

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

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FILER

DXP ENTERPRISES INC

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Commission File Number 0-21513**

DXP ENTERPRISES, INC.

(Exact name of registrant as specified in its charter)

Texas

76-0509661

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification Number)

7272 Pinemont, Houston, Texas 77040

(Address of principal executive offices)

Registrant's telephone number, including area code:
(713) 996-4700

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

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

ITEM 1.01. Entry into a Material Definitive Agreement

On August 28, 2008 DXP Enterprises, Inc. ("DXP") acquired Vertex Holdings, Inc. ("Vertex"). Pursuant to the terms of a Stock Purchase Agreement, effective as of August 28, 2008 (the "Purchase Agreement"), among DXP and the Stockholders (the "Sellers") of Vertex, DXP acquired all of the issued and outstanding ownership interests of Vertex from the Sellers for an aggregate purchase price of approximately \$65 million in cash. Three million two hundred fifty thousand dollars of the Purchase Price was deposited into an escrow fund to satisfy indemnification obligations of the Sellers under the Purchase Agreement. The Purchase Price is subject to a post-closing adjustment based on the actual net working capital of Vertex as finally determined within a specified period following the closing. A copy of the Stock Purchase Agreement is furnished as Exhibit 10.1 hereto, which is incorporated herein by reference.

The Purchase price paid by the Company in the transaction was financed primarily by borrowings under the Facility described in Item 1.01 of this Form 8-K.

Any financial statements and pro forma financial information that may be required to be filed as exhibits to this Form 8-K will be filed by amendment to this Form 8-K as soon as practicable, but in any event not later than 71 calendar days after the date that this Form 8-K must be filed with the SEC.

On August 28, 2008 DXP Enterprises, Inc. (“DXP”) entered into a credit facility (the “Facility”) with Wells Fargo Bank, National Association, as Lead Arranger and Administrative Agent for the Lenders. The Facility consists of a \$50 million term loan and a revolving credit facility that provides a \$150 million line of credit to the Company. This Facility replaces the Company’s prior credit facility, which was last amended and restated on September 10, 2007 and consisted of a \$130 million revolving credit facility.

The new Facility expires on August 11, 2013. The Facility contains financial covenants defining various financial measures and levels of these measures with which the company must comply. Covenant compliance is assessed as of each quarter end. EBITDA is defined under the Facility for financial covenant purposes as means, without duplication, for any period the consolidated net income (excluding any extraordinary gains or losses) of the Borrower and its subsidiaries plus, to the extent deducted in calculating consolidated net income, depreciation, amortization, other non-cash items and non-recurring items, interest expense, and tax expense for taxes based on income and minus, to the extent added in calculating consolidated net income, any non-cash items and non-recurring items; provided that, if the Borrower or any of its subsidiaries acquires the equity interests or assets of any person during such period under circumstances permitted under the Facility, EBITDA shall be adjusted to give pro forma effect to such acquisition assuming that such transaction had occurred on the first day of such period and provided further that, if the borrower or any of its subsidiaries divests the equity interests or assets of any person during such period under circumstances permitted under this Facility, EBITDA shall be adjusted to give pro forma effect to such divestiture assuming that such transaction had occurred on the first day of such period. Add-backs allowed pursuant to Article 11, Regulation S-X, of the Securities Act of 1933 will also be included in the calculation of EBITDA.

The Company’s borrowings under the revolving credit portion of the Facility and letters of credit outstanding under the Facility at each month-end must be less than an asset test measured as of the same month-end. The asset test is defined under the Facility as the sum of 85% of the Company’s net accounts receivable, 60% of net inventory, and 50% of non real estate property and equipment. The Company’s borrowing and letter of credit capacity under the revolving credit portion of the Facility at any given time is \$150 million less borrowings under the revolving credit facility and letters of credit outstanding, subject to the asset test described above.

The revolving credit portion of the Facility provides the option of interest at LIBOR plus a margin ranging from 1.00% to 2.00% or prime plus a margin of 0.0% to 0.50%. The initial LIBOR based rate on the revolving credit portion of the Facility is LIBOR plus 1.75%. The initial prime based rate on the revolving credit portion of the Facility is prime plus 0.25%. Commitment fees of 0.15% to 0.30% per annum are payable on the portion of the Facility capacity not in use for borrowings or letters of credit at any given time. The term loan provides the option of interest at LIBOR plus a margin ranging from 2.00% to 2.50% or prime plus a margin of 0.50% to 1.00%. The initial LIBOR based rate for the term loan is prime plus 1.00%. Borrowings under the Facility are secured by all of the Company’s accounts receivable, inventory, general intangibles and non real estate property and equipment.

The Facility’s principal financial covenants include:

Fixed Charge Coverage Ratio – The Facility requires that the Fixed Charge Coverage Ratio for the 12 month period ending on the last day of each quarter be not less than 1.25 to 1.0, stepping up to 1.5 to 1.0 for the quarter ending December 31, 2009 and to 1.75 for the quarter ending December 31, 2010, with “Fixed Charge Coverage Ratio” defined as the ratio of (a) EBITDA for the 12 months ending on such date minus cash taxes, minus Capital Expenditures for such period (excluding Acquisitions) to (b) the aggregate of interest expense, scheduled principal payments in respect of long term debt and current portion of capital leases for such 12-month period, determined in each case on a consolidated basis for Borrower and its subsidiaries.

Leverage Ratio - The Facility requires that the Company's Leverage Ratio, determined on a rolling four quarter basis, not exceed 3.5 to 1.0 as of each quarter end, stepping down to 3.0 to 1.0 beginning the quarter ending December 31, 2009 and to 2.75 to 1.0 for the quarter ending December 31, 2010. Leverage Ratio is defined as the outstanding Indebtedness divided by rolling four quarter EBITDA. Indebtedness is defined under the Facility for financial covenant purposes as: a) all obligations of the Borrower and its subsidiaries for borrowed money including but not limited to senior bank debt, senior notes, and subordinated debt; b) capital leases; c) issued and outstanding letters of credit; and d) contingent obligations for funded indebtedness.

The foregoing description does not purport to be a complete statement of the parties' rights and obligations under the Facility. The above description is qualified in its entirety by reference to the Credit Agreement by and among DXP Enterprises, Inc., as borrower, and Wells Fargo Bank, as Bank, dated as of August 28, 2008, which is filed as Exhibit 10.2 to this current report.

ITEM 7.01. Regulation FD Disclosure

The following information is furnished pursuant to Regulation FD:

On August 28, 2008 DXP Enterprises, Inc. issued a press release announcing the acquisition of PFI, LLC which contains all of the operations of Vertex Holdings, Inc., a copy of which is furnished as Exhibit 99.1 hereto, which is incorporated herein by reference. Such exhibit (i) is furnished pursuant to Item 7.01 of Form 8-K, (ii) is not to be considered "filed" under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and (iii) shall not be incorporated by reference into any previous or future filings made by or to be made by the Company with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act.

ITEM 9.01. Financial Statements and Exhibits

(c) Exhibits

- 10.1 Definitive Agreement, dated as of August 28, 2008, whereby DXP Enterprises, Inc. acquired Vertex Holdings, Inc.
- 10.2 Credit Agreement by and among DXP Enterprises, Inc., as Borrower, and Wells Fargo Bank, National Association, as Lead Arranger and Administrative Agent for the Lenders, as Bank, dated as of August 28, 2008.
- 99.1 Press Release dated August 28, 2008 announcing the acquisition of PFI, LLC.

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.

DXP ENTERPRISES, INC.

(Registrant)

By: /s/MAC McCONNELL

Mac McConnell

Senior Vice-President/Finance and
Chief Financial Officer

Dated: August 28, 2008

STOCK PURCHASE AGREEMENT

BY AND AMONG

DXP ENTERPRISES, INC.,

VERTEX CORPORATE HOLDINGS, INC.,

**THE STOCKHOLDERS OF
VERTEX CORPORATE HOLDINGS, INC.**

AND

**WATERMILL-VERTEX ENTERPRISES, LLC,
AS REPRESENTATIVE
OF THE STOCKHOLDERS OF
VERTEX CORPORATE HOLDINGS, INC.**

Dated as of August 28, 2008

Schedule I - List of Stockholders of the Company

Exhibits

Exhibit A	Calculation of Working Capital
Exhibit B	Escrow Agreement
Exhibit C	Employment Agreements
Exhibit D	Form of Release and Waiver
Exhibit E	Form of Non-Competition/Non-Solicitation Agreements

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (the "Agreement"), dated as of August 28, 2008, is made by and among DXP Enterprises, Inc., a Texas corporation ("Purchaser"), Vertex Corporate Holdings, Inc., a Delaware corporation (the "Company"), all of the stockholders of the Company as listed on Schedule I hereto (the "Stockholders"), and Watermill-Vertex Enterprises, LLC, the representative on behalf of the Stockholders (the "Representative").

WHEREAS, the Company and its Subsidiaries are engaged in the business of sales, marketing and distribution of industrial fasteners and other activities related thereto;

WHEREAS, the Stockholders are the owners of all of the issued and outstanding shares of capital stock of the Company (the "Shares");

WHEREAS, the Stockholders desire to sell the Shares and Purchaser desires to purchase the Shares and enter into the other transactions contemplated herein upon the terms and subject to the conditions set forth herein (collectively, the "Transactions");

WHEREAS, immediately prior to the execution and delivery hereof, the Company effected a reorganization (the "Reorganization") pursuant to that certain Agreement and Plan of Merger, dated as of August 28, 2008, by and among the Company, HMK-Vertex Holdings I, Inc., a Delaware corporation and prior indirect stockholder of the Company ("Holdings-I"), HMK-Vertex Holdings II, Inc., a Delaware corporation and prior indirect stockholder of the Company ("Holdings-II"), Vertex Acquisition Corp., a Delaware corporation ("Holdings-III") and each of the other stockholders of each of the Company, Holdings-I, Holdings-II and Holdings III (the "Merger Agreement"), pursuant to which (i) Holdings-I, Holdings-II and Holdings-III were each merged with and into the Company with the Company as the surviving corporation thereto and (ii) all stockholders of Holdings-I, Holdings-II and Holdings-III (other than Holdings-I and Holdings-II) became direct stockholders of the Company and Stockholders hereunder; and

WHEREAS, the Company, Purchaser and the Stockholders desire to enter into certain other arrangements for their mutual benefit;

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I - DEFINITIONS

1.1 Certain Defined Terms.

As used in this Agreement, the following terms shall have the following meanings:

"Action" means any suit, arbitration, investigation, cause of action, claim, complaint, criminal prosecution, governmental or administrative proceeding, or any other proceeding, whether at law or at equity, before or by any Court or Governmental Authority, before any arbitrator or other tribunal.

“Affiliate” means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the first mentioned Person; and “control” (including the terms “controlled by” and “under common control with”) 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 ownership of stock or other securities, as trustee or executor, by contract or otherwise.

“Approval” means any license, permit, consent, approval, authorization, order, declaration, registration, filing, waiver, qualification or certification.

“Business Day” means any day other than a Saturday, Sunday or day on which banks are permitted to close in the Commonwealth of Massachusetts or the State of Texas.

“Certificate of Incorporation” means, with respect to any corporation, those instruments that at the time constitute its corporate charter as filed or recorded under the general corporation law of the jurisdiction of its incorporation, including the articles or certificate of incorporation or organization, and all amendments thereto, as the same may have been restated, and all amendments thereto (including any articles or certificates of merger or consolidation, certificate of correction or certificates of designation or similar instruments which effect any such amendment) which became effective after the most recent such restatement.

“Client” shall mean any Person to whom the Company or its Subsidiaries provides services.

“Closing Date Company Transaction Expenses” shall mean all Company Transaction Expenses unpaid immediately prior to the Closing.

“Closing Indebtedness” means all Indebtedness of the Company and its Subsidiaries outstanding immediately prior to the Closing.

“Closing Working Capital” shall mean the Working Capital immediately prior to the Closing, excluding therefrom any amounts included in Closing Indebtedness or Closing Date Company Transaction Expenses.

“Code” means the Internal Revenue Code of 1986, as amended, and all Regulations promulgated thereunder.

“Company” shall have the meaning ascribed thereto in the preamble to this Agreement, and, for the avoidance of doubt, shall include the Company as comprised following the consummation of the Reorganization, including upon giving effect of the merger of Holdings-I, Holdings-II and Holdings-III as part thereof.

“Company Intellectual Property” means all Intellectual Property owned, used or filed by or licensed to the Company or its Subsidiaries.

“Company Material Adverse Effect” means (a) a material adverse effect on the business, assets, properties, results of operations or condition (financial or otherwise) of the Company and its Subsidiaries (taken as a whole), or (b) a material adverse effect on the ability of the Company or any of the Stockholders to consummate the Transactions; provided, however, that, in determining whether there has been a Company Material Adverse Effect, any adverse effect resulting from or attributable or relating to an Excluded Matter shall be disregarded and no Excluded Matter shall be deemed, either individually or in the aggregate, to constitute a Company Material Adverse Effect. “Excluded Matter” means any one or more of the following: (i) the effect of any change in the United States or foreign economies or securities or financial markets; (ii) the effect of any change that generally affects any industry in which the Company or its Subsidiaries operates that does not disproportionately affect the Company or its Subsidiaries; (iii) the effect of any action taken by Purchaser or its Affiliates (provided such action was taken without the participation or written consent of the Company or any Stockholder) with respect to the Transactions or with respect to the Company or its Subsidiaries; (iv) the effect of any changes after the date hereof in applicable Laws or accounting rules; (v) any effect resulting from the public announcement of this Agreement, compliance with the terms of this Agreement or the consummation of the Transactions; and (vi) the indirect or consequential effect of any outbreak of hostilities, acts of war, sabotage or terrorism or military actions or escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions existing or underway as of the date hereof.

“Company Personnel” means any former or current director, officer or employee of the Company or of its Subsidiaries.

“Company Transaction Expenses” means, except as otherwise expressly set forth in this Agreement, the aggregate amount of all out-of-pocket fees and expenses, incurred by or on behalf of, or paid or to be paid by, the Company or any of its Subsidiaries in connection with the process of selling the Company or otherwise relating to the negotiation, preparation or execution of this Agreement or any documents or Related Documents contemplated hereby or the performance or consummation of the Transactions, including (A) any fees and expenses associated with obtaining necessary or appropriate waivers, consents or approvals of any Governmental Authority or third parties on behalf of the Company or any of its Subsidiaries, (B) any fees or expenses associated with obtaining the release and termination of any Liens (other than Permitted Liens); (C) all brokers’ or finders’ fees incurred by or on behalf of the Company or any of its Subsidiaries; (D) fees and expenses of counsel, advisors, consultants, investment bankers, accountants, and auditors and experts, and (E) all change in control, sale, “stay-around,” retention, or similar bonuses or payments to current or former directors, officers, employees and consultants paid as a result of arrangements in effect as of the Closing in connection with the Transactions (but shall not, with respect to clause (E), include any payments related to arrangements separately created or agreed by Purchaser for compensation by the Company or any of its Subsidiaries for services of such persons following the Closing).

“Contract” means any contract, agreement, arrangement, plan, indenture, note, bond, mortgage, loan, commitment, obligation, license, lease or other instrument, and all amendments, modifications and supplements thereto.

“Copyright” means any registered copyright (i) licensed from any third party (other than “shrink-wrap” software) or (ii) assigned, registered or applied for.

“Court” means any court or arbitration tribunal of the United States, any domestic state, or any foreign country, and any political subdivision thereof.

“Deductible” means \$525,000.

“Environmental Law” means any Laws in any way relating to the protection of human health and safety, the environment or natural resources in connection with the presence of, or any Remedial Action taken in relation to, a Hazardous Material in the soil or any body of water, including but not limited to, any ground water, surface water or aquifer, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. App. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.) the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as each has been amended and the regulations promulgated pursuant thereto.

“Escrow Fund” means Three Million Two Hundred Fifty Thousand Dollars and Zero Cents (\$3,250,000).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“GAAP” means U.S. generally accepted accounting principles as recognized by the U.S. Financial Accounting Standards Board consistently applied and maintained throughout the periods indicated.

“Governmental Authority” means any government or governmental or regulatory agency, authority, department, commission, board, bureau, Court or instrumentality of the United States, any domestic state, or any foreign country, and any political subdivision or agency thereof, and includes any authority having governmental or quasi-governmental powers, including any administrative agency or commission.

“Hazardous Material” means any substance, material or waste that is regulated, classified, or otherwise characterized under or pursuant to any Environmental Law as “hazardous,” “toxic,” “pollutant,” “contaminant,” or “radioactive,” or words of similar meaning or effect, including petroleum, petroleum hydrocarbons, and its by-products, asbestos, polychlorinated biphenyls, radon, mold and urea formaldehyde insulation.

“Indebtedness” means, without duplication, (i) the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (if any), unpaid fees or expenses and other monetary obligations in respect of (A) indebtedness of the Company and/or any of its Subsidiaries for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which the Company and/or any of its Subsidiaries is responsible or liable; (ii) all obligations of the Company and/or any of its Subsidiaries issued or assumed as the deferred purchase price of property, all conditional sale obligations of the Company and/or any of its Subsidiaries and all obligations of the Company and/or any of its Subsidiaries under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of business (other than the current liability portion of any indebtedness for borrowed money)); (iii) all obligations of the Company and/or any of its Subsidiaries under leases required to be capitalized in accordance with GAAP; (iv) all obligations of the Company and/or any of its Subsidiaries for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the Company and/or any of its Subsidiaries under interest rate or currency swap transactions (valued at the termination value thereof); (vi) the liquidation value, accrued and unpaid dividends, prepayment or redemption premiums, repurchase price and penalties (if any), unpaid fees or expenses and other monetary obligations in respect of any redeemable preferred stock, warrants or other equity interests of the Company and/or any of its Subsidiaries; (vii) all obligations of the type referred to in clauses (i) through (vi) of the Company and/or any of its Subsidiaries for the payment of which the Company and/or any of its Subsidiaries is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (viii) all obligations of the type referred to in clauses (i) through (vii) of other Persons secured by (or for which the holder of such obligations has an existing right, contingent or otherwise, to be secured by) any Lien (not including Permitted Liens) on any property or asset of the Company and/or any of its Subsidiaries (whether or not such obligation is assumed by the Company and/or any of its Subsidiaries).

“Intellectual Property” means any (i) Patents, (ii) Marks, (iii) Copyrights, (iv) trade secrets, confidential information or know-how, (v) software or computer programs, or (vi) other intellectual property or proprietary rights.

“IRS” means the Internal Revenue Service.

“Knowledge of the Company” and all permutations thereof, means (i) with respect to any fact or matter pertaining to the Company and/or its Subsidiaries, the actual knowledge of the following individuals plus such knowledge as a prudent person with the title, position and/or responsibilities as such individuals have with respect to the Company and/or its Subsidiaries, as the case may be, should have: Stephen J. Kotler and Robert Ackerman, and (ii) with respect to any fact or matter pertaining to any Subsidiary of the Company, the actual knowledge of the following individuals plus such knowledge as a prudent person with the title, position and/or responsibilities as such individuals have with respect to any Subsidiary of the Company should have: David M. Hirsch, Mark Alperin, Mark Klosek, Dave Kujanek and Peter Burke.

“Laws” means all laws (including common law), statutes, codes, licensing requirements, ordinances and Regulations of any Governmental Authority.

“Liabilities” means any damages, fines, losses, adverse claims, penalties, debts, obligations and other liabilities (including amounts paid in settlement), whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability or otherwise, but excluding any incidental or consequential damages.

“Lien” means any mortgage, pledge, security interest, attachment, encumbrance, deed of trust, claim, charge, option, right of first refusal, easement, servitude, proxy, voting trust or agreement, transfer restriction or lien (statutory or otherwise).

“Mark” means any trademark, trade name, trade dress, service mark or domain name.

“Minimum Working Capital” means the Working Capital in the amount of \$28,072,327.

“Neutral Auditors” means McGladrey & Pullen, LLP.

“Net Closing Indebtedness” means Closing Indebtedness, *less* the amount of cash held by the Company and its Subsidiaries immediately prior to the Closing as identified to Purchaser in the certificate delivered pursuant to Section 7.2(k)(i).

“Order” means any judgment, order, writ, injunction, assessment, ruling or decree of, or any settlement under the jurisdiction of any Court or Governmental Authority.

“Patent” means any United States or foreign patent, any application for a United States or foreign patent, or any continuation, continuation-in-part, division, renewal, extension (including any supplemental protection certificate), reexamination or reissue thereof.

“Permitted Liens” means (i) statutory Liens for current Taxes, assessments and other governmental charges which are not yet due and payable or are due but not delinquent or are being contested in good faith by appropriate proceedings, provided an appropriate reserve has been established therefor in accordance with GAAP, (ii) statutory or common law Liens to secure landlords, sublandlords, licensors or sublicensors under leases or rental agreements (provided such Liens are not resulting from any breach, default or violation by the Company or any of its Subsidiaries of any Contract or Law), (iii) deposits or pledges made in connection with, or to secure payment of, workers’ compensation, unemployment insurance, old age pension or other social security programs mandated under applicable Laws, (iv) statutory or common law Liens in favor of carriers, warehousemen, mechanics, workmen, repairmen and materialmen to secure claims for labor, materials or supplies and other like Liens (provided such Liens are not resulting from any breach, default or violation by the Company or any of its Subsidiaries of any Contract or Law), (v) restrictions on transfer of securities imposed generally by applicable state and federal securities Laws, (vi) any other encumbrance affecting any asset which does not impede or otherwise affect the ownership or operation of such asset (provided such Liens are not resulting from any breach, default or violation by the Company or any of its Subsidiaries of any Contract or Law), (vii) Liens resulting from a filing by an equipment lessor as a precautionary filing for a lease, (viii) 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 incurred in the ordinary course of business, or (ix) vendors’ Liens to secure payment (provided such Liens are not resulting from any breach, default or violation by the Company or any of its Subsidiaries of any Contract or Law).

“Person” means an individual, corporation, partnership, association, trust, unincorporated organization, limited liability company, joint venture or other legal entity.

“Regulation” means any rule or regulation of any Governmental Authority.

“Related Documents” means the Escrow Agreement and any other agreement, instrument, document or certificate contemplated by this Agreement to be executed by the parties pursuant hereto in connection with the consummation of the Transactions.

“Release” means any release, spill, emission, leaking, pumping, pouring, injection, deposit, dumping, emptying, disposal, discharge, dispersal or leaching into the indoor or outdoor environment, or into or out of any property or any other release as defined by the Environmental Laws.

“Remedial Action” means all actions including any capital expenditures undertaken to (i) clean up, remove, treat or in any other way address any Hazardous Material; (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment; (iii) perform pre-remedial studies and investigations or post-remedial monitoring and care; or (iv) correct a condition of noncompliance with Environmental Laws.

“Representative Fund” means One Million Dollars and Zero Cents (\$1,000,000.00).

“Subsidiary” means, with respect to any Person, any other Person of which such Person (either alone or through or together with any other Subsidiary) (i) owns, directly or indirectly, at least a majority of the stock, voting securities or other equity interests in such entity or (ii) is entitled, directly or indirectly, to appoint a majority of the board of directors, board of managers or comparable body of such Person. Each reference to a “Subsidiary” or “Subsidiaries” herein shall be to those of the Company unless otherwise specifically noted in the relevant text.

“Tax Authority” shall mean any Governmental Authority or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection or imposition of any Tax.

“Taxes” means (i) all taxes and governmental impositions of any kind in the nature of (or similar to) taxes, payable to any federal, state, local or foreign Governmental Authority or other Governmental Authority, including, but not limited to, those on or measured by or referred to as income, franchise, profits, gross receipts, capital, *ad valorem*, custom duties, alternative or add-on minimum taxes, estimated, environmental, disability, registration, value added, sales, use, service, real or personal property, capital stock, license, payroll, withholding, employment, social security, workers’ compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premiums, windfall profits, transfer and gains taxes, (ii) all interest, penalties, fines and additions to tax imposed with respect to any item described in clause (i) and (ii) any transferee liability in respect of any items described in clauses (i) or (ii) payable by reason of Contract, assumption, transferee liability, operation of Law, Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof of any analogous or similar provision of Law) or otherwise.

“Tax Return” shall mean any report, return, documents, declaration or other information (and any supporting schedules or attachments thereto) required to be supplied to any Governmental Authority or jurisdiction with respect to Taxes (including any returns or reports filed on a consolidated, unitary, or combined basis), including any information return, claim for refund, amended return or declaration of estimated Tax.

“Watermill Realty Promissory Note” shall mean that certain demand promissory note dated as of the date hereof issued by Watermill Realty, LLC to PFI, LLC that has been assigned by PFI, LLC to the Representative, on behalf of the Stockholders, as of the date hereof.

“Working Capital” shall mean the difference whether positive or negative between (a) the current assets (excluding the Watermill Realty Promissory Note as indicated on **Exhibit A**) of the Company and its Subsidiaries and (b) the current liabilities of the Company and its Subsidiaries, all as calculated in accordance with **Exhibit A** hereto and the principles set forth thereon. For the avoidance of doubt, any deficiency or excess of “cash” (as determined as part of the determination of Closing Working Capital) from the amount of “cash” used to determine Net Closing Indebtedness hereunder shall be included in the current assets or current liabilities for Working Capital purposes, but the amount of cash used to determine Net Closing Indebtedness shall otherwise be excluded for such purposes.

1.2 Additional Defined Terms.

The following terms shall have the meanings set forth in the sections of this Agreement indicated below:

<u>Definition</u>	<u>Section</u>
Agreement	Preamble
2006 Financials	4.9
2007 Financials	4.9
2008 Financials	4.9
Base Purchase Price	2.2(a)
Closing	2.3
Closing Date	2.3
COBRA	4.14(p)
Company Documents	4.5
Company Plans	4.14(c)
Company Third Party Consents	4.6
Confidential Information	6.5
Continuing Employee	6.4
Continued Employee Plans	6.4
Defense	10.3(b)
Disclosure Schedule	Article IV
Escrow Agreement	2.4
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ARTICLE II - SALE OF SHARES AND PURCHASE PRICE

2.1 Purchase and Sale of the Shares. Subject to and in reliance upon the representations, warranties, covenants and agreements herein set forth, and the terms and conditions herein contained, at the Closing, each Stockholder shall sell and deliver to Purchaser the Shares owned by such Stockholder (as set forth opposite such Stockholder's name on Schedule I hereto), free and clear of all Liens and duly endorsed to Purchaser or accompanied by duly executed stock powers in form satisfactory to Purchaser, and Purchaser shall purchase such Shares from the Stockholders, for the Purchase Price.

2.2 Purchase Price; Payment.

Subject to adjustment as provided in Section 2.5, the aggregate purchase price to be paid by Purchaser for the Shares pursuant to the terms of this Agreement shall equal \$65,000,000.00 (the "Base Purchase Price") minus (i) an aggregate amount equal to the Net Closing Indebtedness and (ii) an aggregate amount equal to the Closing Date Company Transaction Expenses (as so adjusted, the "Purchase Price").

(a) At the Closing, Purchaser shall deposit or cause to be deposited (i) with the Representative the Purchase Price (less an amount equal to the sum of the Escrow Fund and the Representative Fund) for the benefit of the Stockholders, (ii) with the Escrow Agent the Escrow Fund, and (iii) with the Representative, the Representative Fund. Allocation of the Purchase Price and any distributions to the Representative from the Escrow Fund and the Representative Fund among the Stockholders shall be made *pro rata* to the Stockholders in the proportions set forth on Schedule I hereto.

2.3 The Closing. Subject to the terms and conditions hereof, the closing of the Transactions (the "Closing") will take place on the date hereof at the offices of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, MA, at 10:00 a.m. (Eastern Time) or remotely via the exchange of executed documents and other closing deliverables, unless another time or date is agreed to in writing by the Company and Purchaser. The date on which the Closing actually occurs is herein referred to as the "Closing Date."

2.4 Escrow Agent. Wells Fargo Bank, N.A. shall act as escrow agent (in such capacity, the "Escrow Agent") in respect of the Escrow Fund and the Representative Fund pursuant to an escrow agreement to be executed by and among the Representative, Purchaser and the Escrow Agent in substantially the form of **Exhibit B** hereto (the "Escrow Agreement"). On the Closing Date, Purchaser shall, on behalf of the Stockholders, pay to the Escrow Agent to escrow account(s) specified by the Escrow Agent an amount of the Purchase Price equal to (i) the Escrow Fund and (ii) the Representative Fund, in each case accordance with the terms of this Agreement and the Escrow Agreement. The Escrow Agent shall hold and distribute the Escrow Fund and the Representative Fund in separate accounts and otherwise in accordance with the terms of this Agreement and the Escrow Agreement. The funds in the escrow accounts shall be treated as being owned by the Stockholders for Tax purposes and all parties hereto will file all Tax Returns consistent with such treatment. Any payment the Stockholders are obligated to make pursuant to Sections 10.1(a)(i)-(iii) shall be paid first, to the extent there are sufficient funds in the escrow account initially holding the Escrow Fund, by release of funds from such account by the Escrow Agent in accordance with the provisions of the Escrow Agreement and shall accordingly reduce the Escrow Fund and, second, to the extent the Escrow Fund is insufficient to pay any remaining sums due, then the Stockholders shall be required to pay all of such additional sums due and owing to the applicable member of the Purchaser Group by wire transfer of immediately available funds on the date that such funds would have been released from such escrow account if sufficient funds were in such account. Any payment the Stockholders are obligated to make pursuant to Section 2.5(c) shall be paid first, to the extent there are sufficient funds in the escrow account initially holding the Representative Fund, by release of funds from such account by the Escrow Agent in accordance with the provisions of the Escrow Agreement and shall accordingly reduce the Representative Fund and, second, to the extent the Representative Fund is insufficient to pay any remaining sums due, then the Stockholders shall be required to pay all of such additional sums due and owing thereunder by wire transfer of immediately available funds on the date for such payment under the terms of Section 2.5(c). On the Business Day immediately following the six (6) month anniversary of the Closing Date, the Escrow Agent shall release a portion of the funds held in the escrow account initially holding the Escrow Fund to the Representative (for distribution to the Stockholders in accordance with their respective *pro rata* percentage ownership of the Shares) in accordance with the provisions of the Escrow Agreement.

2.5 Working Capital Adjustment.

(a) Within seventy (70) days after the Closing Date, Purchaser will, or will cause the Company to, deliver to the Representative its itemized statement of the Closing Working Capital (the “Purchaser Calculated Closing Working Capital”). The Stockholders and the Representative shall, and shall cause their respective representatives and Affiliates to, cooperate and assist in the preparation of the statement setting forth the Purchaser Calculated Closing Working Capital.

(b) If the Representative disagrees with the Purchaser Calculated Closing Working Capital, the Representative shall, within twenty (20) days after receipt of the Purchaser Calculated Closing Working Capital, deliver a notice (an “Objection Notice”) to Purchaser setting forth, in reasonable detail, the Representative’s dispute with such calculation and the basis therefor. If requested by the Representative, Purchaser shall provide to the Representative copies of relevant documentation used in its calculation; provided, however, that neither Purchaser nor the Company shall be obligated to provide or deliver any attorney-client privileged information, except that, in any such case, Purchaser and the Company shall deliver documentation responsive to the request either in redacted or reconfigured format with the privileged information removed. If the Representative does not deliver the Objection Notice to Purchaser within twenty (20) days after receipt by the Representative of the Purchaser Calculated Closing Working Capital, the Purchaser Calculated Closing Working Capital will be conclusively presumed to be true and correct in all respects and will be final and binding upon the parties. If the Representative delivers the Objection Notice to Purchaser within twenty (20) days after receipt by the Representative of the Purchaser Calculated Closing Working Capital, the Representative and Purchaser shall use their respective commercially reasonable efforts to resolve any disagreements as to the computation of the Closing Working Capital, but if they do not obtain a final resolution within fifteen (15) days after Purchaser’s receipt of the Objection Notice, then all amounts remaining in dispute shall be submitted to the Neutral Auditors. Purchaser and the Representative will direct the Neutral Auditors to render a determination (it being understood that in making such determination, the Neutral Auditors shall be functioning as an expert and not as an arbitrator) within forty-five (45) days of its retention. Each of Purchaser and the Representative agrees to execute, if requested by the Neutral Auditors, a reasonable engagement letter and cooperate with the Neutral Auditors and promptly provide documents and information requested by the Neutral Auditors during their engagement. The Neutral Auditors will consider only those items and amounts set forth in the Objection Notice which Purchaser and the Representative are unable to resolve; provided that each of Purchaser and the Representative shall be entitled to make a presentation to the Neutral Auditors regarding the items and amounts that they are unable to resolve and neither Purchaser nor the Representative will meet separately with the Neutral Auditors. In making its determination, the Neutral Auditors shall (i) be bound by the terms and conditions of this Agreement, including without limitation, the definition of Working Capital, Exhibit A’s methodology for calculating Closing Working Capital and the terms of this Section 2.5(b), and (ii) not assign any value with respect to

a disputed amount that is greater than the highest value for such amount claimed by either the Representative or Purchaser or that is less than the lowest value for such amount claimed by either the Representative or Purchaser. The determination of the Neutral Auditors will be conclusive and binding upon the Representative and Purchaser. The costs of the Neutral Auditors shall be borne by the party whose determination of the Closing Working Capital (as set forth in the Purchaser Calculated Closing Working Capital, for the Purchaser, or in the Objection Notice, for the Representative) was farthest from the determination of the Closing Working Capital by the Neutral Auditors, or equally by the Representative, on the one hand, and the Purchaser, on the other hand, if the determination of the Closing Working Capital by the Neutral Auditors is equidistant between the determinations of the parties.

(c) Within three (3) days following the final determination of the Closing Working Capital as provided in Section 2.5(b) above, either (A) Purchaser shall pay to the Representative, for the benefit of the Stockholders, an amount equal to the the excess, if any, of the Closing Working Capital over the Minimum Working Capital by wire transfer of immediately available funds in such amount or (B) the Representative, on behalf of the Stockholders, shall (i) assist Purchaser in directing the Escrow Agent to distribute to Purchaser an amount from the escrow account holding the Representative Fund equal to the amount by which the Minimum Working Capital exceeds Closing Working Capital (the "Working Capital Deficiency") and (ii) if the Working Capital Deficiency shall be an amount in excess (such excess, the "Excess Adjustment Obligation") of the amount to be distributed by the Escrow Agent pursuant to clause (i) of this Section 2.5(c), then each of the Stockholders shall pay to the Purchaser its *pro rata* portion (which shall be determined by multiplying such Stockholder's percentage ownership of the Shares as shown on Schedule I hereto by the amount of the Excess Adjustment Obligation) thereof by wire transfer to Purchaser of immediately available funds.

2.6 Authorization of Transactions, this Agreement and Indemnity Matters. The execution of this Agreement shall constitute approval and ratification by the Stockholders of: (i) the Transactions, (ii) the provisions of this Agreement (including without limitation the indemnification provisions of Article X hereof), (iii) the designation and appointment of the Representative pursuant to Article VIII hereof and (iv) the creation and administration of the Representative Fund.

ARTICLE III - REPRESENTATIONS AND WARRANTIES OF THE STOCKHOLDERS

As an inducement to Purchaser to enter into this Agreement and to consummate the Transactions, each Stockholder hereby severally represents and warrants to Purchaser:

3.1 Title to Shares. Such Stockholder owns the Shares set forth opposite his, her or its name on Schedule I hereto beneficially and of record, free and clear of all Liens. Such Stockholder has the power and authority to sell, transfer, assign and deliver the Shares owned by such Stockholder as provided in this Agreement. There is no restriction affecting the ability of such Stockholder to transfer the legal and beneficial title and ownership of the Shares owned by such Stockholder to Purchaser and, upon delivery thereof to Purchaser pursuant to the terms of this Agreement and of payment of the Purchase Price at the Closing, Purchaser will acquire record and beneficial title to the Shares free and clear of all Liens.

Authority of Stockholder. Such Stockholder has the full legal right and requisite power and all authority and approval required by law and legal capacity to enter into and deliver this Agreement and each other Stockholder Document to which he, she or it is a party and to perform his, her or its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the other Stockholder Documents and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by all necessary action on the part of such Stockholder.

3.2 Enforceability. Such Stockholder has duly and validly executed and delivered this Agreement and each Related Document to which he, she or it is a party (the “Stockholder Documents”), and this Agreement and each Stockholder Document to which he, she or it is a party constitutes a legal, valid and binding obligation of such Stockholder enforceable against each Stockholder in accordance with its terms.

3.3 No Violation. Neither the execution and delivery of this Agreement or any other Stockholder Document to which he, she or it is a party, the consummation of the Transactions, nor the performance of this Agreement or any other Stockholder Document in compliance with its terms and conditions by such Stockholder will (a) conflict with or result in any violation or default of any trust agreement, certificate of incorporation, by-law, judgment, Law or Order applicable to such Stockholder or to the Shares owned by such Stockholder, or any breach of any agreement to which such Stockholder is a party or by which such Stockholder or the portion of the Shares owned by such Stockholder are bound, or constitute a default thereunder, or result in the creation of any Lien of any kind or nature on, or with respect to such Shares, (b) result in any violation of, or be in conflict with, or constitute a default under, any agreement, instrument, Law or Order, in each case applicable to such Stockholder or by which his, her or its properties (including the portion of the Shares owned by such Stockholder) are bound, or (c) conflict with, result in any violation of or default under any loan or credit agreement, note, bond, mortgage, indenture, lease, permit, concession, franchise, license or other agreement or instrument applicable to such Stockholder.

3.4 Litigation. There is no Action pending or threatened against such Stockholder regarding this Agreement or any other Stockholder Document to which such Stockholder is a party or by which his, her or its properties are bound.

3.5 Financial Advisors. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for such Stockholder in connection with the transactions contemplated by this Agreement and no Person is or will be entitled to any fee or commission or other payment in respect thereof. Neither such Stockholder nor any of its Affiliates have engaged or otherwise had a business relationship (whether business, financial, accounting or otherwise) with the Neutral Auditors.

ARTICLE IV - REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company makes the following representations and warranties to Purchaser, except as otherwise disclosed by the Company and its Subsidiaries in the disclosure schedule, dated as of the date of this Agreement and delivered by the Company to Purchaser simultaneously herewith (which disclosure schedule shall contain specific references to the representations and warranties to which the disclosures contained therein relate; provided, however, that any item that is disclosed in a particular section or subsection of the disclosure schedule shall be deemed to be disclosed and incorporated into any other section or subsection of the disclosure schedule where such disclosure would otherwise be appropriate and the matter disclosed is readily apparent to apply to the subject matter of such other section or subsection) (the “Disclosure Schedule”):

4.1 Organization, Good Standing, Qualification and Power. Each of the Company and its Subsidiaries (a) is a corporation or limited liability company (as the case may be) duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation (as the case may be), (b) has all requisite organizational power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted, as required hereunder and by each of the Related Documents and to perform its obligations hereunder and thereunder, and to consummate the Transactions, and (c) is duly qualified and in good standing to do business in those jurisdictions listed in Section 4.1 of the Disclosure Schedule and in all other jurisdictions where the character of the properties owned, leased or operated by it or the nature of its activities makes such qualification necessary.

4.2 Subsidiaries. Section 4.2 of the Disclosure Schedule, sets forth a true and complete list of all of the Company's direct and indirect Subsidiaries, together with the jurisdiction of incorporation or formation of each Subsidiary and the amount and percentage of each Subsidiary's outstanding capital stock or other equity or similar interest owned by the Company or another direct or indirect Subsidiary of the Company. Except as set forth in Section 4.2 of the Disclosure Schedule, neither the Company nor any of its Subsidiaries owns any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for, directly or indirectly, any equity or similar interest in, any Person. The outstanding shares of capital stock or equity interests of each of the Company's Subsidiaries are validly issued, fully paid and non-assessable and were not issued in violation of any purchase or call option, right of first refusal, subscription right, preemptive right or any similar right. All such shares or other equity interests represented as being owned by the Company or any of its Subsidiaries are owned by them free and clear of any and all Liens. No shares of capital stock are held by any of the Company's Subsidiaries as treasury stock. There is no existing option, warrant, call, right or Contract to which any of the Company's Subsidiaries is a party requiring, and there are no convertible securities of any of the Company's Subsidiaries outstanding which upon conversion would require, the issuance of any shares of capital stock or other equity interests of any of the Company's Subsidiaries or other securities convertible into shares of capital stock or other equity interests of any of the Company's Subsidiaries. Except as set forth on Section 4.2 of the Disclosure Schedule, there are no material restrictions on the ability of the Company's Subsidiaries to make distributions of cash to their respective equity holders.

4.3 Organizational Documents. The Company has heretofore delivered to Purchaser a complete and correct copy of each of its and each of its Subsidiary's Certificate of Incorporation and by-laws or other equivalent organizational documents, each as amended or restated to the date hereof. The Stockholders have heretofore delivered to Purchaser a complete and correct copy of their respective Certificate of Incorporation and by-laws or other equivalent organizational documents, as applicable to each Stockholder. Such Certificates of Incorporation and by-laws or other equivalent organizational documents of the Company and each of its Subsidiaries are in full force and effect.

Capitalization.

(a) The total number of shares of capital stock and the par value of such stock that the Company and its Subsidiaries have authority to issue is listed in Section 4.4(a) of the Disclosure Schedule.

(b) Section 4.4(b) of the Disclosure Schedule sets forth a table of all holders of all issued and outstanding shares of the Company. As of the date hereof there are 11,000 shares of the Company's common stock, par value \$0.01 per share, issued and outstanding. There are no shares held by the Company as treasury stock.

(c) Except as described above or in Section 4.4(c) of the Disclosure Schedule, there are no outstanding securities, options (whether vested or unvested), warrants, calls, rights, commitments or agreements to which the Company is a party or by which any of them is bound obligating the Company or its Subsidiaries to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other securities of the Company or any of its Subsidiaries. There are no outstanding contractual obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any shares of capital stock (or options to acquire any such shares) or other securities or equity interests of the Company or any of its Subsidiaries. There are no stock appreciation, phantom stock, profit participation or similar rights of the Company or any of its Subsidiaries. All outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable and not subject to any preemptive or similar rights.

(d) Except as set forth in Section 4.4(d) of the Disclosure Schedule, there are no voting trusts, proxies, stockholder agreements, or other agreements to which the Company or any of its Subsidiaries or any of the Stockholders is a party or by which any of them is bound with respect to the issuance, holding, acquisition, voting or disposition of any shares of capital stock or other securities or equity interests of the Company or any of its Subsidiaries.

(e) None of Holdings-I, Holdings-II and Holdings-III (i) ever engaged in any business operations or activities or (ii) was a party to any Contract other than those specified on Section 4.4(e) of the Disclosure Schedule. Whether on or prior to the consummation of the Reorganization, Holdings-I, Holdings-II and Holdings-III did not have any Liabilities other than those expressly set forth under the Contracts specified on Section 4.4(e) of the Disclosure Schedule, and the Company did not become obligated on or succeed to any Liability in respect of the Reorganization.

4.4 Authorization; Binding Obligation. The execution and delivery by the Company of this Agreement and each Related Document to which it is a party (the "Company Documents"), the performance of its obligations hereunder and thereunder, and the consummation by the Company of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary corporate action on the part of the Company and no other corporate proceeding on the part of the Company or any of its Subsidiaries is necessary to authorize this Agreement or any Company Documents or to consummate the transactions contemplated hereby and thereby. This Agreement has been, and each other Company Document, when executed and delivered by the Company (and assuming the due authorization, execution and delivery by the other parties hereto and thereto), will be, duly and validly executed and delivered by the Company, and this Agreement constitutes, and each Company Document, when executed and delivered, will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity). None of the payments to be made in connection with the Closing (including, without limitation, payment of the Purchase Price to the Stockholders) shall be subject to withholding or reduction for employment-related Taxes as required by applicable federal and state withholding Laws; provided, however, that the provision shall not be construed to apply to any payments under any of the employment agreements effective as of the Closing as referenced in Section 7.2(f) below.

4.5 Approvals. Except as set forth in Section 4.6 of the Disclosure Schedule (as set forth therein, the “Company Third Party Consents”), the execution and delivery of this Agreement and each other Company Document do not, and the performance of this Agreement and the other Company Documents will not, require the Company or any of its Subsidiaries to obtain any Approval of any Person or Approval of, observe any waiting period imposed by, or make any filing with or notification to, any Governmental Authority.

4.6 No Violation. Except as set forth in Section 4.7 of the Disclosure Schedule, the execution and delivery by the Company of this Agreement and the Company Documents do not, and the compliance with and performance of this Agreement and the other Company Documents, will not, (a) conflict with or violate the Certificate of Incorporation or by-laws or other equivalent organizational documents of the Company or any of its Subsidiaries, (b) conflict with or violate any Law or Order, in each case, applicable to the Company or any of its Subsidiaries, or by which its or any of their respective properties is bound or affected, or (c) result in any breach or violation of, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or impair the Company’s or any Subsidiary’s rights or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a Lien on any of the properties or assets of the Company or any Subsidiary pursuant to, any note, bond, mortgage, indenture, Contract, Approval or other instrument or obligation to which the Company or any Subsidiary is a party or by which the Company or any Subsidiary or its or any of their respective properties is bound or affected.

4.7 Required Vote. The Board of Directors of the Company has, at a meeting duly called and held or by written consent, (a) approved this Agreement and approved each Company Document, and (b) determined that the transactions contemplated hereby and thereby are advisable, fair to and in the best interests of the Company’s stockholders.

4.8 Financial Statements; No Undisclosed Liabilities. The Company has previously delivered to Purchaser the (i) audited balance sheet of PFI, LLC, a Rhode Island limited liability company and Subsidiary of the Company (“PFI”), as of April 29, 2006, and the related audited statements of income, cash flow and stockholders’ equity for the period (beginning August 4, 2005) then ended, as certified by PFI’s independent public accountants and accompanied by a copy of such auditor’s report (the “2006 Financials”), (ii) audited consolidated balance sheet of the Company and its Subsidiaries as of April 29, 2007, and the related audited statements of income, cash flow and stockholders’ equity for the twelve-month period then ended, as certified by the Company’s independent public accountants and accompanied by a copy of such auditor’s report (the “2007 Financials”), and (iii) audited consolidated balance sheet of the Company and its Subsidiaries as of May 3, 2008 (the “Latest Balance Sheet”), and the related consolidated audited statements of income, cash flows and stockholders’ equity for the twelve-month period then ended, as certified by the Company’s independent public accountants and accompanied by a copy of such auditor’s report (the “2008 Financials”, and together with the 2006 Financials and the 2007 Financials, the “Historical Financial Statements”). The Historical Financial Statements were prepared in accordance and consistent with the books and records of the Company and its Subsidiaries and fairly present the financial condition of PFI or the Company and its Subsidiaries, as applicable, as of the dates indicated and the results of operations of PFI or the Company and its Subsidiaries, as applicable, for the respective periods indicated, and have been prepared in accordance with GAAP. Neither the Company nor any of its Subsidiaries has any Liability of a nature required to be disclosed on a balance sheet or in the notes to financial statements prepared in accordance with GAAP, except for (A) Liabilities adequately reflected or reserved against on the Latest Balance Sheet, (B) Liabilities as described on Section 4.9 of the Disclosure Schedule and (C) Liabilities incurred since May 3, 2008 in the ordinary course of business.

4.9 Absence of Certain Events. Except as expressly contemplated by this Agreement or as set forth on Section 4.10 of the Disclosure Schedule, since May 3, 2008 (i) the Company and its Subsidiaries have conducted their respective businesses only in the ordinary course of business and (ii) there has not been any event, change, occurrence or circumstance that, individually or in the aggregate with any such events, changes, occurrences or circumstances, has had or could reasonably be expected to have a Company Material Adverse Effect. Without limiting the generality of the foregoing, except as set forth in Section 4.10 of the Disclosure Schedule, since May 3, 2008:

(a) there has not been any damage, destruction or loss, whether or not covered by insurance, with respect to the property and assets of the Company or its Subsidiaries having a replacement cost of more than \$50,000 for any single loss or \$150,000 for all such losses;

(b) there has not been any declaration, setting aside or payment of any dividend or other distribution in respect of any shares of capital stock of the Company or any repurchase, redemption or other acquisition by the Company or its Subsidiaries of any outstanding shares of capital stock or other securities of, or other ownership interest in, the Company or its Subsidiaries;

(c) neither the Company nor any of its Subsidiaries has awarded or paid any bonuses to employees of the Company or its Subsidiaries, except to the extent accrued on the Latest Balance Sheet, or entered into any employment, deferred compensation, severance or similar agreement (nor amended any such agreement) or agreed to increase the compensation payable or to become payable by it to any of the Company's or any of its Subsidiaries' directors, officers, employees, agents or representatives or agreed to increase the coverage or benefits available under any severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan, payment or arrangement made to, for or with such directors, officers, employees, agents or representatives; there has not been any change by the Company or any of its Subsidiaries in accounting or Tax reporting principles, methods or policies;

(d) neither the Company nor its Subsidiaries have made or rescinded any election relating to Taxes or settled or compromised any claim relating to Taxes;

(e) neither the Company nor any of its Subsidiaries has entered into any transaction or Contract other than in the ordinary course of business;

(f) neither the Company nor any of its Subsidiaries has failed to promptly pay and discharge current Liabilities except where disputed in good faith by appropriate proceedings;

(g) neither the Company nor any of its Subsidiaries has made any loans, advances or capital contributions to, or investments in, any Person or paid any fees or expenses to any Stockholder or any director, officer, partner, stockholder or Affiliate of any Stockholder other than expense account advances and payments in the ordinary course of business (consistent with past practice in both type and amount);

(h) neither the Company nor any of its Subsidiaries has (A) mortgaged, pledged or subjected to any Lien any of its assets, or (B) acquired any assets or sold, assigned, transferred, conveyed, leased or otherwise disposed of any assets of the Company or any of its Subsidiaries, except, in the case of clause (B), for assets acquired, sold, assigned, transferred, conveyed, leased or otherwise disposed of in the ordinary course of business (which shall not include any acquisitions of inventories in excess of \$5,000,000 individually or in the aggregate);

(i) neither the Company nor any of its Subsidiaries has discharged or satisfied any Lien, or paid any Liability, except in the ordinary course of business;

(j) neither the Company nor its Subsidiaries has canceled or compromised any debt or claim or amended, canceled, terminated, relinquished, waived or released any Contract or right except in the ordinary course of business and which, in the aggregate, would not be material to the Company and its Subsidiaries taken as a whole;

(k) neither the Company nor any of its Subsidiaries has made or committed to make any capital expenditures or capital additions or betterments in excess of \$100,000 individually or \$250,000 in the aggregate;

(l) neither Company nor any of its Subsidiaries has issued, created, incurred, assumed, guaranteed, endorsed or otherwise become liable or responsible with respect to (whether directly, contingently, or otherwise) any Indebtedness;

(m) neither the Company nor any of its Subsidiaries has granted any license or sublicense of any rights under or with respect to any Intellectual Property owned by the Company or any of its Subsidiaries;

(n) neither the Company nor any of its Subsidiaries has instituted or settled any Legal Proceeding resulting in a loss of revenue in excess of \$25,000 in the aggregate; and none of the Stockholders or the Company or any of its Subsidiaries has agreed, committed, arranged or entered into any understanding to do anything set forth in this Section 4.10.

4.10 Legal Proceedings. Except as set forth in Section 4.11 of the Disclosure Schedule, there is no Action pending or, to the Knowledge of the Company, threatened by or against the Company or any of its Subsidiaries or any of their assets or properties, and neither the Company nor any of its Subsidiaries has received any written claim, complaint or notice of any such Action. There is no Action pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries regarding this Agreement or any Related Document.

4.11 Compliance with Laws. The Company and each of its Subsidiaries is, in all respects, in material compliance with all Laws and Orders applicable to it or any of its assets or properties. Neither the Company nor any Subsidiary has received any notice to the effect that, or otherwise been advised in writing that, it is not in compliance with any such Laws or Orders.

4.12 Title to Properties.

(a) Neither the Company nor any of its Subsidiaries owns any real property. Section 4.13 of the Disclosure Schedule identifies all lease agreements pursuant to which any real property is leased to the Company or any of its Subsidiaries. The Company has valid leasehold interests in all such real property free and clear of all Liens, other than Permitted Liens.

(b) The Company and its Subsidiaries has good title to all of the items of tangible personal property reflected on the 2008 Financials as owned by the Company and its Subsidiaries, and all tangible personal property owned by the Company and its Subsidiaries is owned free and clear of all Liens, other than Permitted Liens.

(c) Each lease or agreement under which the Company or any of its Subsidiaries is a lessee or lessor of any property, real or personal, is a valid and binding agreement thereof, and no event has occurred and is continuing which, with or without notice or lapse of time, would constitute a default or event of default by the Company or any of its Subsidiaries (as the case may be) under any such lease or agreement or, to the Knowledge of the Company, by any other party thereto.

4.13 Employee and Benefit Matters.

(a) Except as set forth on Section 4.14(a) of the Disclosure Schedule or as provided by applicable foreign or domestic Law, the employment of all persons employed by the Company or its Subsidiaries is terminable at will without any penalty or severance obligation on the part of the employer. All sums due for employee compensation and benefits and all vacation time owing to any employees of the Company or any of its Subsidiaries as of the Latest Balance Sheet have been duly and adequately accrued therein in accordance with GAAP. All employees of the Company or its Subsidiaries located in the United States are either United States citizens or resident aliens specifically authorized to engage in employment in the United States in accordance with all applicable laws. Section 4.14(a) of the Disclosure Schedule contains a complete and accurate list of all officers of the Company and its Subsidiaries.

Except for Contracts or agreements set forth on Section 4.14(b) of the Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to or obligated in connection with its business, with respect to any (i) outstanding Contracts with employees, former employees, agents, consultants, advisers, salesmen, sales representatives, distributors, sales agents or dealers or (ii) collective bargaining agreements or Contracts with any labor union or other representative of Company Personnel, or any employee benefits provided for by any such agreement. The Company has made available to the Purchaser or its representatives true and correct copies of all such Contracts.

(b) Section 4.14(c) of the Disclosure Schedule sets forth a correct and complete list of: (i) all “employee benefit plans” (as defined in Section 3(3) of ERISA), and all other employee benefit plans, programs, agreements, policies, arrangements or payroll practices, including bonus plans, employment, consulting or other compensation agreements, collective bargaining agreements, incentive, equity or equity-based compensation, or deferred compensation arrangements, change in control, termination or severance plans or arrangements, stock purchase, severance pay, sick leave, vacation pay, salary continuation for disability, hospitalization, medical insurance, life insurance and scholarship plans and programs maintained by the Company or any of its Subsidiaries or to which the Company or any of the Subsidiaries contributed or is obligated to contribute thereunder for Company Personnel (collectively, the “Company Plans”), and (ii) all “employee pension plans”, as defined in Section 3(2) of ERISA, subject to Title IV of ERISA or Section 412 of the Code, maintained by the Company or any of its Affiliates and any trade or business (whether or not incorporated) that is or has ever been under common control, or that is or has ever been treated as a single employer, with any of them under Section 414(b), (c), (m) or (o) of the Code (each, an “ERISA Affiliate”) or to which the Company or any ERISA Affiliate contributed or has ever been obligated to contribute thereunder (the “Title IV Plans”). Section 4.14(c) of the Disclosure Schedule sets forth each Company Plan and Title IV Plan that is a “multiemployer plan” (as defined in Section 3(37) of ERISA (a “Multiemployer Plan”), or is or has been subject to Sections 4063 or 4064 of ERISA.

(c) Correct and complete copies of the following documents, with respect to each of the Company Plans, have been made available or delivered to Purchaser by the Company, to the extent applicable: (i) any plans, all amendments thereto and related trust documents, insurance contracts or other funding arrangements, and amendments thereto; (ii) the most recent Forms 5500 and all schedules thereto and the most recent actuarial report, if any; (iii) the most recent IRS determination letter; (iv) summary plan descriptions; (v) written communications to employees relating to the Company Plans; and (vi) written descriptions of all non-written agreements relating to the Company Plans.

(d) The Company Plans have been maintained in all material respects in accordance with their terms and with all provisions of ERISA, the Code (including rules and regulations thereunder) and other applicable federal and state Laws, and neither the Company (or any of the Subsidiaries) nor any “party in interest” or “disqualified person” with respect to the Company Plans has engaged in a non-exempt “prohibited transaction” within the meaning of Section 4975 of the Code or Section 406 of ERISA. No fiduciary has any liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any Company Plan. The Company Plans intended to qualify under Section 401(a) of the Code are so qualified and any trusts intended to be exempt from federal income taxation under Section 501 of the Code are so exempt, and nothing has occurred with respect to the operation of the Company Plans that could cause the loss of such qualification or exemption or the imposition of any liability, penalty or tax under ERISA or the Code.

(e) Neither the Company nor any ERISA Affiliate has incurred any liability due to the termination or reorganization of a Multiemployer Plan. Purchaser will not have (i) any obligation to make any contribution to any Multiemployer Plan or (ii) any withdrawal liability from any Multiemployer Plan under Section 4201 of ERISA, which it would not have had but for the consummation of the Transactions.

(f) All contributions (including all employer contributions and employee salary reduction contributions) required to have been made under any of the Company Plans (including workers compensation) or Title IV Plans or by Law (without regard to any waivers granted under Section 412 of the Code), to any funds or trusts established thereunder or in connection therewith have been made by the due date thereof (including any valid extension), and sufficient accruals for such contributions and other payments in accordance with GAAP were duly and fully provided for on the Latest Balance Sheet. No accumulated funding deficiencies exist in any of the Company Plans or Title IV Plans subject to Section 412 of the Code.

(g) There is no material “amount of unfunded benefit liabilities” (as defined in Section 4001(a)(18) of ERISA) in any of the Title IV Plans. Each of the Title IV Plans are fully funded in accordance with the actuarial assumptions used by the Pension Benefit Guaranty Corporation (“PBGC”) to determine the level of funding required in the event of the termination of a Title IV Plan and the “benefit liabilities” (as defined in Section 4001(a)(16) of ERISA) of such Title IV Plan using such PBGC assumptions do not exceed the assets of such Title IV Plan.

(h) Except as set forth in Section 4.14(j) of the Disclosure Schedule, neither the Company nor any ERISA Affiliate has terminated any Title IV Plan, or incurred any outstanding liability under Section 4062 of ERISA to the PBGC or to a trustee appointed under Section 4042 of ERISA. All premiums due the PBGC with respect to the Title IV Plans have been paid.

(i) There has been no “reportable event” (as defined in Section 4043 of ERISA) with respect to the Title IV Plans that would require the giving of notice or any event requiring disclosure under Section 4041(c)(3)(C) or 4063(a) of ERISA.

(j) No Liability under any Company Plan or Title IV Plan has been funded nor has any such obligation been satisfied with the purchase of a contract from an insurance company that is not rated AA by Standard & Poor’s Corporation or the equivalent by any other nationally recognized rating agency.

(k) None of the Company, any ERISA Affiliate nor any organization to which the Company or any ERISA Affiliate is a successor or parent corporation within the meaning of Section 4069(b) of ERISA has engaged in any transaction within the meaning of Section 4069 or 4212(c) of ERISA. There are no pending actions, claims or lawsuits that have been asserted or instituted against the Company Plans, the assets of any of the trusts under the Company Plans or the sponsor or administrator of any of the Company Plans, or against any fiduciary of the Company Plans with respect to the operation of any of the Company Plans (other than routine benefit claims), nor, to the Knowledge of the Company, are there any facts that could form the basis for any such claim or lawsuit.

(l) There is no violation of ERISA or the Code with respect to the filing of applicable reports, documents and notices regarding the Company Plans with the Secretary of Labor or the Secretary of the Treasury or the furnishing of such documents to the participants in or beneficiaries of the Company Plans. All amendments and actions required to bring the Company Plans into conformity in all material respects with all of the applicable provisions of the Code, ERISA and other applicable Laws have been made or taken. Any bonding required with respect to the Company Plans in accordance with applicable provisions of ERISA has been obtained and is in full force and effect.

(m) Except as set forth on Section 4.14(r) of the Disclosure Schedule, none of the Company Plans provides for post-employment life or health insurance, benefits or coverage for any participant or any beneficiary of a participant, except as may be required under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“COBRA”) or similar state Law, and at the expense of the participant or the participant’s beneficiary. Each of the Company and any ERISA Affiliate which maintains a “group health plan” within the meaning Section 5000(b)(1) of the Code has complied with the notice and continuation requirements of Section 4980B of the Code, COBRA, Part 6 of Subtitle B of Title I of ERISA and the regulations thereunder.

(n) Neither the execution and delivery of this Agreement nor the consummation of the Transactions will (i) result in any payment becoming due to any Company Personnel from the Company or any of its Subsidiaries, (ii) increase any benefits otherwise payable under any Company Plan or Title IV Plan or (iii) result in the acceleration of the time of payment or vesting of any such benefits under any Company Plan or Title IV Plan.

(o) Neither the Company nor any of its Subsidiaries has a contract, plan or commitment, whether legally binding or not, to create any additional Company Plan or to modify any existing Company Plan.

(p) No stock or other security issued by the Company or any of its Subsidiaries forms or has formed a material part of the assets of any Company Plan.

(q) Any individual who performs services for the Company or any of the Subsidiaries (other than through a contract with an organization other than such individual) and who is not treated as an employee of the Company or any of its Subsidiaries for Tax purposes by the Company or any of its Subsidiaries is not an employee for such purposes.

(r) The Company and each Subsidiary is in compliance with all applicable Laws relating to wages, hours, labor (including work conditions, safety regulations and employee representatives) and collective bargaining agreements.

Contracts and Clients.

(s) Section 4.15 of the Disclosure Schedule is a correct and complete list of each currently effective Contract to which the Company or any of its Subsidiaries is a party as of the date hereof and which constitutes (i) a Contract with any of the twenty largest customers by revenue or ten largest suppliers by purchases of the Company and its Subsidiaries, (ii) a Contract relating to Indebtedness, (iii) a non-competition, non-solicitation or exclusive dealing arrangement or any other agreement or obligation which purports to limit or restrict in any respect (A) the ability of the Company or any of its Subsidiaries to solicit customers or employees or (B) the manner in which, or the localities in which, all or any portion of the business and operations of the Company or any of its Subsidiaries or, following consummation of the Transactions, the business and operations of Purchaser and its Affiliates, is or would be conducted, (iv) a Contract that is terminable by the other party or parties upon a change in control of the Company or any of its Subsidiaries, (v) a Contract granting a Lien (other than Permitted Liens) upon any property or asset of the Company or any of its Subsidiaries, (vi) a Contract which is a joint venture agreement, (vii) a Contract providing for the acquisition or disposition after the date of this Agreement of any of the Company's or any Subsidiary's assets, (viii) a Contract providing for the indemnification by the Company or any of its Subsidiaries of any Person, other than standard indemnification arrangements entered into with Clients in the ordinary course of business, (ix) any Contract that contains a "most favored nation" clause or other term providing preferential pricing or treatment to a third party, or (x) any other Contract (other than purchase orders entered into in the ordinary course of business) that involves future expenditures or projected receipts by the Company or any of its Subsidiaries of more than \$50,000 in any one-year period (collectively, "Material Contracts").

(t) Each Material Contract is a valid and binding arrangement of the Company or a Subsidiary (as applicable) and, to the Knowledge of the Company, of each of the other parties thereto. Each Material Contract is in full force and effect, and none of the Company, its Subsidiaries nor, to the Knowledge of the Company, any other party thereto is in default or breach under the terms of any Material Contract. No Material Contract requires prepayments, additional payments or increased payments by the Company or any of its Subsidiaries as a result of consummation of the Transactions.

(u) Other than the expiration of Material Contracts in accordance with their terms, neither the Company nor any of its Subsidiaries has received any written or, to the Knowledge of the Company, oral notice, that any Client (A) has ceased, or is planning to cease to use the services of the Company or its Subsidiaries that such Client currently uses or (B) has substantially reduced, or is planning to substantially reduce such Client's use of current services of the Company or its Subsidiaries. To the Knowledge of the Company, no Client has otherwise threatened to take any action described in the preceding sentence as a result of the consummation of the Transactions or any of the documents or instruments required hereby.

4.14 Intellectual Property.

(a) Section 4.16(a) of the Disclosure Schedule sets forth a true and complete list of all Company Intellectual Property, other than any item that is solely Intellectual Property pursuant to clause (iv), (v) or (vi) of the definition of such term.

Except as set forth in Section 4.16(b) of the Disclosure Schedule, either the Company or a Subsidiary owns or has valid licenses to use, on an exclusive basis (except for software and research tools made publicly available), free and clear of all Liens (other than Permitted Liens) or any other claims, all Company Intellectual Property; provided, that, no representation or warranty is made in this Section 4.16(b) with respect to matters relating to infringement or conflicts with Intellectual Property, which matters are the subject of Section 4.16(e).

(b) Except as set forth in Section 4.16(c) of the Disclosure Schedule, neither the Company nor any Subsidiary pays or receives any royalty to or from anyone with respect to any Company Intellectual Property, nor has the Company or any Subsidiary licensed anyone to use any of the Company Intellectual Property.

(c) Except as set forth in Section 4.16(d) of the Disclosure Schedule, all rights of the Company and its Subsidiaries in and to the Company Intellectual Property will be unaffected by the Transactions. Except as set forth in Section 4.16(d) of the Disclosure Schedule, neither the Company nor any Subsidiary has given or received any written notice of any pending conflict with, or infringement of the rights of others with respect to, any Intellectual Property or with respect to any license of the Company Intellectual Property.

(d) Except as set forth in Section 4.16(e) of the Disclosure Schedule, neither the Company nor any Subsidiary is subject to any Order with respect to, nor has it entered into or is it a party to any Contract which restricts or impairs the use of, any Company Intellectual Property. Except as set forth in Section 4.16(e) of the Disclosure Schedule, to the Knowledge of the Company, no Company Intellectual Property, and no services or products sold or contemplated for sale by the Company or any Subsidiary, conflicts with or infringes upon any Intellectual Property of any third party, none of the Company and its Subsidiaries is infringing any Intellectual Property owned by any third party and none of the activities presently being conducted or planned to be conducted by the Company or any Subsidiary is infringing or will infringe the Intellectual Property rights of any third party.

(e) Except as set forth in Section 4.16(f) of the Disclosure Schedule, neither the Company nor any Subsidiary has entered into any consent, indemnification, forbearance to sue or settlement agreement with respect to Intellectual Property and no claims have been asserted in writing by any Person with respect to the validity or enforceability of, or the Company's or a Subsidiary's (as the case may be) ownership of or right to use, the Company Intellectual Property.

(f) To the Knowledge of the Company, all trade secrets, confidential information or know-how of the Company and its Subsidiaries have been maintained in confidence in accordance with the protection procedures customarily used by comparable companies in the same industry as the Company and its Subsidiaries to protect rights of like importance. All Company Personnel who have contributed to or participated in the conception or development of any Company Intellectual Property have executed and delivered to the Company a confidentiality agreement restricting such Person's right to disclose proprietary information of the Company or any Subsidiary. To the Knowledge of the Company, no Company Personnel have any claim against the Company or any Subsidiary in connection with such Person's involvement in the conception and development of any Company Intellectual Property and no such claim has been asserted or threatened in writing. To the Knowledge of the Company, none of the Company Personnel own any Intellectual Property for any device, process, design or invention of any kind now used or needed by the Company or any of its Subsidiaries in the furtherance of its respective business operations, which Intellectual Property have not been assigned to the Company or a Subsidiary, with such assignment duly filed in the United States Patent and Trademark Office for recordation.

4.15 Taxes.

(a) (i) All Tax Returns required to be filed by or on behalf of each of the Company and its Subsidiaries have been duly and timely filed with the appropriate Governmental Authority in all jurisdictions in which such Tax Returns are required to be filed (after giving effect to any valid extensions of time in which to make such filings), and all such Tax Returns are true, complete and correct in all respects; and (ii) all Taxes payable by or on behalf of each of the Company and its Subsidiaries have been fully and timely paid. With respect to any period for which Tax Returns have not yet been filed or for which Taxes are not yet due or owing, the Company and its Subsidiaries have made due and sufficient accruals for such Taxes in the Historical Financial Statements and its books and records. All required estimated Tax payments sufficient to avoid any underpayment penalties or interest have been made by or on behalf of the Company and its Subsidiaries.

(b) The Company and each Subsidiary has complied with all applicable Laws and Orders relating to the payment and withholding of Taxes and has duly and timely withheld and paid over to the appropriate Governmental Authority all amounts required to be so withheld and paid under all applicable Laws and Orders.

(c) Since August 4, 2005, the Company and its Subsidiaries have been members of a consolidated group of corporations for U.S. federal and Massachusetts state income Tax purposes. The only other members of such consolidated group for U.S. federal and Massachusetts state income Tax purposes have been Holdings-I, Holdings-II, Holdings-III and HMK Enterprises, Inc., and HMK Enterprises, Inc. has been the common parent of such consolidated group. The only Contract relating to such consolidated group is set forth in Section 4.17(c) of the Disclosure Schedule. Except for the foregoing-described consolidated group, neither the Company nor any of its Subsidiaries has ever been a member of a consolidated, combined, affiliated or unitary group of Persons for any U.S. federal or Massachusetts state income Tax purposes. From and after the Closing, none of the Company, its Subsidiaries, Purchaser and its Affiliates will have or be subject to any Liability based upon, arising out of or caused by the Company and its Subsidiaries having ever been a member of any consolidated, combined, affiliated or unitary group of Persons for any U.S. federal or Massachusetts state income Tax purposes. Purchaser has received complete copies of (i) all federal, state, local and foreign income or franchise Tax Returns of the Company and its Subsidiaries relating to the taxable periods since January 1, 2005; provided, however, that with respect to such Tax Returns for which the Company and its Subsidiaries comprised a part of the foregoing-described consolidated group, such Tax Returns have been conformed to show only those portions of such returns relating to the activities of Holdings-I, Holdings-II, Holdings-III and the Company and its Subsidiaries, and (ii) any audit report issued within the last three years relating to any Taxes due from or with respect to the Holdings-I, Holdings-II, Holdings-III, the Company or any Subsidiary. All income and franchise Tax Returns filed by, on behalf of or with respect to Holdings-I, Holdings-II, Holdings-III, the Company or any Subsidiary have been examined by the relevant Governmental Authority or the statute of limitations with respect to such Tax Returns has expired.

(d) Section 4.17(d) of the Disclosure Schedule lists (i) all types of Taxes paid, and all types of Tax Returns filed by, on behalf of or with respect to Company or any of its Subsidiaries, and (ii) all of the jurisdictions that impose such Taxes or with respect to which the Company or any of its Subsidiaries has a duty to file such Tax Returns. No claim has been made by any Tax Authority in a jurisdiction where the Company or any of its Subsidiaries does not file Tax Returns such that it is or may be subject to taxation by that jurisdiction.

(e) All deficiencies asserted or assessments made as a result of any examinations by any Tax Authority of the Tax Returns of, or including, the Company or any of its Subsidiaries have been fully paid, and there are no other audits or investigations by any Tax Authority in progress, nor has the Company or any of its Subsidiaries received any notice from any Tax Authority that it intends to conduct such an audit or investigation. No issue has been raised by any Tax Authority in any prior examination of, or including, the Company or any of its Subsidiaries which, by application of the same or similar principles, could reasonably be expected to result in a proposed deficiency for any subsequent taxable period.

(f) None of the Company, any of its Subsidiaries or any other Person on their behalf has (i) filed a consent pursuant to Section 341(f) of the Code or agreed to have Section 341(f)(2) of the Code apply to any disposition of a subsection (f) asset (as such term is defined in Section 341(f)(4) of the Code) owned by the Company or any of its Subsidiaries, (ii) agreed to or is required to make any adjustments pursuant to Section 481(a) of the Code or any similar provision of Law or has any knowledge that any Tax Authority has proposed any such adjustment, or has any application pending with any Tax Authority requesting permission for any changes in accounting methods that relate to the Company or any of its Subsidiaries, (iii) executed or entered into a closing agreement pursuant to Section 7121 of the Code or any similar provision of Law with respect to the Company or any of its Subsidiaries, (iv) requested any extension of time within which to file any Tax Return, which Tax Return has since not been filed, (v) granted any extension for the assessment or collection of Taxes, which Taxes have not since been paid, or (vi) granted to any Person any power of attorney that is currently in force with respect to any Tax matter. (g) No property owned by the Company or any of its Subsidiaries is (i) property required to be treated as being owned by another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended and in effect immediately prior to the enactment of the Tax Reform Act of 1986, (ii) "tax-exempt use property" within the meaning of Section 168(h)(1) of the Code or (iii) "tax-exempt bond financed property" within the meaning of Section 168(g) of the Code, (iv) "limited use property" within the meaning of Rev. Proc. 76-30, (v) subject to Section 168(g)(1)(A) of the Code, or (vi) subject to any provision of state, local or foreign Law comparable to any of the provisions listed above.

(g) No Stockholder is a foreign person within the meaning of Section 1445 of the Code.

(h) Neither the Company nor any of its Subsidiaries is a party to any tax sharing, allocation, indemnity or similar agreement or arrangement (whether or not written) pursuant to which it will have any obligation to make any payments after the Closing.

There is no contract, agreement, plan or arrangement covering any person that, individually or collectively, could give rise to the payment of any amount that would not be deductible by Purchaser, the Company, its Subsidiaries or any of their respective Affiliates by reason of Section 280G of the Code.

(i) Neither the Company nor any of its Subsidiaries is subject to any private letter ruling of the IRS or comparable rulings of any Governmental Authority.

(j) There are no Liens as a result of any unpaid Taxes upon any of the assets of the Company or any of its Subsidiaries.

(k) Neither the Company nor any of its Subsidiaries has constituted either a “distributing corporation” or a “controlled corporation” (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (A) in the two years prior to the date of this Agreement or (B) in a distribution which could otherwise constitute part of a “plan” or “series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the transactions contemplated by this Agreement.

(l) There is no taxable income of the Company or any of its Subsidiaries that will be required under applicable Law to be reported by Purchaser or any of its Affiliates, including the Company or any of its Subsidiaries, for a taxable period beginning after the Closing Date which taxable income was realized (and reflects economic income) arising prior to the Closing Date.

(m) Neither the Company nor any of its Subsidiaries has (i) engaged in any “intercompany transactions” in respect of which gain was and continues to be deferred pursuant to Treasury Regulations Section 1.1502-13 or any analogous or similar provision of Law or (ii) has any “excess loss accounts” in respect of the stock of any Subsidiary pursuant to Treasury Regulations Section 1.1502-19, or any analogous or similar provision of Law.

(n) The Company and its Subsidiaries have disclosed on federal income Tax Returns in which they are included all positions taken therein that could give rise to substantial understatement of federal income Tax within the meaning of Section 6662 of the Code.

(o) Neither the Company nor any of its Subsidiaries has, or has ever had, a permanent establishment in any country other than the United States, or has engaged in a trade or business in any country other than the United States that subjected it to Tax in such country.

4.16 Insurance. Set forth on Section 4.18 of the Disclosure Schedule is a correct and complete list of all insurance policies owned by the Company and its Subsidiaries or otherwise pertaining to their business. The present insurance policies are in full force and effect. Neither the Company nor any of its Subsidiaries has received any written notice of cancellation or intent to cancel or increase premiums with respect to present insurance policies nor, to the Knowledge of the Company, is there any basis for any such action. Except as set forth on Section 4.18 of the Disclosure Schedule, there are no pending claims with any insurance company or any instances of a denial of coverage of the Company or any of its Subsidiaries by any insurance company.

Brokers. Except as set forth on Section 4.19 of the Disclosure Schedule, none of the Company, any of its Subsidiaries or the Representative has employed any broker or finder or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Transactions.

4.17 Environmental Matters. Except as set forth on Section 4.20 of the Disclosure Schedule:

- (a) the Company and its Subsidiaries are in compliance with all Environmental Laws;
- (b) there are no Actions pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries which assert any claim or seek any Remedial Action in connection with any Environmental Law;
- (c) neither the Company nor any of its Subsidiaries is subject to any Action or Order alleging or addressing a violation of, or Liability under, any Environmental Law or with respect to any Remedial Action or Release or threatened Release of a Hazardous Material;
- (d) neither the Company nor any of its Subsidiaries has received any written notice to the effect that it is or may be liable to any Person as a result of the Release or threatened Release of a Hazardous Material; and
- (e) the consummation of the Transactions do not require the consent of or filings with any Governmental Authority with respect to environmental matters.
- (f) Notwithstanding any other provisions in this Agreement, the representations and warranties included in this Section 4.20 are the only representations and warranties made by the Company with respect to matters arising under Environmental Laws.

4.18 Labor.

- (a) Except as set forth on Section 4.21 of the Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining agreement and there are no labor or collective bargaining agreements which pertain to employees of the Company or any of its Subsidiaries. The Company has delivered or otherwise made available to Purchaser true, correct and complete copies of the labor or collective bargaining agreements listed on Section 4.21 of the Disclosure Schedule, together with all amendments, modifications or supplements thereto.
- (b) Except as set forth on Section 4.21 of the Disclosure Schedule, no Company Personnel are represented by any labor organization. No labor organization or group of Company Personnel has made a pending demand for recognition, and there are no representation proceedings or petitions seeking a representation proceeding presently pending or, to the Knowledge of the Company, threatened to be brought or filed, with the National Labor Relations Board or other labor relations tribunal. There is no organizing activity involving the Company or any of its Subsidiaries pending or, to the Knowledge of the Company, threatened by any labor organization or group of Company Personnel.

There are no (i) strikes, work stoppages, slowdowns, lockouts or arbitrations or (ii) grievances or other labor disputes pending or, to the Knowledge of the Company, threatened against or involving the Company or any of its Subsidiaries. There are no unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or on behalf of any Company Personnel or group of Company Personnel.

(c) There are no complaints, charges or claims against the Company or any of its Subsidiaries pending or, to Knowledge of the Company, threatened that could be brought or filed, with any Governmental Authority based on, arising out of, in connection with or otherwise relating to the employment or termination of employment of or failure to employ, any individual. Each of the Company and its Subsidiaries is in compliance with all Laws and Orders relating to the employment of labor, including all such Laws relating to wages, hours, WARN and any similar state or local "mass layoff" or "plant closing" Law, collective bargaining, discrimination, civil rights, safety and health, workers' compensation and the collection and payment of withholding and/or social security taxes and any similar tax. There has been no "mass layoff" or "plant closing" (as defined by WARN) with respect to the Company or any of its Subsidiaries within the past six (6) months.

4.19 Inventories. The inventories of the Company and its Subsidiaries are in good and marketable condition, and are usable and of a quantity and quality saleable in the ordinary course of business. The inventories of the Company and its Subsidiaries set forth in the Latest Balance Sheet were valued at the lower of cost (on a FIFO/LIFO basis) or market and were properly stated therein in accordance with GAAP. Adequate reserves have been reflected in the Latest Balance Sheet for obsolete, excess, damaged, slow-moving, or otherwise unusable inventory, which reserves were calculated in a manner consistent with past practice and in accordance with GAAP. The inventories of the Company and its Subsidiaries constitute sufficient quantities for the normal operation of business in accordance with past practice.

4.20 Accounts and Notes Receivable and Payable.

(a) All accounts and notes receivable of the Company and its Subsidiaries have arisen from bona fide transactions in the ordinary course of business consistent with past practice and are payable on ordinary trade terms. All accounts and notes receivable of the Company and its Subsidiaries reflected on the Latest Balance Sheet are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserves for returns or doubtful accounts reflected thereon, which reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP. All accounts and notes receivable arising after the date of the Latest Balance Sheet are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserves for returns or doubtful accounts. None of the accounts or the notes receivable of the Company or any of the Subsidiaries (i) are subject to any setoffs or counterclaims, (ii) represent obligations for goods sold on consignment, on approval or on a sale-or-return basis or (iii) subject to any other repurchase or return arrangement.

(b) All accounts payable of the Company and its Subsidiaries reflected in the Latest Balance Sheet or arising after the date thereof are the result of bona fide transactions in the ordinary course of business and have been paid or are not yet due and payable.

Related Party Transactions. Except as set forth on Section 4.24 of the Disclosure Schedule, no employee, officer, director, stockholder, partner or member of the Company or any of its Subsidiaries, any member of his or her immediate family or any of their respective Affiliates (“Related Persons”) (i) owes any amount to the Company or any of its Subsidiaries, nor does the Company or any of its Subsidiaries owe any amount to, or has the Company or any of its Subsidiaries committed to make any loan or extend or guarantee credit to or for the benefit of, any Related Person, (ii) is involved in any business arrangement or other relationship with the Company or any of its Subsidiaries (whether written or oral), (iii) owns any property or right, tangible or intangible, that is used by the Company or any of its Subsidiaries, (iv) has any claim or cause of action against the Company or any of its Subsidiaries or (v) owns any direct or indirect interest of any kind in, or controls or is a director, officer, employee or partner of, or consultant to, or lender to or borrower from or has the right to participate in the profits of, any Person which is a competitor, supplier, customer, landlord, tenant, creditor or debtor of the Company or any of its Subsidiaries.

4.21 Product Warranty: Product Liability.

(a) To the Knowledge of the Company, each of the products produced or sold by the Company or any of its Subsidiaries (“Products”) is, and at all relevant times, has been, fit for the ordinary purposes for which it is intended to be used and conforms to any promises or affirmations of fact made on the container or label for such Product or in connection with its sale. Each of such Products contains adequate warnings, presented in a reasonably prominent manner, in accordance with applicable Laws and current industry practice with respect to its contents and use. Neither the Company nor any of its Subsidiaries has any liability for replacement or repair of any Products or any other customer or product obligations not reserved against on the Latest Balance Sheet. Copies of all correspondence relating to Products received or sent by or on behalf of the Company or any of its Subsidiaries during the past three (3) years, from or to any Governmental Authority have been previously delivered to Purchaser. Neither the Company nor any of its Subsidiaries has sold any Products or delivered any services that included a warranty for a period of longer than one year.

(b) Neither the Company nor any of its Subsidiaries has any Liability arising out of any injury to individuals or property as a result of the ownership, possession, or use of any product designed, manufactured, assembled, repaired, maintained, delivered, sold or installed, or services rendered, by or on behalf of the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has committed any act or failed to commit any act, which would result in, and there has been no occurrence which would give rise to or form the basis of, any material product liability or material liability for breach of warranty (whether covered by insurance or not) on the part of the Company or any of its Subsidiaries with respect to products designed, manufactured, assembled, repaired, maintained, delivered, sold or installed or services rendered by or on behalf of the Company or any of its Subsidiaries.

4.22 Certain Payments. None of the Company, any of its Subsidiaries, any Stockholder or, to the Knowledge of the Company, any director, officer, employee, or other Person associated with or acting on behalf of any of them, has directly or indirectly (a) made any contribution, gift, bribe, rebate, payoff, influence payment, kickback or other payment in violation of Law to any Person, private or public, regardless of form, whether in money, property, or services (i) to obtain favorable treatment in securing business for the Company or any of its Subsidiaries, (ii) to pay for favorable treatment for business secured by the Company or any of its Subsidiaries, or (iii) to obtain special concessions or for special concessions already obtained, for or in respect of the Company or any of its Subsidiaries, or (b) established or maintained any fund or asset with respect to the Company or any of its Subsidiaries that has not be recorded in the books and records of the Company and its Subsidiaries.

ARTICLE V - REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to the Company and the Representative, on behalf of the Stockholders, as follows:

5.1 Organization, Good Standing and Qualification. Purchaser (a) is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas and (b) has all requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted, to enter into this Agreement, as required hereunder and by each of the Related Documents to be executed and delivered by Purchaser pursuant to the terms of this Agreement (the "Purchaser Documents") and to perform its obligations hereunder and thereunder, and to consummate the Transactions.

5.2 Authorization; Binding Agreement. The execution and delivery by Purchaser of this Agreement and each other Purchaser Document, the performance of its obligations hereunder and thereunder, and the consummation by Purchaser of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary corporate action on the part of Purchaser and no other corporate proceeding on the part of Purchaser is necessary to authorize this Agreement or any other Purchaser Document or to consummate the transactions so contemplated hereby and thereby. This Agreement has been, and each other Purchaser Document, when executed and delivered by Purchaser (and assuming the due authorization, execution and delivery by the other parties hereto and thereto), will be, duly and validly executed and delivered by Purchaser, and this Agreement constitutes, and each Purchaser Document, when executed and delivered, will constitute, a legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

5.3 Consents and Approvals. Except as set forth in Section 5.3 of the Disclosure Schedule (as set forth therein, the "Purchaser Third Party Consents"), the execution and delivery by Purchaser of this Agreement and the other Purchaser Documents do not, and the performance of this Agreement and the other Purchaser Documents shall not, require Purchaser to obtain any Approval of any Person or Approval of, observe any waiting period imposed by, or make any filing with or notification to, any Governmental Authority.

5.4 No Violation. The execution, delivery, compliance with and performance by Purchaser of this Agreement or any of the other Purchaser Document do not and will not (a) violate or contravene the Certificate of Incorporation or by-laws, each as amended to date, of Purchaser, (b) violate or contravene any Law or Order to which Purchaser is subject, or (c) conflict with or result in a breach of or constitute a default by Purchaser under any Contract to which Purchaser is a party or by which Purchaser's assets or properties are subject or bound.

5.5 Financial Capability. Purchaser will have available to it at the Closing sufficient funds to consummate the Transactions.

5.6 Legal Proceedings. There are no Actions pending or, to the knowledge of Purchaser, threatened by or against Purchaser, whether at law or in equity, or before or by any Governmental Authority, which could adversely affect such party's ability to perform its obligations under this Agreement or the consummation of the Transactions.

5.7 Financial Advisors. No Stockholder will be obligated to pay any fee, commission or other payment in respect of any Person having acted, directly or indirectly, as a broker, finder or financial advisor for Purchaser in connection with the transactions contemplated by this Agreement. Neither Purchaser nor any of its Affiliates have engaged or otherwise had a business relationship (whether business, financial, accounting or otherwise) with the Neutral Auditors.

ARTICLE VI - COVENANTS

6.1 Further Assurances. Upon the terms and subject to the conditions set forth in this Agreement, each party hereto shall use reasonable best efforts to take, or cause to be taken, all actions, and do, or cause to be done, and to assist and cooperate with the other party or parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the Transactions and transactions contemplated by the Related Documents. Each party hereto, at the reasonable request of another party hereto, shall execute and deliver such other instruments and do and perform such other acts and things as may be necessary or desirable for effecting completely the consummation of this Agreement and the Transactions.

6.2 Books and Records. Following the Closing Date, Purchaser shall afford the Representative and its representatives reasonable access, during normal working hours, to the books and records of the Company (and shall permit such Persons to examine and copy such books and records to the extent reasonably requested); provided, however, that (a) any such access shall be had or done in such a manner so as to not interfere with the normal conduct of the business of the Company and its Subsidiaries, (b) Purchaser shall not be required to provide access to any confidential record or records, the disclosure of which would violate any Law or Order or applicable confidentiality agreement of the Company and/or any of its Subsidiaries with any Person, and (c) Purchaser shall not be required to permit access to any record or records, the disclosure of which would cause Purchaser or any of its Affiliates (including the Company and each of its Subsidiaries) to waive its attorney-client privilege or attorney work product privilege. Purchaser shall not destroy any such books and records of the Company or any of its Subsidiaries until the sixth anniversary of the Closing. Due to the fact that the Company and its Subsidiaries have historically been part of a consolidated group with certain of its Stockholders for Tax and accounting purposes, the Stockholders, if requested by Purchaser and at Purchaser's expense, shall reasonably cooperate and assist Purchaser in having prepared such financial statements of the Company and its Subsidiaries to the extent Purchaser may reasonably require by furnishing the necessary information to Purchaser's accountant in order to permit Purchaser to comply with any financial statement requirements with respect to the Company and its Subsidiaries applicable to Purchaser under the Securities Exchange Act of 1934, as amended, the Securities Act of 1933, as amended, and the rules and regulations thereunder, including, without limitation, by causing its accountant to provide Purchaser with access to such firm's work papers in support of the Company and its Subsidiaries.

6.3 Public Announcements. Upon the Closing hereunder, Purchaser shall issue a press release, delivered on or prior to the date hereof, as mutually agreed with the Representative, announcing the consummation of the Transactions contemplated hereby; provided, however, that, notwithstanding the requirement that such release be mutually agreed with the Representative, Purchaser shall be entitled to issue any release or statement without such agreement to the extent necessary to comply (with respect to content and timing thereof) with any applicable Laws.

6.4 Employee Benefits. In regards to the employee benefit plans of Purchaser providing benefits to individuals who continue their employment with the Company or its Subsidiaries that are ERISA Affiliates on and after the Closing Date (each, a “Continuing Employee” and such employee benefit plans, the “Purchaser Benefit Plans”), except to the extent not permitted by the terms thereof, Purchaser shall, for purposes of determining whether the Continuing Employee has met the eligibility service requirements of a Purchaser Benefit Plan, upon each applicable Continuing Employee’s commencement of participation in an applicable Purchaser Benefit Plan, and for purposes of vesting and, to the extent applicable, for purposes of benefit accrual, credit each Continuing Employee with his or her years of service (or applicable portion thereof, as the case may be) with the Company and its Subsidiaries that are ERISA Affiliates to the same extent as such Continuing Employee was entitled to credit for such service under any similar plan of the Company and its Subsidiaries (“Continued Employee Plans”) prior to the Continuing Employee’s commencement of participation in the Purchaser Benefit Plan, except that Continuing Employees shall receive no such credit (i) to the extent that such credit would result in a duplication of benefits or (ii) under any newly-established Purchaser Benefit Plan for which similarly-situated employees of Purchaser do not receive credited service. Purchaser shall use reasonable efforts to cause any applicable service or benefit plan provider providing the Purchaser Benefit Plans that are “group health plans” (within the meaning of Section 5000(b)(1) of the Code), to the extent it is lawful, to waive any pre-existing condition exclusions or waiting periods for Continuing Employees and shall credit such Continuing Employees (and their dependents) for any deductibles and out-of-pocket expenses paid under the applicable Continued Employee Plans in the year of initial participation in the applicable Purchaser Benefit Plans that are group health plans (within the meaning of Section 5000(b)(1) of the Code), except to the extent a Continuing Employee (or dependent) was excluded from coverage under the applicable Continued Employee Plans. Any Purchaser Benefit Plan that by its terms, whether specifically or by interpretation, excludes a Continuing Employee from participation in such Purchaser Benefit Plan (other than any such plans with respect to which new participation has been frozen for Purchaser employees generally) shall be amended to provide that Continuing Employees shall participate in any such plan to the same extent as similarly situated employees of Purchaser (except as may be prohibited by applicable Law), and no Continuing Employee shall be denied credit for service performed for the Company or its Subsidiaries that are ERISA Affiliates under Purchaser Benefit Plans to the extent consistent with the other provisions of this Section 6.7, if it is contrary to applicable Law.

6.5 **Confidentiality.** From and after the Closing Date, the Stockholders shall not and shall cause their directors, officers, employees and Affiliates not to, directly or indirectly, disclose, reveal, divulge or communicate to any Person, other than authorized officers, directors and employees of Purchaser, or use or otherwise exploit for its own benefit or for the benefit of anyone (other than Purchaser, the Company or any of its Subsidiaries), any Confidential Information (as defined below). The Stockholders shall not have any obligation to keep confidential (or cause its officers, directors or Affiliates to keep confidential) any Confidential Information if and to the extent disclosure thereof is specifically required by applicable Law; provided, however, that in the event disclosure is required by applicable Law, the Stockholders shall, to the extent reasonably possible, provide Purchaser with prompt notice of such requirement prior to making any disclosure so that Purchaser may seek an appropriate protective order. For purposes of this Section 6.5, "**Confidential Information**" means any information with respect to the Company or any of its Subsidiaries, including methods of operation, customer lists, products, prices, fees, costs, technology, inventions, trade secrets, know-how, software, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters. "**Confidential Information**" does not include, and there shall be no obligation hereunder with respect to, information that (i) is generally available to the public on the date of this Agreement or (ii) becomes generally available to the public other than as a result of a disclosure not otherwise permissible hereunder.

(a) The covenants and undertakings contained in this Section 6.5 relate to matters which are of a special, unique and extraordinary character and a violation of any of the terms of this will cause irreparable injury to Purchaser, the amount of which will be impossible to estimate or determine and which cannot be adequately compensated. Accordingly, the remedy at law for any breach of this Section 6.5 will be inadequate. Therefore, Purchaser will be entitled to a temporary and permanent injunction, restraining order or other equitable relief from any Court of competent jurisdiction in the event of any breach of this Section 6.5 without the necessity of proving actual damage or posting any bond whatsoever. The rights and remedies provided by this Section 6.5 are cumulative and in addition to any other rights and remedies which Purchaser may have hereunder or at law or in equity.

ARTICLE VII - CONDITIONS PRECEDENT TO THE CLOSING OF THE TRANSACTION

7.1 **Conditions to Obligation of Each Party to Effect the Transactions.** The respective obligations of each party to effect the Transactions shall be subject to the satisfaction of the following conditions:

(a) **Governmental Approvals.** All Approvals of, or declarations or filings, with any Governmental Authority required to be obtained or made in order to consummate the Transactions, if any, shall have been obtained or made.

(b) **No Injunctions or Restraints; Illegality.** No temporary restraining order, preliminary or permanent injunction or other Order (whether temporary, preliminary or permanent) issued by any Court of competent jurisdiction or other legal restraint or prohibition shall be in effect which prevents the consummation of the Transactions, nor shall any proceeding brought by any Governmental Authority seeking any of the foregoing be pending, and there shall not be any action taken, or any Law or Order enacted, entered, enforced or deemed applicable to the Transactions, which makes the consummation of the Transactions illegal.

7.2 Additional Conditions to Obligations of Purchaser. The obligations of Purchaser to effect the Transactions shall be subject to the satisfaction of the following additional conditions:

(a) Representations and Warranties. Each of the representations and warranties of the Company set forth in Article IV and the Stockholders set forth in Article III shall be true and correct in all respects.

(b) Agreements and Covenants. Each Stockholder and the Company shall have performed or complied with each obligation, agreement and covenant to be performed or complied with by it under this Agreement at Closing.

(c) Consents. Each of the Company Third Party Consents listed on Section 7.2(c) of the Disclosure Schedule shall have been received in a form satisfactory to Purchaser and copies thereof shall have been delivered to Purchaser.

(d) Closing Certificates. Each Stockholder and the Company (as executed by each of (i) the President or Chief Executive Officer of the Company and (ii) the chief financial officer of the Company) shall have delivered to Purchaser a certificate, each in form and substance reasonably satisfactory to Purchaser, dated as of the Closing Date, certifying that the conditions set forth in Sections 7.2(a) and (b) have been satisfied.

(e) Resignations. Each of the directors, managers and officers of the Company and its Subsidiaries set forth in Section 7.2(e) of the Disclosure Schedule shall have submitted a letter of resignation effective on and as of the Closing and such letters shall contain releases from claims to fees and expenses in form and substance reasonably satisfactory to Purchaser.

(f) Employment Agreements. Each of the employment agreements of David Hirsch, Mark Alperin, Mark Klosek and Dave Kujanek (to be effective upon the Closing and set forth in Exhibit C hereto) shall be (subject only to such condition of effectiveness) in full force and effect.

(g) Releases. The Company and its Subsidiaries shall have (a) terminated all Contracts with any of the Stockholders or their respective Affiliates (other than (i) those Contracts set forth in Section 7.2(g) of the Disclosure Schedule and (ii) Contracts between the Company and its Subsidiaries, Contracts between the Company and its Subsidiaries and their respective officers and employees and Contracts the continuation of which Purchaser has approved in writing) and (b) delivered releases (substantially in the form of Exhibit D hereto) executed by such Stockholders and certain of their Affiliates with whom the Company has terminated such Contracts (which must provided that no further payments are due, or may become due, under or in respect of any such terminated Contracts). The Company shall also have delivered to Purchaser releases (substantially in the form of Exhibit D) from the Stockholders irrevocably and unconditionally releasing the Company and its Subsidiaries from any and all Liabilities to the Stockholders (other than pursuant to arrangements as specifically contemplated by the terms and conditions hereof).

(h) Non-Competition/Non-Solicitation Agreements. Purchaser shall have received non-competition/non-solicitation agreement substantially in the form of **Exhibit E** hereto as executed and delivered by each of David Hirsch, Mark Alperin, Tim King, Peter Burke, Mark Klosek and David Kujanek.

(i) Escrow Agreement. The Representative and the Escrow Agent shall have entered into and executed the Escrow Agreement.

(j) Real Property. An amended and restated lease, in form and substance reasonably satisfactory to Purchaser, shall have been executed and delivered with respect to the leased property of PFI, LLC in Attleboro, Massachusetts, and the owner of such property and Purchaser shall have entered into an option contract, in form and substance reasonably satisfactory to Purchaser, for the Purchaser's purchase of such real property. Purchaser shall have received evidence of termination of the leases of the Company or a Subsidiary for the leased properties in Taunton, Massachusetts and Pawtucket, Rhode Island.

(k) Approvals. The Company and its Subsidiaries shall have obtained the issuance, reissuance or transfer of all Approvals required under any Law or Order for them to conduct their respective operations and businesses following the Closing.

(l) Deliveries. Each of the Stockholders and the Company, as applicable, shall have delivered to Purchaser:

(i) a certificate of the Company, in form and substance reasonably satisfactory to Purchaser, setting forth the balance of all Company Transaction Expenses, Indebtedness and cash as of the time of Closing so that payment of the Closing Date Company Transaction Expenses, Closing Indebtedness and Purchase Price can be made contemporaneously with the Closing;

(ii) payoff letters or final invoices, in form and substance reasonably satisfactory to Purchaser, in respect of Company Transaction Expenses from the third-party service providers to whom payments shall be made contemporaneously with the Closing in respect of such Company Transaction Expenses (which such payoff letters or final invoices shall, at a minimum, provide that the payment of amounts shown therein will represent payment in full for all fees and expenses payable in connection with the Transactions);

(iii) payoff letters, in form and substance reasonably satisfactory to Purchaser, in respect of Indebtedness of the Company and any of its Subsidiaries to be repaid as of the Closing;

(iv) payoff letters, in form and substance reasonably satisfactory to Purchaser, in respect of the warrants identified on Section 4.2 of the Disclosure Schedule to be canceled as of the Closing; copies of resolutions, certified by the Secretary of the Company and an authorized person of each Stockholder, respectively, as to the authorization of the Reorganization, this Agreement and the Transactions;

(v) stock certificates from each of the Stockholders representing the applicable portion of the Shares owned by such Stockholder, and duly endorsed in blank or accompanied by stock transfer powers and with all requisite stock transfer tax stamps attached and otherwise sufficient to transfer the Shares to Purchaser free and clean of all Liens;

(vi) with respect to the Company and each Subsidiary of the Company, a certificate of good standing dated not more than 10 Business Days prior to the Closing Date from the Secretary of State of its jurisdiction of incorporation or organization and for each state in which the Company or such Subsidiary (as applicable) is qualified to do business as a foreign Person;

(vii) all instruments and documents necessary to release any and all Liens regarding the properties and assets of the Company and any of its Subsidiaries, other than Permitted Liens, including appropriate UCC financing statement amendments (termination statements);

(viii) affidavits of non-foreign status from each of the Stockholders that complies with Section 1445 of the Code; and

(ix) such other documents (e.g., estoppel certificates and lien searches) as Purchaser shall reasonably request.

(m) Investment Restriction and Non-solicitation Letter. Certain of the Stockholders shall have executed and delivered to Purchaser an investment restriction and non-solicitation letter.

7.3 Additional Conditions to Obligations of the Stockholders. The obligations of the Stockholders to effect the Transactions shall be subject to the satisfaction of the following additional conditions:

(a) Representations and Warranties. Each of the representations and warranties of Purchaser set forth in Article V shall be true and correct in all respects.

(b) Agreements and Covenants. Purchaser shall have performed or complied with each obligation, agreement and covenant to be performed or complied with by it under this Agreement at Closing.

(c) Consents. Each of the Purchaser Third Party Consents shall have been received in form and substance reasonably satisfactory to the Company.

(d) Delivery of Purchase Price. Purchaser shall have delivered the Purchase Price to the Representative as specified in Section 2.2(b).

Delivery of Escrow Fund/Representative Fund. Purchaser shall have delivered the Escrow Fund and the Representative Fund to the Escrow Agent as specified in Section 2.2(b).

(e) Purchaser Officer's Certificate. Purchaser shall have delivered to the Company a certificate (as executed by each of (i) the chief executive officer of Purchaser and (ii) the chief financial officer of Purchaser), dated as of the Closing Date, certifying that the conditions set forth in Sections 7.3(a) and (b) have been satisfied.

(f) Escrow Agreement. Purchaser and the Escrow Agent shall have entered into and executed the Escrow Agreement.

ARTICLE VIII - REPRESENTATIVE

8.1 Appointment of Representative. By executing this Agreement, each of the Stockholders irrevocably appoints, authorizes and empowers the Representative to be the exclusive proxy, representative, agent and attorney-in-fact of such Stockholder, with full power of substitution to act in the name, place and stead, to make all decisions and determinations and to act and execute, deliver and receive all documents, instruments and consents on behalf of the Stockholders at any time, in connection with, and that may be necessary or appropriate to accomplish the intent and implement the provisions of, this Agreement and the Related Documents, and to facilitate the consummation of the transactions contemplated hereby and thereby, and in connection with the activities to be performed by or on behalf of such Stockholders under this Agreement and the Related Documents, and each other agreement, document, instrument or certificate referred to herein or therein (including, without limitation, in connection with any and all claims for remedies brought pursuant to this Agreement or the Related Documents). By executing this Agreement, the Representative accepts such appointment, authority and power. Without limiting the generality of the foregoing, the Representative shall have the power to take any of the following actions on behalf of such Stockholders: (i) to give and receive notices, communications and consents under this Agreement and the Related Documents; (ii) to receive and distribute payments pursuant to this Agreement and the Related Documents, including disbursement of the Representative Fund on behalf of the Stockholders; (iii) to waive any provision of this Agreement and the Related Documents; (iv) to assert any claim or institute any Action; (v) to investigate, defend, contest or litigate any Action initiated by any Person against the Representative; (vi) to receive process on behalf of any or all such Stockholders in any such Action; (vii) to negotiate, enter into settlements and compromises of, resolve and comply with Orders of Courts and awards of arbitrators or other third party intermediaries with respect to any disputes arising under this Agreement and the Related Documents; (viii) to agree to any offsets or other additions or subtractions of amounts to be paid under this Agreement and the Related Documents, whether from the Representative Fund or otherwise; and (ix) to make, execute, acknowledge and deliver all such other agreements, guarantees, orders, receipts, endorsements, notices, requests, instructions, certificates, stock powers, letters and other writings, and, in general, to do any and all things and to take any and all action that the Representative, in its sole and absolute discretion, may consider necessary or proper or convenient in connection with or to carry out the activities described in this Section 8.1 and the transactions contemplated hereby.

8.2 Resignation. The Representative may resign by providing thirty (30) days prior written notice to each Stockholder and Purchaser. Upon the resignation of the Representative, a majority-in-interest of the Stockholders shall appoint a replacement Representative to serve in accordance with the terms of this Agreement; provided, however, that such appointment shall be subject to such newly-appointed Representative notifying Purchaser in writing of his, her or its appointment and appropriate contact information for purposes of this Agreement, and Purchaser shall be entitled to rely upon, without independent investigation, the identity of such newly-appointed Representative as set forth in such written notice.

ARTICLE IX - EXPENSES

9.1 Sales Taxes. For purposes hereof, all sales, transfer and similar Taxes (but excluding any Taxes resulting from income received or required to be recognized by any of the recipients of any portion of the Purchase Price), if any, (i) incurred by Purchaser as a result of the consummation of the Transactions shall be payable by Purchaser and (ii) incurred by the Company or any Stockholder as a result of the consummation of the Transactions shall be payable by the Stockholders.

9.2 Expenses.

(a) Except as otherwise provided in this Agreement, all fees, costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation, legal, accounting and investment banking fees ("Transaction Expenses"), shall be paid by the party incurring such Transaction Expenses, whether or not the Transactions are consummated.

(b) All Closing Date Company Transaction Expenses shall be paid as part of the Closing pursuant to instructions provided by the Stockholders and the Company for the payment thereof.

(c) Notwithstanding anything to the contrary set forth in this Agreement, all fees and expenses of the Escrow Agent shall be paid as set forth in the Escrow Agreement.

ARTICLE X - POST-CLOSING INDEMNIFICATION; SURVIVAL

10.1 Stockholders' Indemnification.

(a) Subject to the limitations set forth in this Article X, the Stockholders, severally and jointly, shall indemnify and hold harmless Purchaser, all of its Subsidiaries and Affiliates, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns (the "Purchaser Group"), from and against, and pay to the applicable member of the Purchaser Group the amount of, any and all losses, liabilities, claims, obligations, deficiencies, demands, judgments, damages, interest, fines, penalties, suits, actions, causes of action, assessments, awards, costs and expenses (including the costs of investigation and defense and reasonable attorneys' and other professionals' fees), whether or not involving a third party claim (individually, a "Loss" and, collectively, "Losses"), based upon, attributable to, arising out of or caused by any of the following:

(i) Misrepresentation. Any failure of any of the representations or warranties made by the Company or the Stockholders in this Agreement or in any Company Document to be true and correct.

Nonperformance. Any breach, failure or refusal by or on the part of the Company or the Stockholders to satisfy or perform any covenant, agreement or term of this Agreement or any Company Document required to be satisfied or performed by it.

(ii) Environmental Law. Any condition, act or omission by the Company or any of its Subsidiaries or any predecessor thereof or related to the operations of the Company or any of its Subsidiaries or any predecessor thereof at any real property currently or formerly owned, operated or leased by the Company or any of its Subsidiaries or predecessor thereof that creates any such Losses under or pursuant to any Environmental Law (including any loss of use of property (whether real or personalty) of the Company or any of its Subsidiaries), whether known or unknown, accrued or contingent, to the extent existing on or prior to the Closing Date; provided, however, that any claims for indemnity based on this clause (c) must be brought prior to the sixth anniversary of the Closing Date; and provided, further, that from and after the Closing neither the Purchaser nor any of its Affiliates (including, without limitation, the Company and its Subsidiaries) shall knowingly release, modify or waive the rights, benefits, or covenants, if any, to which the Company or any of its Subsidiaries would be entitled pursuant to (i) that certain Brownfields Covenant Not to Sue Agreement dated April 14, 2006 entitled In the Matter of Preferred Real Estate Investments, Inc. Redevelopment of 34 Forest Street, Attleboro, Massachusetts, or (ii) that certain Purchase and Sale Agreement between Texas Instruments and Preferred Real Estate Investments, Inc, in each case to the extent that such release, modification or waiver shall create additional or increased liability of the Stockholders pursuant to this Section 10.1(a)(iii).

(iii) Expenses/Indebtedness. Any Company Transaction Expenses (other than those Closing Company Transaction Expenses paid as part of the Closing), Indebtedness (other than the Closing Indebtedness paid as part of the Closing) or other fees, commissions or like payments, including, without limitation, those of any Person having acted or claiming to have acted, directly or indirectly, as a broker, finder or financial advisor for the Stockholders or the Company or any of its Subsidiaries in connection with the transactions contemplated by this Agreement (other than Closing Company Transaction Expenses).

(iv) Reorganization. Any Liability, condition or circumstance based upon, relating to, arising from or in connection with the creation, existence, assets, properties, conditions, results, operations and/or cessation of any thereof of Holdings-I, Holdings-II and/or Holdings-III, the occurrence of the Reorganization and the Merger Agreement.

(v) Hazelhurst Lease. Any Liability of the Company or any of its Subsidiaries attributable to or arising from that certain Lease, dated as of July 1, 2002, between Mustang Partners, LLC (and any applicable successor in interest thereto) and PFI, LLC, as amended, supplemented or otherwise modified from time to time (including as set forth in that certain Commercial Sublease, dated as of August 10, 2007, between PFI, LLC and Furniture Systems & Cubicles, Inc., the "Hazelhurst Sublease") relating to the real property located at 10685 Hazelhurst in Houston, Texas (the "Hazelhurst Lease"); provided, however, that the Stockholders' obligations in respect of any such Liability shall be reduced, but not below zero, to the extent of any proceeds received by the Company or any of its Subsidiaries from and after the Closing Date pursuant to the Hazelhurst Sublease. For the avoidance of doubt, it is the intention of the parties that after taking into account (I) all payments of any kind or nature required to be made by the Purchaser or any of its Subsidiaries (including the Company and any of its Subsidiaries) based upon, attributable to, arising out of or caused by the Hazelhurst Lease (including ordinary monthly lease payments) from and after the Closing Date and (II) all payments of any kind or nature received by the Purchaser or any of its Subsidiaries (including the Company and any of its Subsidiaries) pursuant to the Hazelhurst Sublease (including ordinary monthly sublease payments) from and after the Closing Date, the Liability of the Purchaser and its Subsidiaries (including the Company and its Subsidiaries) shall be capped at an aggregate amount equal to zero dollars and no cents (\$0) and the Stockholders shall be responsible for all Liability in excess thereof.

(b) Subject to the limitations set forth in this Article X, the Stockholders, severally and not jointly, shall indemnify and hold harmless each member of the Purchaser Group from and against, and pay to the applicable member of the Purchaser Group the amount of, any and all Losses based upon, attributable to, arising out of or caused by any of the following:

(i) Misrepresentation. Any failure of any of the representations or warranties made by such Stockholder in any Stockholder Document to be true and correct.

(ii) Nonperformance. Any breach, failure or refusal by or on the part of such Stockholder to satisfy or perform any covenant, agreement or term of any Stockholder Document required to be satisfied or performed by such Stockholder.

(c) For purposes of calculating Losses hereunder, any materiality or Material Adverse Effect qualifications in the representations, warranties, covenants and agreements shall be disregarded.

10.2 Purchaser's Indemnification. Subject to the limitations set forth in this Article X, from and after the Closing Date, Purchaser shall indemnify and hold harmless the Stockholders and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns (the "Stockholder Group"), from and against, and pay to the applicable member of the Stockholder Group the amount of, any and all Losses, based upon, attributable to, arising out of or caused by any of the following:

(a) Misrepresentation. Any failure of any of the representations or warranties made by Purchaser in this Agreement or in any Purchaser Document to be true and correct.

(b) Nonperformance. Any breach, failure or refusal by or on the part of Purchaser to satisfy or perform any covenant, agreement or term of this Agreement or any Purchaser Document required to be satisfied or performed by it.

(c) Expenses. Any fees, commissions or like payments, including, without limitation, those of any Person having acted or claiming to have acted, directly or indirectly, as a broker, finder or financial advisor for Purchaser in connection with the Transactions.

10.3 Indemnification Procedures. With respect to each event, occurrence or matter (an "Indemnification Matter") as to which the Stockholder Group or Purchaser Group, as the case may be (the "Indemnitee") is entitled to indemnification from Purchaser or the Stockholders, as the case may be (the "Indemnitor") under Section 10.1 or Section 10.2:

(a) Within ten (10) days after the Indemnitee receives written documents underlying the Indemnification Matter or, if the Indemnification Matter does not involve a third party action, suit, claim or demand, promptly after the Indemnitee first has actual knowledge of the Indemnification Matter, the Indemnitee shall give notice to the Indemnitor of the nature of the Indemnification Matter and the amount demanded or claimed in connection therewith (“Indemnification Notice”), together with copies of any such written documents; provided that no failure to provide Indemnification Notice shall excuse the Indemnitor from, or otherwise release, waive or affect, its obligations under this Article X except to the extent such failure prejudices Indemnitor.

(b) If a third party action, suit, claim or demand is involved and the Indemnitor shall have acknowledged in writing to the Indemnitee its unqualified obligation to indemnify the Indemnitee as provided hereunder, then, upon receipt of the Indemnification Notice, the Indemnitor may elect, at its expense and through counsel of its choice that is not reasonably objected to by the Indemnitee, to promptly assume and have sole control over the litigation, defense or settlement (the “Defense”) of the Indemnification Matter, except that (i) the Indemnitee may, at its option and expense and through counsel of its choice, participate in (but not control) the Defense; (ii) if the Indemnitee is a member of the Purchaser Group and there is a legal conflict of interest between Indemnitor and Indemnitee or additional defenses available to Indemnitee not available to Indemnitor as provided in an opinion of Indemnitee’s counsel which Indemnitee shall provide to Indemnitor, then the Indemnitee may, at its option and through counsel of its choice, and at the Indemnitor’s expense, assume control of its own Defense, provided that the Indemnitor shall be entitled to participate in the Defense at its expense and through counsel of its choice; provided further, however, that the Indemnitee shall only have the right to settle, adjust or compromise the defense with Indemnitor’s written consent, which consent may not be unreasonably withheld or delayed; (iii) the Indemnitor shall not consent to any judgment, compromise or agree to any settlement or permit a default entry of judgment, without the Indemnitee’s prior written consent, which shall not be unreasonably withheld (provided that it shall not be unreasonable to withhold consent unless such judgment, compromise or settlement provide the Indemnitee an unqualified release from all Liability in respect of the applicable Indemnification Matter); and (iv) if the Indemnitor fails to notify the Indemnitee of its election as herein provided or contests its obligation to indemnify the Indemnitee for an applicable Indemnification Matter, does not promptly assume control over the Defense or, after doing so, does not continue to prosecute the Defense diligently and in good faith, the Indemnitee may, at its option and through a single counsel of its choice, but at the Indemnitor’s expense, assume control over the Defense. In any event, the Indemnitor and the Indemnitee shall reasonably cooperate with each other in connection with the Defense including by furnishing reasonable access to documentary or other evidence as is reasonably requested by the other.

(c) All amounts owed by an Indemnitor to an Indemnitee (if any) shall be paid in full (in immediately available funds) within five (5) business days after a final judgment (without further right of appeal) determining the amount owed is rendered, or after a final settlement or agreement as to the amount owed is executed; provided, however, that payment with respect to any Indemnification Matter arising pursuant to Sections 10.1(a)(i)-(iii) and (vi) shall be paid out of the Escrow Fund to the extent such funds remain for payment thereof.

10.4 Limits on Indemnification. The Indemnitor's liability under Section 10.1 and Section 10.2 shall be limited as follows:

(a) Deductible. No amount shall be payable by an Indemnitor under Sections 10.1(a)(i) and 10.1(b)(i) unless and until the aggregate amount of Losses otherwise payable by the Stockholders thereunder exceeds the Deductible. No amount shall be payable by an Indemnitor under Section 10.2(a) unless and until the aggregate amount of Losses otherwise payable by Purchaser thereunder exceeds the Deductible. At such time as the total amount payable by the applicable Indemnitor(s) exceeds the Deductible, in the aggregate, the Indemnitees shall be entitled to be indemnified against the amount of all Losses in excess of the Deductible. The foregoing provisions of this Section 10.4(a) shall not apply to Losses related to the failure to be true and correct of any of the representations and warranties (i) with respect to the Stockholders, set forth in Sections 3.1 (Title to Shares), 3.2 (Authority of Stockholder), 3.3 (Enforceability) and 3.6 (Financial Advisors), (ii) with respect to the Company, set forth in Sections 4.1 (Organization, Good Standing, Qualification and Power), 4.2 (Subsidiaries), 4.4 (Capitalization), 4.5 (Authorization; Binding Obligation), 4.13(b) (Title to Properties), Section 4.14(e)-(k), (o) and (t) (Employee and Benefit Matters), 4.17 (Tax Liabilities), and 4.19 (Brokers), and (iii) with respect to Purchaser, Sections 5.1 (Organization, Good Standing and Qualification), 5.3 (Authorization; Binding Agreement) and 5.8 (Financial Advisors) (collectively, the "Fundamental Representations").

(b) Cap. Any and all indemnification payments required to be made pursuant to Sections 10.1(a)(i) and 10.1(b)(i) shall be capped at an aggregate amount of Four Million Eight Hundred Seventy-Five Thousand Dollars and Zero Cents (\$4,875,000.00) (the "Cap") and any and all indemnification payments required to be made pursuant to Section 10.2(a) shall be capped at an aggregate amount equal to the Cap. The foregoing provisions of this Section 10.4(b) shall not apply to Losses related to the failure to be true and correct of any of the Fundamental Representations. The indemnification obligations of any Stockholder for Losses under this Article X shall not exceed, and shall be capped at, the amount of the Purchase Price received by such Stockholder.

(c) Calculation of Losses. The amount of any Losses for which indemnification is provided to an Indemnitee under this Article X shall be net of any (i) tax benefit actually realized to such Indemnitee based on a calculation of the tax liability of such Indemnitee with and without such Loss, and (ii) any insurance proceeds actually received (in each case, net of any costs of collection or increased premiums relating thereto, provided that the Indemnitee uses commercially reasonable efforts to obtain such proceeds); provided, however, that clause (ii) shall apply only if the effect of such provision does not constitute an impermissible waiver of the insurer's rights of subrogation against the Indemnitee. Purchaser, the Company and the Stockholders agree to treat any indemnification payments received pursuant to this Agreement for all income tax purposes as an adjustment to the Purchase Price.

(d) Consequential and Punitive Damages. Notwithstanding anything to the contrary contained in this Agreement, no Indemnitor shall be liable for consequential, special, incidental or punitive damages to an Indemnitee.

No Contribution or Recourse. The Stockholders shall have no right of contribution or other recourse against the Company or its Subsidiaries or their respective directors, officers, employees, Affiliates, agents, attorneys, representatives, assigns or successors for any claim or demand asserted by any third party in respect of which indemnification may be sought by a member of the Purchaser Group under Section 10.1, it being acknowledged and agreed that the covenants and agreements of the Company are solely for the benefit of the Purchaser Group.

(e) Duplicate Losses. No member of the Purchaser Group shall be entitled to indemnification of amounts pursuant to Section 10.1 to the extent such Losses were included in the calculation of Closing Working Capital for purposes of determining the adjustment (if any) pursuant to Section 2.5.

10.5 Survival of Representations and Warranties. Except as set forth in this Agreement, any Related Document, any Company Documents, Stockholder Documents or Purchaser Document, no party hereto makes any representation or warranty to any other party hereto. All representations and warranties of the Stockholders, the Company and Purchaser contained in this Agreement, any Related Document, any Company Documents, Stockholder Documents or Purchaser Documents shall survive the Closing through and including the first (1st) anniversary of the Closing Date; provided, however, that the Fundamental Representations of each thereof shall survive the Closing until 90 days following the expiration of the applicable statute of limitations with respect to the particular matter that is the subject matter thereof; provided, further, however, that any obligations hereunder shall not terminate with respect to any Losses as to which the Indemnitee shall have given notice to the Indemnitor before the termination of the applicable survival period therefor.

10.6 Tax Matters.

(a) Tax Indemnification. The Stockholders hereby agree, jointly and severally, to be liable for and to indemnify and hold the Purchaser Group harmless from and against, and pay to the applicable member of the Purchaser Group the amount of any and all Losses in respect of (i) all Taxes of the Company and its Subsidiaries (or any predecessor thereof) (A) for any taxable period ending on or before the Closing Date, and (B) for the portion of any Straddle Period ending at the close of business on the Closing Date (determined as provided in Section 10.6(c)); (ii) any and all Taxes imposed on any member of a consolidated, combined or unitary group of which the Company or any of its Subsidiaries (or any predecessor thereof) is or was a member on or prior to the Closing Date, by reason of the liability of the Company or any Subsidiary (or any predecessor thereof), pursuant to Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under state, local or foreign Law); and (iii) the failure of any of the representations and warranties contained in Section 4.17 to be true and correct in all respects or the failure to perform any covenant contained in this Agreement with respect to Taxes; provided that Purchaser has complied with Section 10.6(b)(i).

(b) Filing of Tax Returns; Payment of Taxes.

(i) Purchaser shall cause to be timely filed all Tax Returns required to be filed by the Company and its Subsidiaries for any taxable period ending after the Closing Date and, subject to the rights to payment from the Stockholders under Section 10.6(b)(ii), pay or cause to be paid all Taxes shown due thereon. Purchaser shall cause such Tax Returns to be filed on a basis consistent with past tax periods of the Company and its Subsidiaries (other than the deconsolidation of the Company and its Subsidiaries from a consolidated group including certain Stockholders and their Affiliates for Tax Purposes) unless otherwise required by applicable Laws. HMK Enterprises, Inc. shall cause to be timely filed all Tax Returns (including, without limitation, as part of its consolidated combined Tax Return) required to be filed with respect to the Company and its Subsidiaries for any taxable period ending on or before the Closing Date and pay or cause to be paid all Taxes shown due thereon.

(ii) Not later than ten days prior to the due date for the payment of Taxes on any Tax Returns which Purchaser has the responsibility to cause to be filed pursuant to Section 10.6(b)(i), the Stockholders shall pay to Purchaser the amount of Taxes, as reasonably determined by Purchaser, owed by the Stockholders pursuant to the provisions of Section 10.6(a). No payment pursuant to this Section 10.6(b)(ii) shall excuse the Stockholders from its indemnification obligations pursuant to Section 10.6(a) if the amount of Taxes as ultimately determined (on audit or otherwise) for the periods covered by such Tax Returns exceeds the amount of the Stockholders' payment under this Section 10.6(b)(ii). The Company and its Subsidiaries shall reasonably cooperate with HMK Enterprises, Inc. so that it may prepare and file any Tax Returns required to be filed by it under Section 10.6(b)(i). HMK Enterprises, Inc. shall provide Purchaser, on behalf of the Company and its Subsidiaries, with a reasonable opportunity (not later than five (5) Business Days prior to the filing due date therefor) to review the content of any Tax Returns required to be filed by it under Section 10.6(b)(i) to the extent of any elections or information provided therein for the Company and its Subsidiaries.

(c) Straddle Period Tax Allocation. The Company will, unless prohibited by applicable Law, close the taxable period of the Company and its Subsidiaries as of the close of business on the Closing Date. If applicable Law does not permit the Company or a Subsidiary to close its taxable year on the Closing Date or in any case in which a Tax is assessed with respect to a taxable period which includes the Closing Date (but does not begin or end on that day) (a "Straddle Period"), the Taxes, if any, attributable to a Straddle Period shall be allocated (i) to the Stockholders for the period up to and including the close of business on the Closing Date, and (ii) to Purchaser for the period subsequent to the Closing Date. Any allocation of income or deductions required to determine any Taxes attributable to a Straddle Period shall be made by means of a closing of the books and records of the Company and its Subsidiaries as of the close of the Closing Date, provided that exemptions, allowances or deductions that are calculated on an annual basis (including, but not limited to, depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period after the Closing Date in proportion to the number of days in each such period.

(d) Tax Audits.

(i) If notice of any legal proceeding with respect to Taxes of the Company or any of its Subsidiaries (a "Tax Claim") shall be received by any party for which another party may reasonably be expected to be liable pursuant to Section 10.6(a), the notified party shall notify such other party in writing of such Tax Claim; provided, however, that the failure of the notified party to give the other party notice as provided herein shall not relieve such failing party of its obligations under this Section 10.6 except to the extent that the other party is actually prejudiced thereby.

(ii) Purchaser shall have the right, at the expense of the Stockholders to the extent such Tax Claim is subject to indemnification by the Stockholders pursuant to Section 10.6(a) hereof, to represent the interests of the Company and its Subsidiaries in any Tax Claim; provided, that with respect to a Tax Claim relating exclusively to taxable periods ending on or before the Closing Date, Purchaser shall not settle such claim without the consent of the Stockholders, which consent shall not be unreasonably withheld.

(e) Disputes. Any dispute as to any matter covered by this Section 10.6 shall be resolved by an independent accounting firm mutually acceptable to the Representative and the Purchaser. The fees and expenses of such accounting firm shall be borne equally by the Stockholders, on the one hand, and the Purchaser on the other. If any dispute with respect to a Tax Return is not resolved prior to the due date of such Tax Return, such Tax Return shall be filed in the manner which the party responsible for preparing such Tax Return deems correct.

(f) Time Limits. Any claim for indemnity under this Section 10.6 may be made at any time prior to ninety (90) days after the expiration of the applicable Tax statute of limitations with respect to the relevant taxable period (including all periods of extension, whether automatic or permissive).

(g) Refunds. Any Tax refunds that are received by the Company or any of its Subsidiaries attributable or relating to Taxes of the Company or its Subsidiaries for Tax periods or portions thereof ending on or before the Closing Date shall be for the account of the Stockholders, and Purchaser shall pay over to the Representative (for the benefit of the Stockholders *pro rata*) any such refund within ten (10) Business Days after receipt thereof.

(h) Exclusivity. The indemnification provided for in this Section 10.6 shall be the sole remedy for any claim in respect of Taxes, including any claim arising out of or relating to a breach of Section 4.17. In the event of a conflict between the provisions of this Section 10.6, on the one hand, and the provisions of Sections 10.1 through 10.5, on the other, the provisions of this Section 10.6 shall control.

10.7 Sole and Exclusive Remedy. Except for claims for intentional acts of fraud by the Company or any Stockholder, from and after the Closing, the sole and exclusive remedy for all Losses relating to this Agreement or the transactions contemplated hereby shall be indemnification under this Article X. Notwithstanding the foregoing, this Section 10.7 shall not (i) operate to interfere with or impede the operation under Section 2.5 or this Article X for the resolution of certain disputes and payment of funds in respect thereof or (ii) limit the rights of the parties to seek non-monetary equitable remedies (including specific performance or injunctive relief) pursuant to Section 6.5 hereof.

ARTICLE XI - MISCELLANEOUS

11.1 Entire Agreement. This Agreement, together with its schedules and exhibits, the Company Documents, Stockholder Documents, Purchaser Documents, the Related Documents and all other ancillary agreements, documents and instruments to be delivered in connection herewith, contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements, either oral or written.

11.2 Amendment and Waiver. This Agreement may be amended only by an instrument in writing signed by duly authorized representatives of Purchaser and the Representative. Any party hereto may extend the time for the performance of any of the obligations or other acts required hereunder or waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby. No action taken, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement.

11.3 Assignment. No party hereto shall assign or otherwise transfer this Agreement or any of its rights hereunder, or delegate any of its obligations hereunder, without the prior written consent of the other parties hereto; provided, however, that Purchaser may assign this Agreement and any or all rights or obligations hereunder (including, without limitation, the right to seek indemnification hereunder) to any Person from which it has borrowed money or any Person to which Purchaser or any of its Affiliates proposes to sell all or substantially all of the assets relating to the business of the Company and/or the Subsidiaries (provided that Purchaser remains liable for its obligations hereunder). Subject to the foregoing, this Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon the parties hereto, and each of their respective successors, heirs and permitted assigns.

11.4 Waivers. No waiver by any party, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of the party's rights under such provisions at any other time or a waiver of the party's rights under any other provision of this Agreement. No failure by any party to take any action against any breach of this Agreement or default by another party shall constitute a waiver of the former party's right to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by the other party. To be effective any waiver must be in writing and signed by the waiving party.

11.5 Governing Law; Venue; Waiver of Jury Trial. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, without giving effect to any choice of law or conflict of law provision or rule that would cause application of the laws of any jurisdiction other than the Commonwealth of Massachusetts. Except as otherwise provided under Sections 2.5 and 10.6(e), each of the parties to this Agreement irrevocably submits to the non-exclusive jurisdiction of the Courts of the Commonwealth of Massachusetts, for the purpose of any Action arising out of or relating to this Agreement. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such Court or any defense of inconvenient forum for the maintenance of such Action. Each of the parties to this Agreement consents to service of process by delivery pursuant to Section 11.9 hereof and agrees that a final judgment in any Action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Each of the parties hereto waives any right to trial by jury with respect to any action related to or arising out of this Agreement or Related Document or any transaction contemplated hereby.

If to the Company: Vertex Corporate Holdings, Inc.
c/o PFI, LLC d/b/a Vertex Fasteners
525 Pleasant Street
Attleboro, MA 02703
Attention: David M. Hirsch, CEO

With copies to: Roberts, Carroll, Feldstein & Peirce
10 Weybosset Street – 8th Floor
Providence, RI 02903
Attention: Edward D. Feldstein, Esq.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Attention: Daniel H. Follansbee, Esq.

If to Representative: Watermill-Vertex Enterprises, LLC
c/o The Watermill Group
One Cranberry Hill
750 Marrett Road, Suite 401
Lexington, MA 02421

With copies to: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Attention: Daniel H. Follansbee, Esq.

or to such other address as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. All such notices or communications shall be deemed to be received (a) in the case of personal delivery, on the date of such delivery, (b) in the case of nationally-recognized overnight courier, on the next Business Day after the date when sent, and (c) in the case of mailing, on the third Business Day following the date on which the piece of mail containing such communication was posted.

11.9 Representation by Counsel. Each party hereto acknowledges that it has been advised by legal and any other counsel retained by such party in its sole discretion. Each party acknowledges that such party has had a full opportunity to review this Agreement and all related exhibits, schedules and ancillary agreements and to negotiate any and all such documents in its sole discretion, without any undue influence by any other party hereto or any third party.

11.10 Construction. The parties have participated jointly in the negotiations and drafting of this Agreement and in the event of any ambiguity or question of intent or interpretation, no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Headings. The article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

11.11 Counterparts. This Agreement may be executed in two or more counterparts, any one of which need not contain the signatures of all parties, but all of which counterparts when taken together will constitute one and the same agreement. Facsimile signatures shall constitute original signatures for all purposes of this Agreement.

[Remainder of Page Intentionally Left Blank]

NOW, THEREFORE, the parties hereto have executed this Stock Purchase Agreement by their duly authorized representatives as of the date first written above.

PURCHASER:

DXP ENTERPRISES, INC.

By: /s/ David R. Little
Name: David R. Little
Title: Chief Executive Officer

COMPANY:

VERTEX CORPORATE HOLDINGS, INC.

By: /s/ Steven E. Karol
Name: Steven E. Karol
Title:

NOW, THEREFORE, the parties hereto have executed this Stock Purchase Agreement by their duly authorized representatives as of the date first written above.

REPRESENTATIVE:

WATERMILL-VERTEX ENTERPRISES, LLC

By: /s/ Steven E. Karol

Name: Steven E. Karol

Title:

STOCKHOLDERS:

WATERMILL-VERTEX PARTNERS, L.P.

By: /s/ Steven E. Karol

Name: Steven E. Karol

Title:

HMK Enterprises, Inc.

By: /s/ Steven E. Karol

Name: Steven E. Karol

Title:

/s/ Steven E. Karol

Steven E. Karol

The SEK Limited Partnership

By: /s/ Steven E. Karol

Name: Steven E. Karol

Title:

PALOMINO PARTNERS, LLC

By: /s/ David M. Hirsch

Name: David M. Hirsch

Title: President

/s/ Robert Ackerman

Robert Ackerman

/s/ Monte Haymon

Monte Haymon

NOW, THEREFORE, the parties hereto have executed this Stock Purchase Agreement by their duly authorized representatives as of the date first written above.

/s/ Timothy Eburne
Timothy Eburne

/s/ Jane Karol Howard Cooper
Jane Karol and Howard Cooper, as Joint Tenants with Right of Survivorship

/s/ Lisa Velardo
Lisa Velardo

/s/ Benjamin P. Procter
Benjamin P. Procter

/s/ Peter D'Entremont
Peter D'Entremont

/s/ Brett L'Esperance
Brett L'Esperane

CREDIT AGREEMENT

dated as of August 28, 2008

among

DXP ENTERPRISES, INC.

The Lenders From Time to Time Party Hereto

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Lead Arranger and Administrative Agent**

and

**BANK OF AMERICA, N.A.,
as Syndication Agent**

SCHEDULES AND EXHIBITS:

Exhibit A -- Assignment and Assumption

Exhibit B -- Compliance Certificate

Exhibit C-1 -- Revolving Note

Exhibit C-2 -- Swingline Note

Exhibit C-3 -- Term Note

Schedule 2.01 -- Commitments

Schedule 3.12 -- Subsidiaries

Schedule 6.01 -- Existing Indebtedness

Schedule 6.02 -- Existing Liens

Schedule 6.04 -- Existing Investments

CREDIT AGREEMENT

CREDIT AGREEMENT (as amended, modified, restated, supplemented and in effect from time to time, herein called this “Agreement”) dated as of August 28, 2008 (the “Effective Date”), among DXP ENTERPRISES, INC., a Texas corporation, the LENDERS party hereto, BANK OF AMERICA, N.A., as Syndication Agent, and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Lead Arranger and Administrative Agent for the Lenders.

ARTICLE I

Definitions

The parties hereto agree as follows:

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

“ABR”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Accounts” shall have the meaning assigned to it in the Uniform Commercial Code enacted in the State of Texas in force on the Effective Date.

“Acquisition” means any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which the Borrower or any of its Subsidiaries (i) acquires any going business or all or substantially all of the assets of any firm, corporation or limited liability company, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company.

“Additional Collateral” shall have the meaning ascribed to such term in Section 5.03(b) hereof.

“Additional Collateral Event” shall have the meaning ascribed to such term in Section 5.03(b) hereof.

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means Wells Fargo Bank, National Association, in its capacity as administrative agent for the Lenders hereunder, and its permitted successors in that capacity.

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

“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.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

“Applicable Percentage” means, with respect to any Revolving Lender, the percentage of the total Revolving Commitments represented by such Lender’s Revolving Commitment. If the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments.

“Applicable Rate” means, for any day with respect to any ABR Loan or Eurodollar Loan or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Revolving Loan ABR Spread”, “Revolving Loan Eurodollar Spread”, “Term Loan ABR Spread”, “Term Loan Eurodollar Spread” or “Commitment Fee Rate”, as the case may be, based upon the Leverage Ratio as of the most recent determination date; but until September 30, 2008 the Revolving Loan Eurodollar Spread shall be 1.75%, the Revolving Loan ABR Spread shall be 0.25% and the Commitment Fee Rate shall be 0.25% and until delivery of the Borrower’s consolidated financial statements as of December 31, 2008, the Term Loan Eurodollar Spread shall be 2.50% and the Term Loan ABR Spread shall be 1.00%:

Leverage Ratio	Revolving Loan ABR Spread	Revolving Loan Eurodollar Spread	Term Loan ABR Spread	Term Loan Eurodollar Spread	Commitment Fee Rate
Category 1: greater than or equal to 3.00 to 1.00	0.50%	2.00%	1.00%	2.50%	0.30%
Category 2: greater than or equal to 2.50 to 1.00 but less than 3.00 to 1.00	0.25%	1.75%	1.00%	2.50%	0.25%
Category 3: greater than or equal to 2.25 to 1.00 but less than 2.50 to 1.00	0.00%	1.50%	0.75%	2.25%	0.25%
Category 4: greater than or equal to 2.00 to 1.00 but less than 2.25 to 1.00	0.00%	1.50%	0.50%	2.00%	0.25%
Category 5: greater than or equal to 1.50 to 1.00 but less than 2.00 to 1.00	0.00%	1.25%	0.50%	2.00%	0.20%
Category 6: less than 1.50 to 1.00	0.00%	1.00%	0.50%	2.00%	0.15%

For purposes of the foregoing, (i) the Leverage Ratio shall be determined as of the end of each fiscal quarter of the Borrower’s fiscal year based upon the Borrower’s consolidated financial statements delivered pursuant to Sections 5.01(a) or (b) and (ii) each change in the Applicable Rate resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the date of delivery to the Administrative Agent of such consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change; but the Leverage Ratio shall be deemed to be in Category 1 at any time that an Event of Default has occurred which is continuing or at the request of the Required Lenders if the Borrower fails to timely deliver the consolidated financial statements required to be delivered by it pursuant to Sections 5.01(a) or (b), during the period from the deadline for delivery thereof until such consolidated financial statements are received.

“Approved Fund” has the meaning assigned to such term in Section 9.04(b).

“Asset Coverage Ratio” means, as of any day, the ratio of (a) the sum of (i) eighty-five percent (85%) of Net Accounts Receivable of the Borrower and its Subsidiaries as of the effective date of the most recent financial statement delivered by Borrower pursuant to Sections 5.01(a) or (b) plus sixty percent (60%) of Net Inventory of the Borrower and its Subsidiaries as of the effective date of the most recent financial statement delivered by Borrower pursuant to Sections 5.01(a) or (b) plus fifty percent (50%) of the Net Book Value of furniture, fixtures and equipment of the Borrower and its Subsidiaries as of the effective date of the most recent financial statement delivered by Borrower pursuant to Sections 5.01(a) or (b) to (b) the aggregate outstanding amount of the Revolving Exposure as of the date of calculation of the Asset Coverage Ratio.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other substantially similar form approved by the Administrative Agent.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America and any successor entity performing similar functions.

“Borrower” means DXP ENTERPRISES, INC., a Texas corporation.

“Borrowing” means (a) Loans of the same Class and Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect and (b) a Swingline Loan.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in Houston, Texas are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar 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 Borrower and its consolidated Subsidiaries that are (or would be) set forth in a consolidated statement of cash flows of Borrower for such period prepared in accordance with GAAP and (b) Capital Lease Obligations incurred by the Borrower and its consolidated Subsidiaries during such period, but excluding expenditures for the restoration, repair or replacement of any fixed or capital asset which was destroyed or damaged, in whole or in part, to the extent financed by the proceeds of an insurance policy maintained by such Person.

“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.

“Ceiling Rate” means, on any day, the maximum nonusurious rate of interest permitted for that day by whichever of applicable federal or Texas (or any jurisdiction whose usury laws are deemed to apply to the Notes or any other Loan Documents despite the intention and desire of the parties to apply the usury laws of the State of Texas) laws permits the higher interest rate, stated as a rate per annum. On each day, if any, that the Texas Finance Code establishes the Ceiling Rate, the Ceiling Rate shall be the “weekly ceiling” (as defined in the Texas Finance Code) for that day. Administrative Agent may from time to time, as to current and future balances, implement any other ceiling under the Texas Finance Code by notice to the Borrower, if and to the extent permitted by the Texas Finance Code. Without notice to the Borrower or any other Person, the Ceiling Rate shall automatically fluctuate upward and downward as and in the amount by which such maximum nonusurious rate of interest permitted by applicable law fluctuates.

“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 2.14(b), by any lending office of such Lender or by such Lender’s or the Issuing Bank’s holding company, if any) with any binding 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.

“Change of Control” means a change resulting when any Unrelated Person or any Unrelated Persons acting together which would constitute a Group together with any Affiliates or Related Persons thereof (in each case also constituting Unrelated Persons) shall at any time either (i) Beneficially Own more than 50% of the aggregate voting power of all classes of Voting Stock of Borrower or (ii) succeed in having sufficient of its or their nominees elected to the Board of Directors of Borrower such that such nominees, when added to any existing directors remaining on the Board of Directors of Borrower after such election who is an Affiliate or Related Person of such Person or Group, shall constitute a majority of the Board of Directors of Borrower. As used herein (a) “Beneficially Own” means “beneficially own” as defined in Rule 13d-3 of the Securities Exchange Act of 1934, as amended, or any successor provision thereto; provided, however, that, for purposes of this definition, a Person shall not be deemed to Beneficially Own securities tendered pursuant to a tender or exchange offer made by or on behalf of such Person or any of such Person’s Affiliates until such tendered securities are accepted for purchase or exchange; (b) “David Little Group” means David Little or his estate, any family member, relative (including spouses and former spouses of relatives, descendants and their spouses and former spouses) or heir of David Little, any entity controlled by any of such persons or any trust for the benefit of any of such Persons; (c) “Group” means a “group” for purposes of Section 13(d) of the Securities Exchange Act of 1934, as amended; (d) “Unrelated Person” means at any time any Person other than Borrower or any Subsidiary of Borrower and other than any trust for any employee benefit plan of Borrower or any Subsidiary of Borrower and other than any one or more Person(s) in the David Little Group; (e) “Related Person” of any Person shall mean any other Person owning (1) 5% or more of the outstanding common stock of such Person or (2) 5% or more of the Voting Stock of such Person; and (f) “Voting Stock” of any Person shall mean capital stock of such Person which ordinarily has voting power for the election of directors (or persons performing similar functions) of such Person, whether at all times or only so long as no senior class of securities has such voting power by reason of any contingency.

“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Term Loans or Swingline Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Commitment or Term Loan Commitment.

“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.

“Commitment” means a Revolving Commitment or the Term Loan Commitment, or any combination thereof (as the context requires).

“Communication” shall have the meaning assigned to such term in Section 9.01(b) hereof.

“Contribution Agreement” means that certain Contribution Agreement dated concurrently herewith by and among Borrower and the current Subsidiaries of Borrower (other than Foreign Subsidiaries), as the same may be amended, modified, supplemented and restated--and joined in pursuant to a joinder agreement--from time to time.

“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. “Controlling” and “Controlled” have meanings correlative thereto.

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

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

“EBITDA” means, without duplication, for any period the consolidated net income (excluding any extraordinary gains or losses) of the Borrower and its Subsidiaries plus, to the extent deducted in calculating consolidated net income, depreciation, amortization, other non-cash items and non-recurring items, Interest Expense, and tax expense for taxes based on income and minus, to the extent added in calculating consolidated net income, any non-cash items and non-recurring items; provided that, if the Borrower or any of its Subsidiaries acquires the Equity Interests or assets of any Person during such period under circumstances permitted under Section 6.15 hereof, EBITDA shall be adjusted to give pro forma effect to such acquisition assuming that such transaction had occurred on the first day of such period and provided further that, if the Borrower or any of its Subsidiaries divests the Equity Interests or assets of any Person during such period under circumstances permitted under this Agreement, EBITDA shall be adjusted to give pro forma effect to such divestiture assuming that such transaction had occurred on the first day of such period. Add-backs allowed pursuant to Article 11, Regulation S-X, of the Securities Act of 1933 will also be included in the calculation of EBITDA.

“ECF Percentage” means (i) until such time as the Leverage Ratio is less than 2.50 to 1.00 for a period of four (4) consecutive fiscal quarters, 50% and (ii) at all times thereafter, 0%.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any other Loan Party 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.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, or any warrants, options or other rights to acquire such interests.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time and the regulations and rulings issued thereunder.

“ERISA Affiliate” means any Person that, together with the Borrower or any other Loan Party, 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, Section 414(m) of the Code.

“ERISA Event” means (a) the occurrence of a “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan unless the 30 day notice period requirement with respect to such event has been waived or the requirements of subsection (1) of Section 4043(b) of ERISA (without regard to subsection (2) of such Section) are met with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of a Plan, and an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such Plan within the following 30 days; (b) for plan years beginning prior to 2008, 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 of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any other Loan Party or any of their ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any other Loan Party or any of their ERISA Affiliates 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 Borrower or any other Loan Party or any of their 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 Borrower or any other Loan Party or any of their ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Borrower or any other Loan Party or any of their ERISA Affiliates 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.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” has the meaning assigned to such term in Article VII.

“Excess Cash Flow” means, for any period, EBITDA for such period minus Interest Expense for such period paid in cash, scheduled principal payments on Indebtedness for such period, income tax expense for such period paid in cash, and Capital Expenditures by Borrower for such period.

“Excluded Assets” means (i) leasehold estates, (ii) motor vehicles and (iii) real property owned by Borrower or any of its Subsidiaries as of the date hereof.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, the Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise taxes (however denominated) imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or as a result of any connection between the recipient and the jurisdiction imposing such tax (other than any such connection arising solely from such recipient’s having executed, delivered or performed its obligations or received a payment under this Agreement or any other Loan Document), (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.18(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 2.16(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16(a); provided that with respect to an additional interest in a Loan acquired by a Foreign Lender as an assignee, such Foreign Lender shall be entitled to receive additional amounts from the Borrower pursuant to Section 2.16(a) with respect to such additional interest only to the extent that the assignor was entitled, at the time of such assignment, to receive additional amounts from the Borrower pursuant to Section 2.16(a).

“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by the Administrative Agent.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

“Fixed Charge Coverage Ratio” means, as of any day, the ratio of (a) EBITDA for the 12 months ending on such date minus Capital Expenditures for such period (excluding Acquisitions) minus tax expense paid in cash for taxes based on income to (b) Fixed Charges for such 12-month period, determined in each case on a consolidated basis for Borrower and its Subsidiaries.

“Fixed Charges” means (without duplication), for any period, the aggregate of Interest Expense, scheduled principal payments in respect of long term debt, and the current portion of Capital Lease Obligations for such period.

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

“Foreign Subsidiaries” means Subsidiaries of the Borrower which are organized under the laws of a jurisdiction other than the United States of America, any State of the United States or any political subdivision thereof.

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

“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.

“Guaranty” means that certain Guaranty dated as of September 10, 2007 executed by each Subsidiary of Borrower (other than Foreign Subsidiaries) in favor of the Administrative Agent (as joined in pursuant to the Joinder Agreement) and any and all other guaranties now or hereafter executed in favor of the Administrative Agent relating to the Obligations hereunder and the other Loan Documents (including, without limitation, by way of a joinder), as any of them may from time to time be amended, modified, restated or supplemented.

“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.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding earn-out payments and excluding current Accounts payable incurred in the ordinary course of business), (e) 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, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty and (i) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances. 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.

“Interest Election Request” means a request by the Borrower to convert or continue a Revolving Borrowing or Term Loan Borrowing in accordance with Section 2.06.

“Interest Expense” means, for any period, total interest expense accruing on Indebtedness of the Borrower and its Subsidiaries, on a consolidated basis, during such period (including interest expense attributable to Capitalized Lease Obligations and amounts attributable to interest incurred under Swap Agreements), determined in accordance with GAAP. For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by the Borrower or any of its Subsidiaries with respect to interest rate Swap Agreements.

“Interest Payment Date” means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each calendar month, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period, and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid.

“Interest Period” means with respect to any Eurodollar 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 Borrower may elect; provided, that (i) 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 immediately preceding Business Day, and (ii) 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. 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” shall have the meaning assigned to it in the Uniform Commercial Code enacted in the State of Texas in force on the Effective Date.

“Issuing Bank” means Wells Fargo Bank, National Association, in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.04(i). The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Joinder Agreement” means that certain Joinder Agreement dated concurrently herewith executed by Target and the Subsidiaries of Target as of the date hereof in favor of the Administrative Agent.

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

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“Leverage Ratio” means, as of any day, the ratio of (a) Indebtedness as of such date to (b) EBITDA for the 12 months then ended, determined in each case on a consolidated basis for Borrower and its Subsidiaries.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the rate appearing on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the “LIBO Rate” with respect to such Eurodollar Borrowing for such Interest Period shall be the rate (rounded upwards, if necessary, to the next 1/100 of 1%) at which dollar deposits of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market 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, collectively, this Agreement, the Notes, the Guaranty, the Security Documents, the Notice of Entire Agreement, the Contribution Agreement, any subordination agreement relating to Subordinated Debt, all instruments, certificates and agreements now or hereafter executed or delivered to the Administrative Agent or any Lender pursuant to any of the foregoing or in connection with the obligations under this Agreement and the other Loan Documents or any commitment regarding such obligations, and all amendments, modifications, renewals, extensions, increases and rearrangements of, and substitutions for, any of the foregoing.

“Loan Parties” means the Borrower and each of its Subsidiaries (other than Foreign Subsidiaries).

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or condition, financial or otherwise, of the Borrower and its Subsidiaries taken as a whole, (b) the ability of any Loan Party to perform any of its obligations under any Loan Document or (c) the rights of or benefits available to the Lenders under any Loan Document.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and any other Loan Party in an aggregate principal amount exceeding \$1,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that would be required to be paid if such Swap Agreement were terminated at such time.

“Maximum Accordion Amount” means \$190,000,000 plus the lesser of (a) \$10,000,000 or (b) the amount of any principal payments made on the Term Loans after the date hereof.

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

“Mortgage” means a mortgage, deed of trust, assignment of leases and rents, leasehold mortgage or other security document granting a Lien on any Mortgaged Property to secure the Obligations. Each Mortgage shall be satisfactory in form and substance to the Administrative Agent.

“Mortgaged Property” means each parcel of real property and improvements thereto with respect to which a Mortgage is granted pursuant hereto. The Mortgaged Property shall not include any Excluded Assets.

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

“Net Accounts Receivable” means the book value of Accounts minus allowances for doubtful Accounts, determined in accordance with GAAP.

“Net Inventory” means the book value of Inventory minus the LIFO allowance, determined in accordance with GAAP.

“Net Book Value” means cost minus accumulated depreciation.

“Net Proceeds” means, with respect to any Prepayment 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, net of (b) the sum of (i) all reasonable fees and out of pocket expenses (including reasonable broker’s fees or commissions, legal fees, survey costs, title insurance premiums, recording charges and transfer or similar taxes) paid by the Borrower or any of its Subsidiaries to third parties (other than Affiliates) in connection with such event, (ii) in the case of a sale, transfer or other disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), the amount of all payments required to be made by the Borrower and its Subsidiaries as a result of such event to repay Indebtedness (other than Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event, and (iii) the amount of all taxes paid (or reasonably estimated to be payable) by the Borrower and its Subsidiaries, and the amount of any reserves established by the Borrower and its Subsidiaries to fund contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year and that are directly attributable to such event (as determined reasonably and in good faith by a Financial Officer of the Borrower).

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 2.18(c) hereof.

“Notes” shall have the meaning assigned to such term in Section 2.02(a) hereof.

“Notice” shall have the meaning assigned to such term in Section 9.01(b) hereof.

“Notice of Entire Agreement” means a notice of entire agreement executed by Borrower, each other Loan Party and the Administrative Agent, as the same may from time to time be amended, modified, supplemented or restated.

“Obligations” means, as at any date of determination thereof, the sum of the following: (i) the aggregate principal amount of Loans outstanding hereunder, plus (ii) the aggregate amount of the LC Exposure, plus (iii) all other liabilities, obligations and indebtedness under any Loan Document of Borrower or any other Loan Party.

“Other Taxes” means any and all present 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.

“Participant” has the meaning set forth in Section 9.04(c).

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

“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) landlord’s, 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 30 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 clause (k) of Article VII; 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 Borrower or other Loan Party; provided that the term “Permitted Encumbrances” shall not include any Lien securing Indebtedness.

“Permitted Investments” means:

(g) 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;

(h) 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;

(i) 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 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 which has a combined capital and surplus and undivided profits of not less than \$500,000,000;

(j) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above; and

(k) money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody’s and (iii) have portfolio assets of at least \$5,000,000,000.

“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 Borrower or other Loan Party or any of their ERISA Affiliates 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.

“Platform” shall have the meaning assigned to such term in Section 9.01(b) hereof.

“Prepayment Event” means:

(a) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of the Borrower or any of its Subsidiaries, other than dispositions permitted under Section 6.05 (other than clause (c) of Section 6.05); or

(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 the Borrower or any of its Subsidiaries, but only to the extent that the Net Proceeds therefrom have not been applied to repair, restore or replace such property or asset within 365 days after such event.

“Prime Rate” means, on any day, the prime rate of Wells Fargo Bank, National Association in effect for that day at the principal offices of Wells Fargo Bank, National Association in San Francisco, California. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate or a favored rate, and Administrative Agent and each Lender disclaims any statement, representation or warranty to the contrary. Administrative Agent, any Lender or Wells Fargo Bank, National Association may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

“Prior Agreement” shall have the meaning assigned to such term in Section 9.15 hereof.

“Purchase Agreement” shall have the meaning ascribed to such term in Section 4.01(j) hereof.

“Register” has the meaning set forth in Section 9.04(b).

“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.

“Required Lenders” means two or more Lenders having Revolving Exposures, Term Loans and unused Commitments representing greater than 50% of the sum of the total Revolving Exposures, outstanding Term Loans and unused Commitments at such time.

“Restricted Payment” means (i) any payment or prepayment of any Subordinated Debt or (ii) any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or other Loan Party, 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 Equity Interests in the Borrower or other Loan Party or any option, warrant or other right to acquire any such Equity Interests in the Borrower or other Loan Party.

“Revolving Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Revolving Maturity Date and the date of termination of the Revolving Commitments.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Revolving Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. The initial aggregate amount of the Lenders’ Revolving Commitments is \$150,000,000.

“Revolving Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure and Swingline Exposure at such time.

“Revolving Lender” means a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

“Revolving Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Revolving Maturity Date” means August 11, 2013.

“S&P” means Standard & Poor’s Ratings Group.

“Security Agreements” means, collectively, (i) the Security Agreements dated as of September 10, 2007 executed between Borrower and each of its Subsidiaries (other than Foreign Subsidiaries), respectively, and Administrative Agent (as joined in pursuant to the Joinder Agreement) and (ii) any and all security agreements hereafter executed in favor of Administrative Agent and securing all or any part of the Obligations (including, without limitation, by way of a joinder), as any of them may from time to time be amended, modified, restated or supplemented.

“Security Documents” means, collectively, the Mortgages, the Security Agreements and any and all other agreements, deeds of trust, mortgages, chattel mortgages, security agreements, pledges, guaranties, assignments of production or proceeds of production, assignments of income, assignments of contract rights, assignments of partnership interest, assignments of royalty interests, assignments of performance, completion or surety bonds, standby agreements, subordination agreements, undertakings and other instruments and financing statements now or hereafter executed and delivered as security for the Obligations, as any of them may from time to time be amended, modified, restated or supplemented.

“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 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. Eurodollar Loans shall be deemed to constitute Eurocurrency fundings 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” means all Indebtedness of a Person which has been subordinated on terms and conditions satisfactory to the Required Lenders, in their sole discretion, to all of the Obligations, whether now existing or hereafter incurred. Indebtedness shall not be considered as “Subordinated Debt” unless and until the Administrative Agent shall have received copies of the documentation evidencing or relating to such Indebtedness together with a subordination agreement, in form and substance satisfactory to the Required Lenders, duly executed by the holder or holders of such Indebtedness and evidencing the terms and conditions of the required subordination.

“Subordinated Debt Documents” means any indenture or note under which any Subordinated Debt is issued and all other instruments, agreements and other documents evidencing or governing any Subordinated Debt or providing for any Guarantee or other right in respect thereof.

“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. Notwithstanding the foregoing, Global Pump Service and Supply, LLC, a Texas limited liability company, shall not be considered a Subsidiary of Borrower unless Borrower (or a Subsidiary of Borrower) becomes the owner of all of the Equity Interests in and to such entity.

“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or its Subsidiaries shall be a Swap Agreement.

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time. The initial maximum amount of Swingline Exposure is \$10,000,000.

“Swingline Lender” means Wells Fargo Bank, National Association, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.19.

“Target” means Vertex Corporate Holdings, Inc., a Delaware corporation.

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

“Term Loan Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make a Term Loan hereunder on the Effective Date, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Lender hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Term Loan Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Term Loan Commitment, as applicable. The initial aggregate amount of the Lenders’ Term Loan Commitments is \$50,000,000.

“Term Loan Lender” means a Lender with a Term Loan Commitment or an outstanding Term Loan.

“Term Loan Maturity Date” means August 11, 2013.

“Term Loans” means Loans made pursuant to clause (a) of Section 2.01.

“Transactions” means (a) the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder and (b) the execution, delivery and performance by each Loan Party of each other document and instrument required to satisfy the conditions precedent to the initial Loan hereunder.

“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.

“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. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving Borrowing”).

SECTION 1.03. 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.

SECTION 1.04. 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 from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate 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 Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

ARTICLE II

The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees (a) to make a Term Loan to the Borrower on the Effective Date in a principal amount not exceeding its Term Loan Commitment, and (b) to make Revolving Loans to the Borrower from time to time during the Revolving Availability Period in an aggregate principal amount that will not result in such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans. Amounts repaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. Loans and Borrowings.

(a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. The Loans made by each Lender shall be evidenced by a single Note of Borrower (each, together with all renewals, extensions, modifications and replacements thereof and substitutions therefor, a "Note," collectively, the "Notes") in substantially the forms of Exhibit C-1 (Revolving Loans) Exhibit C-2 (Swingline Loans), and Exhibit C-3 (Term Loans), respectively, payable to the order of such Lender in a principal amount equal to the applicable Commitment of such Lender with respect to Revolving Loans and Term Loans, and in the principal amount of \$10,000,000 with respect to Swingline Loans and otherwise duly completed. Each Lender is hereby authorized by Borrower to endorse on the schedule (or a continuation thereof) that may be attached to each Note of such Lender, to the extent applicable, the date, amount, type of and the applicable period of interest for each Loan made by such Lender to Borrower hereunder, and the amount of each payment or prepayment of principal of such Loan received by such Lender, provided, that any failure by such Lender to make any such endorsement shall not affect the obligations of Borrower under such Note or hereunder in respect of such Loan.

(b) Subject to Section 2.13, each Revolving Borrowing and Term Loan Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount equal to \$500,000 or an amount that is an integral multiple of \$100,000 in excess thereof. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount \$500,000 or an amount that is an integral multiple of \$100,000 in excess thereof; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Revolving Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.04(e). Except as may be permitted under Section 2.19(d) hereof, each Swingline Loan shall be in an amount that is an integral multiple of \$25,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of eight (8) Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Revolving Maturity Date or Term Loan Maturity Date, as applicable.

SECTION 2.03. Requests for Borrowings. To request a Revolving Borrowing or Term Loan Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., Houston, Texas time, three Business Days before the date of the proposed Borrowing and (b) in the case of an ABR Borrowing, not later than 11:00 a.m., Houston, Texas time, one Business Day before the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.04(e) may be given not later than 10:00 a.m., Houston, Texas time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02: whether the requested Borrowing is to be a Revolving Borrowing or Term Loan Borrowing;

- (i) the aggregate amount of the requested Borrowing;

the date of such Borrowing, which shall be a Business Day;

(ii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(iii) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(iv) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.05(a).

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit for its own account, in a form reasonably acceptable to the Administrative Agent and the Issuing Bank, at any time and from time to time during the Revolving Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (at least five Business Days in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension the total Revolving Exposures shall not exceed the total Revolving Commitments.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the date that is five Business Days prior to the Revolving Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 2:00 p.m., Houston, Texas time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., Houston, Texas time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 2:00 p.m., Houston, Texas time, on (i) the Business Day that the Borrower receives such notice, if such notice is received prior to 10:00 a.m., Houston, Texas time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with this Agreement that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance 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 Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Bank, nor any of their Related Parties, 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 Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower 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 which appear on their face to be in substantial 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.

Disbursement Procedures. 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 Borrower by telephone (confirmed by telecopy) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(g) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.12(c) 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 (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(h) Replacement of the Issuing Bank. The Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clauses (h) or (i) of Article VII. The Borrower also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.10(b).

Each such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such 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 Administrative Agent and at the Borrower's 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 account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements 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 Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Lenders), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived. If the Borrower is required to provide an amount of cash collateral hereunder pursuant to Section 2.10(b), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower as and to the extent that, after giving effect to such return, the Borrower would remain in compliance with Section 2.10(b) and no Default shall have occurred and be continuing.

SECTION 2.05. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, Houston, Texas time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.19. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in Houston, Texas and designated by the Borrower in the applicable Borrowing Request; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(b) 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 paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. 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 Borrower 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 Borrower 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 Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

Interest Elections.

(c) Each Revolving Borrowing and Term Loan Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(d) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(e) Each telephonic and written Interest Election Request shall specify the following information:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(f) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing. If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

(g) A Borrowing of any Class may not be converted to or continued as a Eurodollar Borrowing if after giving effect thereto the sum of the aggregate principal amount of outstanding Eurodollar Borrowings of such Class with Interest Periods ending on or prior to such scheduled repayment date plus the aggregate principal amount of outstanding ABR Borrowings of such Class would be less than the aggregate principal amount of Loans of such Class required to be repaid on a scheduled repayment date.

SECTION 2.06. Termination, Reduction and Increase of Commitments.

(a) Unless previously terminated, (i) the Term Loan Commitments shall terminate at 5:00 p.m., Houston, Texas time, on the Effective Date and (ii) the Revolving Commitments shall terminate on the Revolving Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and (ii) the Borrower shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10, the sum of the Revolving Exposures would exceed the total Revolving Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section, at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

(d) At any time prior to the expiration of the Revolving Availability Period, and so long as no Event of Default shall have occurred which is continuing, the Borrower may elect to increase the aggregate of the Revolving Commitments to an amount not exceeding the Maximum Accordion Amount minus any reductions in the Revolving Commitments pursuant to Section 2.07(b) hereof, provided that (i) no Lender shall be required to increase its Revolving Commitment unless it shall have expressly agreed to such increase in writing (but otherwise, no notice to or consent by any Lender shall be required, notwithstanding anything to the contrary set forth in Section 9.02 hereof), (ii) the addition of new Lenders shall be subject to the terms and provisions of Section 9.04 hereof as if such new Lenders were acquiring an interest in the Loans by assignment from an existing Lenders (to the extent applicable, i.e. required approvals, minimum amounts and the like), (iii) the Borrower shall execute and deliver such additional or replacement Notes and such other documentation (including evidence of proper authorization) as may be reasonably requested by the Administrative Agent, any new Lender or any Lender which is increasing its Revolving Commitment, (iv) no Lender shall have any right to decrease its Revolving Commitment as a result of such increase of the aggregate amount of the Revolving Commitments, (v) the Administrative Agent shall have no obligation to arrange, find or locate any Lender or new bank or financial institution to participate in any unsubscribed portion of such increase in the aggregate committed amount of the Revolving Commitments, and (vi) such option to increase the Revolving Commitments may only be exercised once. The Borrower shall be required to pay (or to reimburse each applicable Lender for) any breakage costs incurred by any Lender in connection with the need to reallocate existing Loans among the Lenders following any increase in the Revolving Commitments pursuant to this provision. Except as may otherwise be agreed by the Borrower and any applicable Lender, the Borrower shall not be required to pay any upfront or other fees or expenses to any existing Lenders, new Lenders or the Administrative Agent with respect to any such increase in Revolving Commitments.

SECTION 2.07. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Revolving Lender the then unpaid principal amount of each Revolving Loan of such Revolving Lender on the Revolving Maturity Date and (ii) to the Administrative Agent for the account of each Term Loan Lender the then unpaid principal amount of each Term Loan of such Term Loan Lender as provided in Section 2.09 and (iii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Revolving Maturity Date and the first date after such Swingline Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made, the Borrower shall repay all Swingline Loans then outstanding; provided further, that no payment of any Swingline Loan under the foregoing provisions shall be required so long as the aggregate unpaid principal balance of all Swingline Loans is less than \$5,000,000.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraphs (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

SECTION 2.08. Amortization of Term Loans.

(a) On December 31, 2008 and on each March 31, June 30, September 31 and December 31 thereafter, the Borrower shall repay Term Loan Borrowings in the aggregate principal amount of \$2,500,000.

(b) To the extent not previously paid, all Term Loans shall be due and payable on the Term Loan Maturity Date.

(c) Repayments of Term Loan Borrowings shall be accompanied by accrued interest on the amount repaid.

SECTION 2.09. Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time to voluntarily prepay any Borrowing in whole or in part, subject to the requirements of this Section. Each prepayment of a Term Loan shall be in an amount equal to the lesser of (i) the entire unpaid principal balance of the Term Loans or (ii) \$500,000 or an amount that is an integral multiple of \$100,000 in excess thereof. Each voluntary prepayment of a Term Loan shall require at least three (3) Business Days' advance written notice to the Administrative Agent. Each prepayment of the Revolving Loans shall be in an amount equal to \$500,000 or an amount that is an integral multiple of \$100,000 in excess thereof. Accrued and unpaid interest as of the date of prepayment shall be paid concurrently with any such prepayment.

(b) In the event and on such occasion that the sum of the Revolving Exposures exceeds the total Revolving Commitments, the Borrower shall prepay Revolving Borrowings or Swingline Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent pursuant to Section 2.04(j)) in an aggregate amount equal to such excess.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of the Borrower or any of its Subsidiaries in respect of any Prepayment Event, the Borrower shall, within three Business Days after such Net Proceeds are received, prepay Term Loan Borrowings in an aggregate amount equal to such Net Proceeds; provided that, in the case of any event described in clause (a) of the definition of the term Prepayment Event which is not a Significant Transaction, if the Borrower shall deliver to the Administrative Agent a certificate of a Financial Officer to the effect that the Borrower and its Subsidiaries intend to apply the Net Proceeds from such event, within 180 days after receipt of such Net Proceeds, to acquire real property, equipment or other tangible assets to be used in the business of the Borrower and its Subsidiaries, and certifying that no Default has occurred and is continuing, then no prepayment shall be required pursuant to this paragraph in respect of such event except to the extent of any Net Proceeds therefrom that have not been so applied by the end of such 180 day period, at which time a prepayment shall be required in an amount equal to the Net Proceeds that have not been so applied. A “Significant Transaction” is any sale, transfer or other disposition, in one transaction or a series of related transactions, of any Equity Interest issued by any Subsidiary of Borrower. To the extent such prepayment would result in the payment of breakage costs hereunder, such prepayment shall be deferred until the last day of the applicable Interest Period or such breakage costs shall be waived, at the election of the Required Lenders.

(d) Following the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2009, the Borrower shall prepay Term Loan Borrowings in an aggregate amount equal to (x) the ECF Percentage times Excess Cash Flow for such fiscal year minus (y) prepayments of the Term Loans (other than prepayments made under the terms of this Section 2.10(d)) made by the Borrower since (i) the date hereof with respect to the payment due in 2010, and (ii) since the last mandatory prepayment under this Section 2.10(d) with respect to subsequent payments due hereunder. Each prepayment pursuant to this paragraph shall be made on or before the date on which financial statements are delivered pursuant to Section 5.01 with respect to the fiscal year for which Excess Cash Flow is being calculated (and in any event by the next April 15th occurring after the end of such fiscal year).

(e) Any prepayment of a Term Loan Borrowing shall be applied to reduce all of the subsequent scheduled repayments of the Term Loan Borrowings in inverse order of their maturity.

(f) Prior to any optional or mandatory prepayment of Borrowings hereunder, the Borrower shall select the Borrowing or Borrowings to be prepaid and shall specify such selection in the notice of such prepayment pursuant to this Section.

(g) The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Revolving Borrowing, not later than 11:00 a.m., Houston, Texas time, three Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 11:00 a.m., Houston, Texas time, one Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, Houston, Texas time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that, if a notice of optional prepayment is given in connection with a conditional notice of termination of the Revolving Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07. Promptly following receipt of any such notice (other than a notice relating solely to Swingline Loans), the Administrative Agent shall advise the Lenders of the contents thereof.

Fees.

(h) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Rate on the average daily unused amount of the Revolving Commitment of such Lender during the period from and including the date hereof to but excluding the date on which such Revolving Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitments terminate, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing such commitment fees, a Revolving Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Lender (and the Swingline Exposure of such Lender shall be disregarded for such purpose).

(i) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to the Issuing Bank a fronting fee, which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any LC Exposure (provided, however, that in no event shall such fronting fee for any single Letter of Credit be less than \$500), as well as the Issuing Bank's standard fees with respect to the amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Revolving Commitments terminate and any such fees accruing after the date on which the Revolving Commitments terminate shall be payable on demand. Fronting fees with respect to any Letter of Credit shall be payable in advance upon issuance of such Letter of Credit. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(j) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(k) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.10. Interest.

(a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the lesser of (i) the Alternate Base Rate plus the Applicable Rate or (ii) the Ceiling Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the lesser of (i) the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate or (ii) the Ceiling Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to the lesser of (i) the Ceiling Rate or (ii) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or in the case of any other amount, 2% plus the rate applicable to ABR Revolving Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.11. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar 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 Borrower and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

SECTION 2.12. 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 (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 Eurodollar 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 Eurodollar 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 Borrower 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 Borrower 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.

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 paragraphs (a) or (b) of this Section shall be delivered to the Borrower, demonstrating in reasonable detail the calculation of the amounts, and shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(c) 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; provided that the Borrower shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive and if such Lender or the Issuing Bank, as the case may be, notifies the Borrower of such Change of Law within 180 days after the adoption, enactment or similar act with respect to such Change of Law, then the 180-day period referred to above shall be extended to include the period from the effective date of such Change of Law to the date of such notice.

SECTION 2.13. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Revolving Loan or Term Loan on the date specified in any notice delivered pursuant hereto, or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the Eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section, demonstrating in reasonable detail the calculation of the amounts, shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.14. Taxes.

Any and all payments by or on account of any obligation of the Borrower 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 Borrower 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 or withholdings (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 Borrower shall make such deductions or withholdings and (iii) the Borrower shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law.

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

(b) The Borrower shall indemnify the Administrative Agent, each Lender and the Issuing Bank, within 30 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 Borrower 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, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Bank, demonstrating in reasonable detail the calculation of the amounts, shall be conclusive absent manifest error. However, neither the Administrative Agent, any Lender or the Issuing Bank shall be entitled to receive any payment with respect to Indemnified Taxes or Other Taxes that are incurred or accrued more than 180 days prior to the date the Administrative Agent, such Lender or the Issuing Bank gives notice and demand thereof to the Borrower.

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

(d) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement or any other Loan Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender shall promptly (i) notify the Borrower and the Administrative Agent of any change in circumstances which would modify or render invalid any such claimed exemption or reduction, and (ii) take such steps as may be reasonably necessary (including the designation of a new lending office to the extent such designation is consistent with such Lender's internal policies and legal and regulatory restrictions and so long as such action would not be disadvantageous to such Lender) to avoid any requirement of the applicable laws of any such jurisdiction that Borrower make any deduction or withholding for taxes from amounts payable to such Lender. Without limiting the generality of the foregoing, any Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

- (i) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,
- (ii) duly completed copies of Internal Revenue Service Form W-8ECI;
- (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the 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 Borrower 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
- (iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.
- (e) If the Administrative Agent or a Lender determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Borrower or any other Person.

Each Lender shall use its best efforts (consistent with its internal policies and legal and regulatory restrictions) to select a jurisdiction for its lending office or change the jurisdiction of its lending office, as the case may be, so as to avoid the imposition of any Indemnified Taxes or Other Taxes or to eliminate or reduce the payment of any additional sums under this Section, so long as such action would not be disadvantageous to such Lender.

SECTION 2.15. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) The Borrower 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 LC Disbursements, or of amounts payable under Sections 2.14, 2.15 or 2.16, or otherwise) at or prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m., Houston, Texas time), on the date when due, in immediately available funds, without set off, deduction 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 1700 Lincoln Ave., MAC C7300-034, Denver, Colorado 80203, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16 and 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, 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 LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans, Term Loans or participations in LC Disbursements or Swingline Loans, resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans, Term Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans, Term Loans, LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans, Term Loans and participations in LC Disbursements and Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any other Loan Party or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Lender agrees that it will not exercise any right of set-off or counterclaim or otherwise obtain payment in respect of any Obligation owed to it other than principal of and interest accruing on the Loans and participations in the LC Disbursements and Swingline Loans, unless all of the outstanding principal of and accrued interest on the Loans and LC Disbursements have been paid in full. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. If the Borrower has not in fact made such payment when due, 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.

(e) 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 hereunder until all such unsatisfied obligations are fully paid.

SECTION 2.16. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.14, if the Administrative Agent delivers a notice contemplated by Section 2.13 (other than such a notice applicable to all Lenders), or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.14 or 2.16 or would cause Eurodollar Borrowings to be available, 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 Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.14, if Eurodollar Borrowings become unavailable from less than all of the Lenders under Section 2.13 or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, or if any Lender defaults in its obligation to fund Loans hereunder, then the Borrower may, at its 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 9.04), 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 Borrower shall have received the prior written consent of the Administrative Agent (and, if a Revolving Commitment is being assigned, the Issuing Bank and Swingline Lender), which consent shall not unreasonably be withheld, (ii) such assignor Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14, the unavailability of Eurodollar Borrowings under Section 2.13 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments of the availability of Eurodollar Borrowings from the applicable assignee. 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 Borrower to require such assignment and delegation cease to apply.

(c) If any Lender (a “Non-Consenting Lender”) refuses to consent to an amendment to or waiver of any Credit Document or provision thereof, which amendment or waiver requires unanimous consent of all the Lenders, or all the Lenders making Loans of a particular Class or Type, in order to be effective, then the Administrative Agent may or the Borrower may (but neither shall be obligated to), upon notice to the Non-Consenting Lender (and the Administrative Agent, if applicable), require the Non-Consenting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04) all of its interests, rights, duties and obligations under this Agreement and the Credit Documents to an assignee that shall assume such obligations (which assignee may be a Lender, if a Lender accepts such assignment); provided that:

(i) if it is an assignment at the request of the Borrower, the Borrower shall have received the prior written consent of the Administrative Agent (and if a Revolving Commitment is being assigned, the Issuing Lender and the Swingline Lender), which consents shall not unreasonably be withheld,

(ii) if it is an assignment at the request of the Administrative Agent and there is no Event of Default, the Borrower shall have consented to such assignment (and if a Revolving Commitment is being assigned, the Issuing Lender and the Swingline Lender) which consents shall not be unreasonably withheld,

(iii) the interests, rights, duties and obligations of all Non-Consenting Lenders are similarly assigned, and

(iv) the Non-Consenting Lender shall have received payment of an amount equal to the outstanding principal of (and participation interests in) its Obligations, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents.

SECTION 2.17. Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrower from time to time during the Revolving Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$10,000,000 or (ii) the sum of the total Revolving Exposures exceeding the total Revolving Commitments; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan and provided further that the Swingline Lender shall not, without the consent of the Required Lenders, make any Swingline Loan if any Event of Default exists of which the Swingline Lender has actual knowledge. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Borrower shall notify the Administrative Agent of such request by telephone (confirmed by telecopy), not later than 12:00 noon, Houston, Texas time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrower. The Swingline Lender shall make each Swingline Loan available to the Borrower by means of a credit to the general deposit account of the Borrower with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(e), by remittance to the Issuing Bank) by 3:00 p.m., Houston, Texas time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 12:00 noon, Houston, Texas time, on any Business Day require the Revolving Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Revolving Lenders will participate. The Administrative Agent will give notice thereof to each Revolving Lender by 1:00 p.m., Houston, Texas time on such Business Day, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Revolving Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional, subject to Swingline Lender's compliance with the provisions of Section 2.19(a) hereof, and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Revolving Lenders. The Administrative Agent shall notify the Borrower in writing of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be remitted by the Administrative Agent to the Swingline Lender and to the Revolving Lenders that shall have made their payments pursuant to this paragraph, as their interests may appear, such remittance to be made on the day of receipt if such payment is received by 2:00 p.m., Houston, Texas time and prior to 10:00 a.m. of the following Business Day if such payment is received after 2:00 p.m., Houston, Texas time. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

(d) Notwithstanding the foregoing procedures for requesting a Swingline Loan, the Borrower and the Swingline Lender may agree to implement an alternate arrangement with respect to Swingline Loans pursuant to a direct borrowing agreement between the Borrower and the Swingline Lender. The Swingline Lender will give notice to the Administrative Agent of each Swingline Loan made by the Borrower within one (1) Business Day after making such Swingline Loan.

SECTION 2.18. Defaulting Lender.

(a) Notwithstanding anything to the contrary contained herein, in the event any Lender (x) has refused (which refusal constitutes a breach by such Lender of its obligations under this Agreement) to make available its portion of any Loan or (y) notifies either the Administrative Agent or the Borrower that such Lender does not intend to make available its portion of any Loan (if the actual refusal would constitute a breach by such Lender of its obligations under this Agreement) (each, a "Lender Default"), all rights and obligations hereunder of such Lender (a "Defaulting Lender") as to which a Lender Default is in effect and of the other parties hereto shall be modified to the extent of the express provisions of this Section while such Lender Default remains in effect.

(b) Advances shall be incurred pro rata from Lenders which are not Defaulting Lenders (the “Non-Defaulting Lenders”) based on their respective Commitments and no Commitment of any Lender or any pro rata share of any Loans required to be advanced by any Lender shall be increased as a result of such Lender Default. Amounts received in respect of principal of any type of Loans shall be applied to reduce the applicable Loans of each Lender prorata based on the aggregate of the outstanding Loans of that type of all Lenders at the time of such application; provided, that, such amount shall not be applied to any Loans of a Defaulting Lender at any time when, and to the extent that, the aggregate amount of Loans of any Non-Defaulting Lender exceeds such Non-Defaulting Lender’s Commitment of all Loans then outstanding.

(c) A Defaulting Lender shall not be entitled to give instructions to the Administrative Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the other Loan Documents. All amendments, waivers and other modifications of this Agreement and the other Loan Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of “Required Lenders,” a Defaulting Lender shall be deemed not to be a Lender and not to have Loans outstanding.

(d) Other than as expressly set forth in this Section, the rights and obligations of a Defaulting Lender (including the obligation to indemnify the Administrative Agent) and the other parties hereto shall remain unchanged. Nothing in this Section shall be deemed to release any Defaulting Lender from its obligations under this Agreement and the other Loan Documents, shall alter such obligations, shall operate as a waiver of any default by such Defaulting Lender hereunder, or shall prejudice any rights which the Borrower, the Administrative Agent or any Lender may have against any Defaulting Lender as a result of any default by such Defaulting Lender hereunder.

(e) In the event a Defaulting Lender retroactively cures to the satisfaction of the Administrative Agent the breach which caused a Lender to become a Defaulting Lender, such Defaulting Lender shall no longer be a Defaulting Lender and shall be treated as a Lender under this Agreement and the other Loan Documents.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers. Each of the Borrower and the other applicable Loan Parties is (a) organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has all requisite power and authority to carry on its business as now conducted and is (c) qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required by applicable law, except in the case of clause (a) (other than with respect to the Borrower) and clause (c), where the failure to do so would not reasonably be expected to result in a Material Adverse Effect,.

SECTION 3.02. Authorization; Enforceability. The Transactions to be entered into by each Loan Party are within such Loan Party's powers and have been duly authorized by all necessary action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of the Borrower or 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 (a) do not require any material consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except filings necessary to perfect Liens created under the Loan Documents, (b) will not violate any applicable law or regulation or any order of any Governmental Authority, (c) will not violate the charter, by-laws or other organizational documents of the Borrower or any other applicable Loan Party, (d) will not violate or result in a default under any material indenture, agreement or other instrument binding upon the Borrower or any other Loan Party or their assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any other Loan Party, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any other Loan Party, except Liens created under the Loan Documents, except such consents, approvals, registrations, filings or other actions the failure to obtain or make, or, in the case of clauses (b) and (d) above, to the extent such violations could not reasonably be expected to have a Material Adverse Effect.

SECTION 3.04. Financial Condition.

(a) The Borrower has heretofore furnished to the Lenders Borrower's consolidated balance sheet and statements of income, stockholders equity and cash flows (1) as of and for the fiscal year ended December 31, 2007 and (2) as of and for the fiscal quarter and the portion of the fiscal year ended March 31, 2008, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (2) above. Since December 31, 2007, there has been no material adverse change in the business, assets, operations or condition, financial or otherwise, of the Borrower and its Subsidiaries, taken as a whole. Except as set forth on Schedule 6.01, after giving effect to the Transactions, none of the Borrower or its Subsidiaries has, as of the Effective Date, any material contingent liabilities or unrealized losses.

(b) The Borrower has heretofore furnished to the Lenders the audited consolidated balance sheet and statements of income, stockholders equity and cash flows of Target, as of and for the fiscal years ended May 3, 2008. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of Target and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (2) above. Since May 3, 2008, there has been no material adverse change in the business, assets, operations or condition, financial or otherwise, of Target and its Subsidiaries, taken as a whole.

SECTION 3.05. Properties.

(a) The Borrower and each other Loan Party has good title to, or valid leasehold interests in, all its real and personal property material to its business (including the Mortgaged Properties), except for Liens permitted under this Agreement and minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

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

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 the Borrower, threatened against or affecting the Borrower or any other Loan Party (i) that could reasonably be expected to result in a Material Adverse Effect or (ii) that involve any of the Loan Documents or the Transactions.

(b) Except with respect to any matters that could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any other 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 written notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

SECTION 3.07. Compliance with Laws and Agreements. The Borrower and each other Loan Party is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so 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. Neither the Borrower nor any other Loan Party is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. The Borrower and each other 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 and for which the Borrower or such other Loan Party, as applicable, has set aside on its books adequate reserves 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 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 the fair market value of the assets of all such underfunded Plans, in each of such cases so as to cause a Material Adverse Effect.

SECTION 3.11. Disclosure. The Borrower has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which the Borrower or any other Loan Party is subject, and all other matters known to any of them, that could reasonably be expected to result in a Material Adverse Effect. None 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, taken as a whole, in the light of the circumstances under which they were made, not materially misleading; provided, however, that with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time, it being recognized by the Lenders that projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections and that such variations may be material.

SECTION 3.12. Subsidiaries. As of the date hereof, after giving effect to the closing of the Purchase Agreement, the Borrower has no Subsidiaries other than as set forth on Schedule 3.12 hereto. As of the date hereof, the Borrower owns all of the Equity Interests in and to each Subsidiary (other than Foreign Subsidiaries) listed on Schedule 3.12 hereto. Foreign Subsidiaries of the Borrower as of the date hereof are identified as such on Schedule 3.12 hereto and the identities of the holders of the Equity Interests in and to each Foreign Subsidiary as of the date hereof are also set forth on Schedule 3.12 hereto.

SECTION 3.13. Insurance. As of the Effective Date, all premiums due in respect of all insurance maintained by the Borrower and each other Loan Party have been paid.

SECTION 3.14. Labor Matters. As of the Effective Date, there are no strikes, lockouts or slowdowns against the Borrower or any other Loan Party pending or, to the knowledge of the Borrower, threatened. The hours worked by and payments made to employees of the Borrower and the other Loan Parties have not been in violation, in any material manner, of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law dealing with such matters. All payments due from the Borrower or any other Loan Party, or for which any claim may be made against the Borrower or any other 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 the Borrower or such other Loan Party. The consummation of the Transactions 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 the Borrower or any other Loan Party is bound.

Solvency. Immediately after the consummation of the Transactions to occur on the Effective Date and immediately following the making of each Loan made on the Effective Date and after giving effect to the application of the proceeds of such Loans and to the rights of reimbursement, contribution and subrogation that the Loan Parties may have under the Contribution Agreement or otherwise, (a) the fair value of the assets of each Loan Party, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of each Loan Party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) each Loan Party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) each Loan Party will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the Effective Date.

SECTION 3.15. Material Property Subject to Security Documents. The Collateral constitutes all of the real and material personal property (other than Excluded Assets) owned by Borrower or any of its Subsidiaries (other than Foreign Subsidiaries); provided, however that the Collateral shall not include more than 66-2/3% of the issued and outstanding Equity Interests in and to any Foreign Subsidiary which is owned directly by Borrower or any of its Subsidiaries (other than Foreign Subsidiaries).

SECTION 3.16. Property of Foreign Subsidiaries. The aggregate value (based on the greater of book or market value) of the total assets owned by Foreign Subsidiaries of Borrower as of the Effective Date is no greater than 5% of the aggregate value (based on the greater of book or market value) of the total assets owned by Borrower and all of its Subsidiaries.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

- (a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) counterparts of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of this Agreement) that such party has signed counterparts of this Agreement.
- (b) The Administrative Agent (or its counsel) shall have received from Borrower an original of each Note signed on behalf of Borrower.

(c) The Administrative Agent (or its counsel) shall have received from Borrower and from each other party to the Loan Documents (other than the Notes) either (i) counterparts of each applicable Loan Document signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of the applicable Loan Document) that such party has signed counterparts of such Loan Document.

(d) The Administrative Agent shall have received written opinions (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Fulbright & Jaworski L.L.P. and Edwards Angell Palmer & Dodge LLP, counsel for the Borrower, Target and the Subsidiaries of Target, in form and substance satisfactory to the Administrative Agent and its counsel, covering such matters relating to such Loan Parties, the Loan Documents or the Transactions as the Required Lenders shall reasonably request.

(e) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of Borrower, Target and the Subsidiaries of Target, the authorization of the Transactions and any other legal matters relating to the Loan Parties, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel.

(f) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by an appropriate officer or other responsible party acceptable to Administrative Agent on behalf of Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(g) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all reasonable out of pocket expenses (including reasonable fees, charges and disbursements of counsel) required to be reimbursed or paid by any Loan Party hereunder or under any other Loan Document.

(h) The Administrative Agent shall have received each of the following:

(i) stock certificates representing all of the outstanding shares of capital stock of each Subsidiary of Borrower as of the Effective Date (other than Foreign Subsidiaries) and stock powers, endorsed in blank, with respect to such stock certificates;

(ii) all documents and instruments, including Uniform Commercial Code financing statements, required by law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create or perfect the Liens intended to be created under the Security Documents;

(iii) to the extent required by Administrative Agent, agreements whereby each landlord in respect of any space leased by the Borrower or any of its Subsidiaries which is affiliated with the Borrower or with Target, has subordinated any Lien such landlord may claim in any property of the Borrower or any of its Subsidiaries; and

(iv) the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to Target and the Subsidiaries of Target in such jurisdictions as the Administrative Agent may require and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been released.

(i) The Administrative Agent shall have received evidence that the insurance required by Section 5.07 and the Security Documents is in effect.

(j) Borrower shall have delivered to the Administrative Agent a copy of the fully executed purchase agreement (the "Purchase Agreement"), relating to the acquisition by Borrower of all of the Equity Interests in and to Target. The acquisition contemplated by the Purchase Agreement shall have been, or substantially simultaneously with the initial advance hereunder shall be, consummated in accordance with the Purchase Agreement and applicable law, without any amendment to or waiver of any terms or conditions of the Purchase Agreement not approved by the Administrative Agent (such approval not to be unreasonably withheld or delayed). The Administrative Agent shall have received copies of the material documents evidencing the closing of the transactions contemplated by the Purchase Agreement and all material due diligence materials relating to such transactions, which documents shall be in form and substance satisfactory to the Administrative Agent.

(k) The Administrative Agent shall have received evidence reasonably satisfactory to the Administrative Agent that the Borrower and each other Loan Party shall have been released from all liabilities and obligations in respect of Indebtedness (other than the Obligations and other than liabilities and obligations expressly permitted under Section 6.01 hereof, or as to which the proceeds of the initial Loans hereunder will be used to payoff such Obligations in full).

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

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing and there shall have occurred no event which would be reasonably likely to have a Material Adverse Effect.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the 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 (or the obligations thereunder shall have otherwise been collateralized in a manner and to an extent satisfactory to the Issuing Lender in its sole discretion) and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent and each Lender:

(a) within 90 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, shareholders' 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 reported on by Hein & Associates or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any 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 Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each fiscal quarter (other than the last fiscal quarter) of each fiscal year of the Borrower, its consolidated balance sheet and related statements of operations and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the 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) concurrently with any delivery of financial statements under clauses (a) or (b) above, a certificate of a Financial Officer of the Borrower, in the form of Exhibit B hereto, (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 demonstrating compliance with Sections 5.13, 6.13 and 6.14;

(d) at any such times as the Leverage Ratio is greater than 2.50 to 1.00, then within 20 days after the end of each calendar month, a certificate of a Financial Officer of the Borrower setting forth reasonably detailed calculations demonstrating compliance with Sections 5.13(c); within 45 days after the end of each fiscal quarter of each fiscal year of the Borrower, a listing and aging of the Accounts receivable and Accounts payable of each Loan Party, prepared in reasonable detail and containing such information as Administrative Agent may reasonably request;

(e) on or before each January 31 of each fiscal year, a detailed consolidated budget for such fiscal year (including a projected consolidated balance sheet and related statements of projected operations as of the end of and for such fiscal year and setting forth the assumptions used for purposes of preparing such budget and, promptly when available, any significant revisions of such budget; and

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

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent prompt written notice of the following:

(a) the occurrence of any Default;

(b) the Borrower becoming aware of the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any other Loan Party or any Affiliate thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(c) any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any Collateral or any part thereof or interest therein under power of eminent domain or by condemnation or similar proceeding;

(d) any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect.

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

SECTION 5.03. Information Regarding Borrower.

(a) The Borrower will furnish to the Administrative Agent prompt written notice of any change (i) in any Loan Party's jurisdiction of organization or corporate name, (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, (iii) in any Loan Party's identity or corporate structure or (iv) in any Loan Party's Federal Taxpayer Identification Number. The Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been or will, promptly after giving effect to such change, be made under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral. The Borrower also agrees promptly to notify the Administrative Agent if any material portion of the Collateral is damaged or destroyed.

(b) After the Effective Date (and after giving effect to the closing of the Purchase Agreement), Borrower will notify the Administrative Agent in writing promptly upon Borrower's or any of its Subsidiaries' (other than Foreign Subsidiaries) acquisition or ownership of any estate (fee simple or leasehold) of real property, wherever located (other than Excluded Assets) or of any personal property (other than Excluded Assets) not already covered by the Security Documents (such acquisition or ownership being herein called an "Additional Collateral Event" and the property so acquired or owned being herein called "Additional Collateral"). As soon as practicable and in any event within thirty (30) days (or such longer period as the Administrative Agent shall agree) after an Additional Collateral Event, Borrower shall (a) execute and deliver or cause to be executed and delivered Security Documents, in form and substance reasonably satisfactory to Administrative Agent, in favor of Administrative Agent and duly executed by Borrower or the applicable Subsidiary, covering and affecting and granting a first-priority Lien upon the applicable Additional Collateral, and such other documents (including, without limitation, surveys, environmental assessments, certificates, legal opinions, all in form and substance reasonably satisfactory to Administrative Agent) as may be reasonably required by Administrative Agent in connection with the execution and delivery of such Security Documents; (b) with respect to any Additional Collateral which is real property, to the extent required by Administrative Agent, deliver to Administrative Agent evidence reasonably satisfactory to the Administrative Agent that none of the Mortgaged Property lies in an area requiring special notices of flood hazard issues or the purchase of flood hazard insurance and such surveys, abstracts and appraisals as may be required pursuant to the applicable Mortgage or as the Administrative Agent may reasonably request and cause a title insurance underwriter satisfactory to Administrative Agent to issue to Administrative Agent a mortgage policy of title insurance, in form and substance reasonably satisfactory to Administrative Agent, insuring the first-priority Lien of the applicable Mortgage in such amount as is reasonably satisfactory to Administrative Agent, and (c) deliver or cause to be delivered by Subsidiaries of Borrower such other documents or certificates consistent with the terms of this Agreement and relating to the transactions contemplated hereby as Administrative Agent may reasonably request.

SECTION 5.04. Existence; Conduct of Business. The Borrower will, and will cause each other Loan Party to, do or cause to be done all things necessary 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. The Borrower will, and will cause each other Loan Party to, pay its Indebtedness and other obligations, including liabilities for Taxes, 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) the Borrower or such other Loan Party 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 the enforcement of any Lien securing such obligation and (d) the failure to make payment pending such contest would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Maintenance of Properties. The Borrower will, and will cause each other Loan Party to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation (so long as prompt efforts are being pursued for repair and restoration) excepted.

SECTION 5.07. Insurance. The Borrower will, and will cause each other Loan Party to, maintain, with financially sound and reputable insurance companies (a) insurance in such amounts (with no greater risk retention) and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance required to be maintained pursuant to the Security Documents. The Borrower will furnish to the Lenders, upon request of the Administrative Agent, information in reasonable detail as to the insurance so maintained.

SECTION 5.08. Intentionally Left Blank.

SECTION 5.09. Books and Records; Inspection and Audit Rights. The Borrower will, and will cause each other Loan Party to, keep proper books of record and account in which full, true and correct entries in all material respects in accordance with GAAP are made of all dealings and transactions in relation to its business and activities. The Borrower will, and will cause each other Loan Party to, permit any representatives designated by the Administrative Agent, upon reasonable prior notice and during normal business hours, 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.

SECTION 5.10. Compliance with Laws. The Borrower will, and will cause each other Loan Party 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 would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.11. Use of Proceeds and Letters of Credit. The Letters of Credit and the proceeds of the Loans will be used only to pay a portion of the purchase price payable under the Purchase Agreement and for general working capital purposes, which may include refinancing existing Indebtedness. 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. Further Assurances. The Borrower will, and will cause each other Loan Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any applicable law, or which the Administrative 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 Borrower also agrees to provide to the Administrative Agent, from time to time upon reasonable request by the Administrative Agent, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

SECTION 5.13. Financial Covenants. The Borrower will have (in each case, in accordance with GAAP):

(a) Fixed Charge Coverage Ratio – a Fixed Charge Coverage Ratio of not less than (i) as of the last day of each fiscal quarter during the period from and after the date hereof through and including September 30, 2009, 1.25 to 1.00, (ii) as of the last day of each fiscal quarter during the period from and after December 31, 2009 through and including September 30, 2010, 1.50 to 1.00 and (ii) as of the last day of each fiscal quarter thereafter, 1.75 to 1.00.

(b) Leverage Ratio – a Leverage Ratio of not greater than (i) as of the last day of each fiscal quarter during the period from and after the date hereof through and including September 30, 2009, 3.50 to 1.00, (ii) as of the last day of each fiscal quarter during the period from and after December 31, 2009 through and including September 30, 2010, 3.00 to 1.00 and (ii) as of the last day of each fiscal quarter thereafter, 2.75 to 1.00.

(c) Asset Coverage Ratio – an Asset Coverage Ratio of not less than 1.00 to 1.00 at all times.

ARTICLE VI

Negative Covenants

Until the 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 (or the obligations thereunder shall have otherwise been collateralized in a manner and to an extent satisfactory to the Issuing Lender in its sole discretion) and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness; Certain Equity Securities.

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

(i) Indebtedness created under the Loan Documents;

(ii) Indebtedness existing on the date hereof and set forth in Schedule 6.01;

(iii) Indebtedness of any Subsidiary of Borrower (other than a Foreign Subsidiary) to the Borrower or any other Subsidiary of Borrower (other than a Foreign Subsidiary) and Indebtedness of Borrower to any of its Subsidiaries (other than a Foreign Subsidiary) and Indebtedness of any Foreign Subsidiary of Borrower to any other Foreign Subsidiary of Borrower;

Indebtedness of any Foreign Subsidiary of Borrower to the Borrower or any other Subsidiary of Borrower (other than a Foreign Subsidiary) in an aggregate amount not to exceed \$5,000,000 in the aggregate at any one time outstanding and Indebtedness of Borrower to any of its Foreign Subsidiaries not to exceed \$1,000,000 in the aggregate at any one time outstanding;

(iv) Guarantees of Indebtedness permitted under this Section 6.01;

(v) purchase money Indebtedness or Capital Lease Obligations in an aggregate amount not exceeding, at any one time outstanding, \$5,000,000;

(vi) “mark to market” exposure resulting from any Swap Agreement entered into in compliance with Section 6.07;

(vii) Indebtedness under performance, stay, customs, appeal and surety bonds or with respect to workers’ compensation or other like employee benefit claims, in each case incurred in the ordinary course of business;

(viii) Indebtedness in respect of customary netting services, overdraft protections and similar customary arrangements, in each case incurred in the ordinary course of business in connection with deposit accounts;

(ix) Indebtedness of the type described in clause (e) of the definition of “Indebtedness” secured by the Liens permitted under Section 6.02;

(x) other Indebtedness in an aggregate principal amount not exceeding, at any one time outstanding, an amount equal to fifteen percent (15%) of the net worth of the Borrower (on a consolidated basis) disclosed by the most recently delivered financial statements of the Borrower; and

(xi) extensions, renewals and replacements of any of the foregoing that do not increase the outstanding principal amount thereof.

(b) The Borrower will not, nor will it permit any other Loan Party to, issue any preferred stock or other preferred Equity Interests after the Effective Date.

SECTION 6.02. Liens. The Borrower will not, and will not permit any other Loan Party 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:

(i) Liens created under the Loan Documents;

(ii) any Lien on any property or asset of the Borrower or any other Loan Party existing on the date hereof and set forth in Schedule 6.02;

(iii) Liens created pursuant to Capital Lease Obligations or purchase money Indebtedness permitted pursuant to this Agreement; provided that such Liens are only in respect of the property or assets subject to, and secure only, the respective Capital Lease Obligations or purchase money Indebtedness;

(iv) leases, subleases, licenses and sublicenses granted in the ordinary course of business and not interfering in any material respect with the business of any Loan Party, and any interest of a lessor, sublessor, licensor or sublicensor under any lease or license entered into in the ordinary course of business;

(v) customary Liens (x) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection and (y) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;

(vi) Liens on cash earnest money deposits or cash advances in favor of the seller of any property to be acquired in connection with an Acquisition permitted under Section 6.15, which advances shall be applied against the purchase price for such Acquisition;

(vii) Liens arising out of any conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(viii) Liens not otherwise permitted by this Section securing obligations in an outstanding principal amount not in excess of \$5,000,000; and

(ix) Permitted Encumbrances.

SECTION 6.03. Fundamental Changes.

(a) The Borrower will not, nor will it permit any other Loan Party to, 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 (i) any Subsidiary of the Borrower may merge into the Borrower in a transaction in which the Borrower is the surviving Person, (ii) any Subsidiary of the Borrower may merge into any other Subsidiary in a transaction in which the surviving entity is a Subsidiary of Borrower and a Loan Party, (iii) any Subsidiary of the Borrower may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and if such Subsidiary is not a Foreign Subsidiary, its assets are transferred to the Borrower or a Subsidiary (other than a Foreign Subsidiary) of the Borrower and (iv) the Borrower or any Subsidiary of Borrower may give effect to a merger or consolidation the purpose of which is to effect an investment, disposition or Acquisition permitted under Article VI so long as the surviving entity is a Subsidiary of Borrower and a Loan Party.

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

Investments, Loans, Advances and Guarantees. The Borrower will not, and will not permit any other Loan Party to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary of Borrower or that is a Foreign Subsidiary prior to such merger) any Equity Interests in or 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:

- (c) investments existing on the date hereof and set forth on Schedule 6.04;
- (d) Permitted Investments and Acquisitions permitted under Section 6.15 hereof;
- (e) loans or advances made by any Subsidiary of Borrower (other than Foreign Subsidiary) to or in the Borrower or any other Subsidiary of Borrower (other than a Foreign Subsidiary) or loans or advances or investments made by Borrower to or in any of its Subsidiaries (other than a Foreign Subsidiary);
- (f) loans or advances by the Borrower or any of its Subsidiaries to their respective employees in the ordinary course of business, not to exceed \$250,000 in the aggregate at any one time outstanding;
- (g) Accounts receivable owned by the Borrower or any of its Subsidiaries, if created in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;
- (h) Guarantees by the Borrower or any of its Subsidiaries (other than a Foreign Subsidiary) constituting Indebtedness permitted by Section 6.01; provided that a Subsidiary of Borrower shall not Guarantee any Subordinated Debt;
- (i) pledges and deposits permitted under Section 6.02;
- (j) Investments made as a result of the receipt of non-cash consideration from a sale, transfer or other disposition permitted under Section 6.05;
- (k) Restricted Payments permitted under Section 6.08;
- (l) additional Investments so long as the aggregate amount invested, loaned or advanced does not exceed \$5,000,000; and

(m) 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.

SECTION 6.04. Asset Sales. The Borrower will not, and will not permit any other Loan Party to, sell, transfer, lease or otherwise dispose of any asset, including any Equity Interest owned by it, nor will the Borrower permit any of its Subsidiaries to issue any additional Equity Interest in such Subsidiary, except:

- (a) sales of inventory, used or surplus equipment and Permitted Investments in the ordinary course of business and sales of real property owned by the Borrower or any of its Subsidiaries as of the date hereof;
- (b) sales, transfers and dispositions to the Borrower or to any of its Subsidiaries (other than a Foreign Subsidiary); provided that any such sales, transfers or dispositions involving a Subsidiary of Borrower that is not a Loan Party shall be made in compliance with Section 6.09;
- (c) dispositions of property as a result of condemnation, eminent domain or similar proceedings;
- (d) to the extent constituting dispositions, investments expressly permitted by Section 6.04;
- (e) leases, subleases, licenses or sublicenses in the ordinary course of business and which do not interfere in any material respect with the business of any Loan Party;
- (f) dispositions of Accounts Receivable in connection with the collection or compromise thereof in the ordinary course of business;
- (g) Restricted Payments permitted by Section 6.08; and
- (h) other sales by the Borrower or any of its Subsidiaries which do not exceed, in the aggregate, \$1,000,000 in any fiscal year;

provided that all sales, transfers, leases and other dispositions permitted hereby (other than those permitted by clause (b) above) shall be made for fair value and for at least 75% cash consideration.

SECTION 6.05. Sale and Leaseback Transactions. The Borrower will not, and will not permit any other Loan Party to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereinafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred.

SECTION 6.06. Swap Agreements. The Borrower will not, and will not permit any other Loan Party to, enter into any Swap Agreement, other than Swap Agreements entered into in the ordinary course of business to hedge or mitigate risks to which the Borrower or any other Loan Party is exposed in the conduct of its business or the management of its liabilities and not for speculative purposes.

SECTION 6.07. Restricted Payments. The Borrower will not, nor will it permit any other Loan Party to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except (i) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, and (ii) Subsidiaries of Borrower may declare and pay dividends ratably with respect to their Equity Interests and (iii) the Borrower may declare and pay preferred dividends up to a maximum aggregate amount of \$90,000 per annum.

SECTION 6.08. Transactions with Affiliates. The Borrower will not, nor will it permit any other Loan Party 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 Borrower or such other Loan Party than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and any Loan Party not involving any other Affiliate, (c) payments of customary fees to directors of the Borrower and reimbursement of the reasonable out-of-pocket expenses incurred by directors in such capacity, (d) customary employment and severance arrangements with officers and employees in the ordinary course of business and (e) any transactions permitted by Article VI.

SECTION 6.09. Restrictive Agreements. The Borrower will not, nor will it permit any other Loan Party 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 Borrower or any other Loan Party to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary of Borrower to pay dividends or other distributions with respect to any shares of its capital stock or membership interests or to make or repay loans or advances to the Borrower or any other Subsidiary of Borrower or to Guarantee Indebtedness of the Borrower or any of its Subsidiaries; provided that the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document and provided further that (x) clauses (a) and (b) above shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Person or asset pending such sale solely to the extent such sale is permitted under Section 6.05, and (y) clause (a) above shall not apply to customary provisions in leases, sublease, licenses or sublicenses and other contracts restricting the assignment thereof and negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 6.01(v), but solely to the extent such negative pledge or restriction relates to the property financed by such Indebtedness.

SECTION 6.10. Amendment of Material Documents. The Borrower will not, nor will it permit any other Loan Party to, amend, modify or waive any of its rights under (a) any Subordinated Debt Document or (b) its organizational documents (in any manner adverse to the Lenders).

SECTION 6.11. Additional Subsidiaries. The Borrower will not, and will not permit any other Loan Party to, form or acquire any Subsidiary after the Effective Date except that Borrower or any of its Subsidiaries may form, create or acquire a wholly-owned Subsidiary so long as (a) immediately thereafter and giving effect thereto, no event will occur and be continuing which constitutes a Default; (b) such domestic Subsidiary (and, where applicable, Borrower) shall execute and deliver a Guaranty (or, at the option of Administrative Agent, a joinder to the Guaranty) and such Security Documents as the Administrative Agent may reasonably require to effectuate the provisions of this Agreement regarding Collateral to be covered by the Security Documents (provided that no Foreign Subsidiary shall be required to execute and deliver such a Guaranty or such Security Documents), and (c) Administrative Agent is given at least thirty (30) days' (or such lesser period of time as may be agreed to by the Administrative Agent) prior notice of such formation, creation or acquisition. No Foreign Subsidiary may form, create or acquire a Subsidiary which is not a Foreign Subsidiary.

SECTION 6.12. Capital Expenditures. The Borrower will not, and will not permit any other Loan Party to, permit the aggregate amount of all Capital Expenditures for Borrower and the other Loan Parties during any fiscal year of the Borrower to exceed \$10,000,000 plus, for fiscal years beginning on January 1, 2008 and later, any unused availability for Capital Expenditures from the immediately preceding fiscal year (but not from any earlier year).

SECTION 6.13. Lease Expense. The Borrower will not, and will not permit any other Loan Party to, enter into any lease agreement (other than capital leases giving rise to Capital Lease Obligations) if, after giving effect to such new lease agreement, consolidated annual rental expense of the Borrower and its Subsidiaries attributable to leases (other than capital leases giving rise to Capital Lease Obligations) would exceed \$20,000,000.

SECTION 6.14. Acquisitions. The Borrower will not, and will not permit any other Loan Party to, enter into Acquisition other than an Acquisition (which may be way of a merger with and into the Borrower or another Loan Party so long as the Borrower or the applicable Loan Party is the surviving entity), so long as:

- (a) any Acquisition of Equity Interests shall require the acquisition of all (but not less than all) of the Equity Interests in and to the applicable Person;
- (b) no Default or Event of Default shall have occurred and be continuing or, on a pro forma basis, would reasonably be expected to result from such Acquisition;
- (c) the Borrower can demonstrate, on a pro forma basis, after giving effect to such Acquisition that (x) there is at least ten percent (10%) availability for Loan Borrowings hereunder and (y) if the Leverage Ratio is equal to or greater than 2.00 to 1.00, that the consideration payable in connection with the applicable Acquisition will not exceed \$15,000,000 and that the aggregate consideration payable in connection with all Acquisitions (including the applicable Acquisition) in the applicable fiscal year will not exceed \$30,000,000; and
- (d) the Borrower shall have delivered (or caused to be delivered) to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent in connection with such Acquisition.

SECTION 6.15. Property of Foreign Subsidiaries. Permit the aggregate value (based on the greater of book or market value) of the total assets owned by Foreign Subsidiaries of Borrower to exceed 5% of the aggregate value (based on the greater of book or market value) of the total assets owned by Borrower and all of its Subsidiaries.

Events of Default

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

- (a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC 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 Borrower 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, and such failure shall continue unremedied for a period of three Business Days;
- (c) any representation or warranty made or deemed made by or on behalf of the Borrower or any other 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 Borrower shall fail to observe or perform any covenant, condition or agreement contained in Sections 5.02 (other than clause (c) thereof), 5.03(b), 5.07, 5.11, 5.12, 5.13(a) or 5.13(b) 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 clauses (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 30 days after the earlier of (i) the Borrower becoming aware of such failure and (ii) notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of the Required Lenders);
- (f) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.13(c), and such failure shall continue unremedied for a period of 5 Business Days after the earlier of (i) the Borrower becoming aware of such failure and (ii) notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of the Required Lenders);
- (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 Material Indebtedness or any trustee or agent on its or their behalf to cause any 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 the Borrower or any other Loan Party or their debts, or of a substantial part of their assets, under any Federal, state or foreign 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 the Borrower or any other Loan Party or for a substantial part of their assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any other Loan Party shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign 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 the Borrower or any other 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) the Borrower or any other 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 \$1,000,000 (exclusive of amounts covered by insurance) shall be rendered against the Borrower or any other Loan Party and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any other 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 a Material Adverse Effect;

(m) any Lien purported to be created under any Security Document shall cease 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, and the same shall not be fully cured within 30 days after notice thereof to the Borrower by the Administrative Agent, or any Lien purported to be created under any Security Document 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 of Control shall occur;

then, and in every such event (other than an event with respect to the Borrower described in clauses (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 Borrower, take either or both of the following actions, at the same or different times: (i)

terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans 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 Borrower 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 Borrower; and in case of any event with respect to the Borrower described in clauses (h) or (i) of this Article, the 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 Borrower 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 Borrower.

The Administrative Agent

Each of the Lenders and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any of its Subsidiaries or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct, BUT REGARDLESS OF THE PRESENCE OF ORDINARY NEGLIGENCE. The Administrative Agent shall not be deemed to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or

representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may (and, in the event (i) neither the Administrative Agent nor any Affiliate of the Administrative Agent, as a Lender, has any Revolving Exposure, outstanding Term Loan or unused Commitment and (ii) the Required Lenders so request, the Administrative Agent shall) resign at any time by notifying the Lenders, the Issuing Bank and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrower (and, so long as no Event of Default has occurred which is continuing, subject to the consent of Borrower, not to be unreasonably withheld), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 60 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, in consultation with the Borrower, appoint a successor Administrative Agent which shall be a bank with an office in Houston, Texas, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for

the benefit of such retiring Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder.

MiscellaneousSECTION 8.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower, to it at 7272 Pinemont, Houston, Texas 77040, Attention: Mac McConnell (Telecopy No. 713-996-6570);

(ii) if to the Administrative Agent, to Wells Fargo Bank, National Association, 1700 Lincoln Ave., MAC C7300-034, Denver, Colorado 80203, Telecopy No.: 303-863-5533, with a copy to: Wells Fargo Bank, National Association, North Houston Commercial Banking, 21 Waterway Ave., Suite 600, The Woodlands, TX 77380, Attention: Thomas F. Caver, Telecopy No.: 281-362-6611;

(iii) if to the Issuing Bank, to Wells Fargo Bank, National Association, 1700 Lincoln Ave., MAC C7300-034, Denver, Colorado 80203, Telecopy No.: 303-863-5533, with a copy to: Wells Fargo Bank, National Association, North Houston Commercial Banking, 21 Waterway Ave., Suite 600, The Woodlands, TX 77380, Attention: Thomas F. Caver, Telecopy No.: 281-362-6611;

(iv) if to the Swingline Lender, to Wells Fargo Bank, National Association, 1700 Lincoln Ave., MAC C7300-034, Denver, Colorado 80203, Telecopy No.: 303-863-5533, with a copy to: Wells Fargo Bank, National Association, North Houston Commercial Banking, 21 Waterway Ave., Suite 600, The Woodlands, TX 77380, Attention: Thomas F. Caver, Telecopy No.: 281-362-6611; and

(v) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire. The Borrower and the Lenders agree that the Administrative Agent may make any material delivered by the Borrower to the Administrative Agent, as well as any amendments, waivers, consents, and other written information, documents, instruments and other materials relating to the Borrower, any of its Subsidiaries, or any other materials or matters relating to this Agreement, the Notes or any of the transactions contemplated hereby (collectively, the "Communications") available to the Lenders by posting such notices on an electronic delivery system (which may be provided by the Administrative Agent, an Affiliate of the Administrative Agent, or any Person that is not an Affiliate of the Administrative Agent), such as IntraLinks, or a substantially similar electronic system (the "Platform"). The Borrower acknowledges that (i) the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution, (ii) the Platform is provided "as is" and "as available" and (iii) neither the Administrative Agent nor any of its Affiliates warrants the accuracy, completeness, timeliness, sufficiency, or sequencing of the Communications posted on the Platform. The Administrative Agent and its Affiliates expressly disclaim with respect to the Platform any liability for errors in transmission, incorrect or incomplete downloading, delays in posting or delivery, or problems accessing the Communications posted on the Platform and any liability for any losses, costs, expenses or liabilities that may be suffered or incurred in connection with the Platform. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by the Administrative Agent or any of its Affiliates in connection with the Platform. Each Lender agrees that notice to it (as provided in the next sentence) (a "Notice") specifying that any Communication has been posted to the Platform shall for purposes of this Agreement constitute effective delivery to such Lender of such information, documents or other materials comprising such Communication. Each Lender agrees (i) to notify, on or before the date such Lender becomes a party to this Agreement, the Administrative Agent in writing of such Lender's e-mail address to which a Notice may be sent (and from time to time thereafter to ensure that the Administrative Agent has on record an effective e-mail address for such Lender) and (ii) that any Notice may be sent to such e-mail address.

(b) 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 8.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, 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 Administrative Agent, 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 Administrative Agent, 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 Borrower 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 Administrative Agent and the Loan Party or 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 Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC 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 LC 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 any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.17(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender affected thereby, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be), (vi) other than in connection with a transaction permitted by Article VI, release any Subsidiary of Borrower from liability under the Guaranty or limit the liability of any Subsidiary of Borrower in respect of the Guaranty, without the written consent of each Lender, (vii) other than in connection with a transaction permitted by Article VI, release all or substantially all of the Collateral from the Liens of the Security Documents, without the written consent of each Lender or (viii) change any provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each affected Class; provided further that (A) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Issuing Bank or the Swingline Lender without the prior written consent of the Administrative Agent or the Issuing Bank or the Swingline Lender, as the case may be, and (B) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Revolving Lenders (but not the Term Loan Lenders) or the Term Loan Lenders (but not the Revolving Lenders) may be effected by an agreement or agreements in writing entered into by the Borrower and, except as otherwise provided in this Section 9.02(b), a majority in interest of the affected Class of Lenders.

The Borrower shall pay (i) all reasonable out of pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit 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 out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with the Loan Documents, 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.

(a) The Borrower shall indemnify the Administrative Agent, 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 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 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 Mortgaged Property or any other property currently or formerly owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory 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, bad faith or willful misconduct of, or a breach of the Loan Documents by, such Indemnitee, **BUT THE PRESENCE OF ORDINARY NEGLIGENCE SHALL NOT AFFECT THE AVAILABILITY OF SUCH INDEMNITY.**

(b) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent or the Issuing Bank or the Swingline Lender under paragraphs (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent or the Issuing Bank or the Swingline Lender, 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 Administrative Agent or the Issuing Bank in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon (without duplication) its share of the sum of the total Revolving Exposures, outstanding Term Loans and unused Commitments at the time.

(c) To the extent permitted by applicable law, neither the Borrower nor any other 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, any Loan or Letter of Credit or the use of the proceeds thereof.

(d) All amounts due under this Section shall be payable not later than three Business Days after written demand therefor.

SECTION 8.04. 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 (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrower, provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; and

(B) the Administrative Agent, provided that no consent of the Administrative Agent shall be required for an assignment of (x) any Revolving Commitment to an assignee that is a Lender, an Affiliate of a Lender or an Approved Fund with a Revolving Commitment immediately prior to giving effect to such assignment and (y) all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the Issuing Bank and the Swingline Lender, provided that no consent of the Issuing Bank or the Swingline Lender shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 in respect of a Revolving Commitment or \$5,000,000 in respect of a Term Loan Commitment and Term Loans (in the aggregate), and shall not result in the assigning Lender holding a Revolving Commitment of less than \$5,000,000 or a Term Loan Commitment and Term Loans (in the aggregate) of less than \$5,000,000, unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

For the purposes of this Section, the term "Approved Fund" has the following meaning:

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

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 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 (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans and LC 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 Borrower, the Administrative Agent, the Issuing Bank, the Swingline Lender 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 Borrower, the Issuing Bank, the Swingline Lender and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee’s completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in 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 Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to this Agreement, the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower, the Administrative Agent or the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Bank, the Swingline Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 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 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.17(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Sections 2.14, 2.15 or 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.16(e) as though it were a Lender.

(d) 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 without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, 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 8.05. 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 Administrative Agent, the Issuing Bank, the Swingline Lender 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 is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.14, 2.15, 2.16 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 Commitments or the termination of this Agreement or any provision hereof.

SECTION 8.06. 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, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent 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 Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, 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 8.07. 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 8.08. 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, 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 Borrower against any of and all the obligations of the Borrower 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 unmaturing. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. Each Lender agrees to use reasonable efforts to promptly notify Borrower and Administrative Agent after any such set-off and application, provided that failure to give (or delay in giving) any such notice shall not affect the validity of such set-off and application or impose any liability on such Lender.

SECTION 8.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of Texas.

(b) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of each court of the State of Texas sitting in Harris County and of the United States District Court of the Southern District of Texas (Houston Division), and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such Texas State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank, the Swingline Lender or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, 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 of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) 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 8.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH PARTY HERETO, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH PARTY HERETO IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY ANY OTHER PARTY HERETO.

SECTION 8.11. 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 8.12. Interest Rate Limitation. Borrower and the Lenders intend to strictly comply with all applicable federal and Texas laws, including applicable usury laws (or the usury laws of any jurisdiction whose usury laws are deemed to apply to the Notes or any other Loan Documents despite the intention and desire of the parties to apply the usury laws of the State of Texas). Accordingly, the provisions of this Section shall govern and control over every other provision of this Agreement or any other Loan Document which conflicts or is inconsistent with this Section, even if such provision declares that it controls. As used in this Section, the term “interest” includes the aggregate of all charges, fees, benefits or other compensation which constitute interest under applicable law, provided that, to the maximum extent permitted by applicable law, (a) any non-principal payment shall be characterized as an expense or as compensation for something other than the use, forbearance or detention of money and not as interest, and (b) all interest at any time contracted for, reserved, charged or received shall be amortized, prorated, allocated and spread, using the actuarial method, during the full term of the Notes. In no event shall Borrower or any other Person be obligated to pay, or any Lender have any right or privilege to reserve, receive or retain, (a) any interest in excess of the maximum amount of nonusurious interest permitted under the laws of the State of Texas or the applicable laws (if any) of the United States or of any other jurisdiction, or (b) total interest in excess of the amount which such Lender could lawfully have contracted for, reserved, received, retained or charged had the interest been calculated for the full term of the Notes at the Ceiling Rate. The daily interest rates to be used in calculating interest at the Ceiling Rate shall be determined by dividing the applicable Ceiling Rate per annum by the number of days in the calendar year for which such calculation is being made. None of the terms and provisions contained in this Agreement or in any other Loan Document (including, without limitation, Article VII hereof) which directly or indirectly relate to interest shall ever be construed without reference to this Section, or be construed to create a contract to pay for the use, forbearance or detention of money at any interest rate in excess of the Ceiling Rate. If the term of any Note is shortened by reason of acceleration or maturity as a result of any Default or by any other cause, or by reason of any required or permitted prepayment, and if for that (or any other) reason any Lender at any time, including but not limited to, the stated maturity, is owed or receives (and/or has received) interest in excess of interest calculated at the Ceiling Rate, then and in any such event all of any such excess interest shall be canceled automatically as of the date of such acceleration, prepayment or other event which produces the excess, and, if such excess interest has been paid to such Lender, it shall be credited pro tanto against the then-outstanding principal balance of Borrower’s obligations to such Lender, effective as of the date or dates when the event occurs which causes it to be excess interest, until such excess is exhausted or all of such principal has been fully paid and satisfied, whichever occurs first, and any remaining balance of such excess shall be promptly refunded to its payor.

SECTION 8.13. Syndication Agent. The entity named as Syndication Agent hereunder, in such capacity, shall have no rights, powers, duties, obligations or liabilities under this Agreement or any of the other Loan Documents, but to the extent that for any reason any Person makes a claim against such entity, in its capacity as Syndication Agent and not as a Lender, the indemnification provisions in Article VIII and in Section 9.03 shall apply.

SECTION 8.14. USA Patriot Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 8.15. Amendment and Restatement; Renewal Notes. This Agreement amends and restates in its entirety that certain Credit Agreement (the "Prior Agreement") dated as of September 10, 2007 executed by and among the Borrower, Wells Fargo Bank, National Association, as Administrative Agent, and certain lenders therein described. This Agreement does not constitute and shall not be construed to evidence a novation of or a payment and readvance of any of the Obligations (as defined in the Prior Agreement), it being the intention of the parties hereto that this Agreement is an amendment and restatement (but not an extinguishment) of the Prior Agreement. From and after the date hereof, except as the context otherwise provides, (a) all references to the Prior Agreement (or to any amendment, supplement, modification or amendment and restatement thereof) in the Loan Documents (other than this Agreement) and the use of the words "thereunder", "thereof", or words of similar import when referring to the Prior Agreement shall be deemed to refer to this Agreement, (b) all references to any Article, Section (or subsection) of the Prior Agreement in any Loan Document (other than this Agreement) shall be amended to become mutatis mutandis, references to the corresponding provisions of this Agreement and (c) all references to this Agreement herein (including for purposes of indemnification and reimbursement of fees) shall be deemed to be references to this Agreement as the same may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time pursuant to the terms of this Agreement. The Borrower reaffirms the Liens granted pursuant to the Security Documents to the Administrative Agent for the benefit of the Lenders, which Liens shall continue in full force and effect during the term of this Agreement and any renewals or extensions thereof. The Notes have been given in renewal, extension and modification of the promissory notes delivered in connection with the Prior Agreement.

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

DXP ENTERPRISES, INC.,
a Texas corporation
By: /s/ Mac McConnell
Name: Mac McConnell
Title: Senior Vice President,
Chief Financial Officer and Secretary
Tax Id. No. 76-0509661

WELLS FARGO BANK, NATIONAL
ASSOCIATION, individually and as Lead Arranger
and Administrative Agent and as Issuing Bank and
Swingline Lender
By: /s/ Thomas F. Caver, III
Name: Thomas F. Caver, III
Title: Vice President

BANK OF AMERICA, N.A.,
individually and as Syndication Agent
By: /s/ Gary L. Mingle
Name: Gary L. Mingle
Title: Senior Vice President

WACHOVIA BANK, NATIONAL ASSOCIATION
By: /s/ J. Anthony Ross
Name: J. Anthony Ross
Title: Senior Vice President

COMPASS BANK
By: /s/ Frank Carvelli
Name: Frank Carvelli
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION
By: /s/ F. August Haug
Name: F. August Haug
Title: Assistant Vice President

NEWS RELEASE

CONTACT: Mac McConnell,
Senior Vice President, Finance & CFO
713-996-4700
www.dxpe.com

**DXP ENTERPRISES, INC. ANNOUNCES THE ACQUISITION OF
PFI, LLC**

Houston, Texas, August 28, 2008 – DXP Enterprises, Inc. (NASDAQ: DXPE) announced today the completion of the acquisition of PFI, LLC. The purchase price of approximately \$65 million was financed with borrowings from a new \$200 million senior credit facility.

The acquired business is headquartered in Massachusetts and operates out of locations in Georgia, North Carolina, Illinois, Ohio, Texas, California, Massachusetts and Florida. PFI, LLC distributes fasteners, rivets and hose clamps.

The sales and EBITDA (earnings before interest, taxes, depreciation and amortization) for the acquired business for the year ended May 3, 2008 were approximately \$71.9 million and \$13.3 million, respectively. EBITDA was calculated as income before tax of approximately \$10.8 million, plus interest of approximately \$2.2 million, plus depreciation and amortization of approximately \$0.3 million.

Mac McConnell, Chief Financial Officer, stated, “We anticipate this acquisition to be immediately accretive to earnings”.

DXP is represented by Stephens Inc. in this transaction.

DXP Enterprises, Inc. is a leading products and service distributor focused on adding value and total cost savings solutions to MRO and OEM customers in virtually every industry since 1908. DXP provides innovative pumping solutions, integrated supply and MROP (maintenance, repair, operating and production) services that emphasize and utilize DXP’s vast product knowledge and technical expertise in pumps, bearings, power transmission, seals, hose, safety, fluid power, and electrical and industrial supplies. DXP’s breadth of MROP products and service solutions allows DXP to be flexible and customer driven, creating competitive advantages for its customers.

The Private Securities Litigation Reform Act of 1995 provides a “safe-harbor” for forward-looking statements. Certain information included in this press release (as well as information included in oral statements or other written statements made by or to be made by the Company) contains statements that are forward-looking. Such forward-looking information involves important risks and uncertainties that could significantly affect anticipated results in the future; and accordingly, such results may differ from those expressed in any forward-looking statement made by or on behalf of the Company. These risks and uncertainties include, but are not limited to; ability to obtain needed capital, dependence on existing management, leverage and debt service, domestic or global economic conditions, and changes in customer preferences and attitudes. For more information, review the Company's filings with the Securities and Exchange Commission.

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