 434-4080
Telecopy: (617) 434-4131

Signature Page to Amended and Restated Credit Agreement

WELLS FARGO RETAIL FINANCE, LLC, as
Co-Documentation Agent and as a Lender

By: /s/ Matthew N. Williams

Name: Matthew N. Williams
Title: VP

NATIONAL CITY BUSINESS CREDIT, INC., as
Co-Documentation Agent and as a Lender

By: /s/ Kathryn C. Ellero

Name: Kathryn C. Ellero
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION, as
Co-Documentation Agent and as a Lender

By: /s/ Matthew Kasper

Name: Matthew Kasper
Title: Assistant Vice-President

GENERAL ELECTRIC CAPITAL
CORPORATION, as a Lender

By: /s/ Rebecca A. Ford

Name: Rebecca A. Ford
Title: Duly Authorized Signatory

Signature Page to Amended and Restated Credit Agreement

WACHOVIA CAPITAL FINANCE
CORPORATION (NEW ENGLAND), as a
Lender

By: /s/ John Husson
Name: John Husson
Title: Managing Director

KEYBANK NATIONAL ASSOCIATION, as a
Lender

By: /s/ Nadine M. Eames
Name: Nadine M. Eames
Title: Vice President

RZB FINANCE LLC, as a Lender

By: /s/ Christoph Hoedl
Name: Christoph Hoedl
Title: Group Vice President

By: /s/ Shirley Ritch
Name: Shirley Ritch
Title: Assistant Vice President

Signature Page to Amended and Restated Credit Agreement

SCHEDULE 1.1

LENDERS AND REVOLVING COMMITMENTS

Lender	Revolving Commitment	Revolving Commitment Percentage
Bank of America, N.A.	\$70,000,000.00	23.333 %
Wells Fargo Retail Finance, LLC	\$50,000,000.00	16.667 %
National City Business Credit, Inc.	\$40,000,000.00	13.333 %
U.S. Bank National Association	\$40,000,000.00	13.333 %
General Electric Capital Corporation	\$30,000,000.00	10.000 %
Wachovia Capital Finance Corporation (New England)	\$30,000,000.00	10.000 %
KeyBank National Association	\$20,000,000.00	6.667 %
RZB Finance LLC	\$20,000,000.00	6.667 %
TOTAL	\$300,000,000.00	100.000 %

Schedule 1.1 to Amended and Restated Credit Agreement

CERTIFICATION BY CHIEF EXECUTIVE OFFICER

I, Darrell Webb, certify that:

- 1) I have reviewed this quarterly report on Form 10-Q of Jo-Ann Stores, Inc. (the "registrant");
 - Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact
- 2) necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
 - Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in
- 3) all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and
- 4) procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- 5) The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: December 11, 2008

By: /s/ Darrell Webb
 Darrell Webb
 President and Chief Executive Officer

CERTIFICATION BY CHIEF FINANCIAL OFFICER

I, James Kerr, certify that:

- 1) I have reviewed this quarterly report on Form 10-Q of Jo-Ann Stores, Inc. (the “registrant”);
 - Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact
- 2) necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
 - Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in
- 3) all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and
- 4) procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
- 5) The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: December 11, 2008

By: /s/ James Kerr
 James Kerr
 Executive Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the filing of the Quarterly Report of Jo-Ann Stores, Inc. (the "company") on Form 10-Q for the quarter ended November 1, 2008, as filed with the Securities and Exchange Commission on or about the date hereof (the "Report"), each of the undersigned officers of the company certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to such officer's knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the company.

Dated: December 11, 2008

/s/ Darrell Webb

Darrell Webb
President and Chief Executive Officer

/s/ James Kerr

James Kerr
Executive Vice President and Chief Financial Officer

A signed original of this written statement has been provided to the company and will be retained by the company and furnished to the Securities and Exchange Commission or its staff upon request.