

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

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FILER

RJ REYNOLDS TOBACCO HOLDINGS INC

CIK: **83612** | IRS No.: **560950247** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **001-06388** | Film No.: **99647592**
SIC: **2111** Cigarettes

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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

June 14, 1999
Date of Report (Date of earliest event reported)

R.J. REYNOLDS TOBACCO HOLDINGS, INC.
(Exact name of registrant as specified in charter)

| | | |
|---|------------------------------------|--|
| Delaware (State or other jurisdiction of incorporation) | 1-6388 (Commission file no.) | 56-0950247 (IRS employer identification no.) |
|---|------------------------------------|--|

| | |
|--|---------------------|
| 401 North Main Street Winston-Salem, NC (Address of principal executive offices) | 27102 (Zip code) |
|--|---------------------|

(336) 741-5000
Registrant's telephone number,
including area code

1301 Avenue of the Americas
New York, NY 10019
(Former name or address, if changed since last report)

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Item 5. Other Events.

On June 14, 1999, the registrant's former parent RJR Nabisco Holdings Corp. completed the distribution of 100% of the common stock of the registrant R.J. Reynolds Tobacco Holdings, Inc. to record holders of the common stock of RJR Nabisco Holdings Corp. as of May 27, 1999, the record date for the distribution. This document refers to R.J. Reynolds Tobacco Holdings, Inc. as RJR. The distribution is intended to be tax-free for United States federal income tax purposes. As a result of the distribution, RJR is now an independent publicly traded company. For more information about the distribution, stockholders should refer to the Information Statement of RJR, which is filed as Exhibit 99.1 to the Registration Statement of RJR on Form 8-A dated May 19, 1999.

RJR issued two press releases on June 15, 1999 which are attached as Exhibits 99.1 and 99.2 to this document and incorporated into this document by reference. The press release attached as Exhibit 99.1 announced the completion of the distribution. The press release attached as Exhibit 99.2 announced the composition of RJR's board of directors upon completion of the distribution.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(c) Exhibits

| Exhibit No. ----- | Description ----- |
|-------------------------|--|
| 3.1 | Restated Certificate of Incorporation of R.J. Reynolds Tobacco Holdings, Inc. |
| 3.2 | By-Laws of R.J. Reynolds Tobacco Holdings, Inc. |
| 4.1 | Rights Agreement dated as of May 18, 1999 between R.J. Reynolds Tobacco Holdings, Inc. and its rights agent. |
| 10.1 | Tax Sharing Agreement dated as of June 14, 1999 among RJR Nabisco Holdings Corp., R.J. Reynolds Tobacco Holdings, Inc., R.J. Reynolds Tobacco Company and Nabisco Holdings Corp. |
| 10.2 | RJR Nabisco, Inc. 1999 Long Term Incentive Plan. |
| 99.1 | Press Release dated June 15, 1999 announcing the completion of the distribution. |

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SIGNATURE

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.

R.J. REYNOLDS TOBACCO HOLDINGS, INC.

By: /s/ Charles A. Blixt

Name: Charles A. Blixt
Title: Executive Vice President
and General Counsel

June 15, 1999

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RESTATED

CERTIFICATE OF INCORPORATION

OF

R.J. REYNOLDS TOBACCO HOLDINGS, INC.

Pursuant to Sections 228, 242 and 245 of the
General Corporation Law of the State of Delaware

The undersigned H. Colin McBride, Secretary of R.J. Reynolds Tobacco Holdings, Inc. (the "Corporation"), certifies as follows:

1. (a) The name of the Corporation is currently R.J. Reynolds Tobacco Holdings, Inc.

(b) The Corporation was originally incorporated under the name R.J. Reynolds Industries, Inc. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on March 4, 1970.

2. The Certificate of Incorporation is hereby amended by striking out Articles I through VI thereof and by substituting new Articles First through Ninth which are set forth in the Restated Certificate of Incorporation below.

3. The provisions of the Certificate of Incorporation of the Corporation as heretofore amended and/or supplemented, and as herein amended, are hereby restated and integrated into the single instrument entitled "Restated Certificate of Incorporation of R.J. Reynolds Tobacco Holdings, Inc." set forth below.

4. The amendments and the restatement of the Restated Certificate of Incorporation certified herein have been duly adopted by the sole stockholder of the Corporation in accordance with the provisions of Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware.

RESTATED

CERTIFICATE OF INCORPORATION

OF
R.J. REYNOLDS TOBACCO HOLDINGS, INC.

(Originally incorporated under the name of
R.J. Reynolds Industries, Inc. on March 4, 1970)

ARTICLE FIRST

The name of the Corporation is R.J. Reynolds Tobacco Holdings, Inc.

ARTICLE SECOND

The address of its registered office in the State of Delaware is 1013 Centre Road, City of Wilmington, County of New Castle, Delaware 19805. The name of its registered agent at such address is The Prentice-Hall Corporation System, Inc.

ARTICLE THIRD

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (the "DGCL").

ARTICLE FOURTH

The total number of shares of capital stock that the Corporation is authorized to issue is 340,000,000 shares of which 290,000,000 shares are Common Stock, par value \$.01 each ("Common Stock"), and 50,000,000 shares are Preferred Stock, par value \$.01 each (hereinafter referred to as "Preferred Stock"). The Corporation may issue the Preferred Stock from time to time in one or more series with such distinctive designations as may be stated in the resolution or resolutions providing for the issue of such stock from time to time adopted by the Board of Directors or a duly authorized committee thereof. The resolution or resolutions providing for the issue of shares of a particular series shall fix, subject to applicable laws and the provisions of this ARTICLE FOURTH, for each such series the number of shares constituting such series and the designations and powers, preferences and relative participating, optional or other special rights and qualifications, limitations or restrictions thereof, including, without limiting the generality of the foregoing, such provisions as may be desired concerning voting, redemption, dividends, dissolution or the distribution of assets, conversion or

exchange, and such other subjects or matters as may be fixed by resolution or resolutions of the Board of Directors or a duly authorized committee thereof under the DGCL. The number of authorized shares of any class or classes of stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the Common Stock of the Corporation irrespective of the provisions of Section 242(b)(2) of the DGCL or any corresponding provision hereafter enacted.

The following is a statement of the number, designation, powers, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions of the Series A Junior Participating Preferred Stock (the "Series A Preferred Stock") of the Corporation:

(1) Designation and Number of Shares. The shares of such series shall be designated as "Series A Junior Participating Preferred Stock, par value \$0.01 per share", and the number of shares constituting such series shall be 2,000,000. Such number of shares of the Series A Preferred Stock may be increased or decreased by resolution of the Board of Directors; provided that no decrease shall reduce the number of shares of Series A Preferred Stock to a number less than the number of shares then outstanding plus the number of shares issuable upon exercise or conversion of outstanding rights, options or other securities issued by the Corporation.

(2) Dividends and Distributions.

(a) The holders of shares of Series A Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable on January 1, April 1, July 1 and October 1 of each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of any share or fraction of a share of Series A Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (i) \$1.00 and (ii) subject to the provision for adjustment hereinafter set forth, 100 times the aggregate per share amount of all cash dividends or other distributions and 100 times the aggregate per share amount of all non-cash dividends or other distributions (other than (A) a dividend payable in shares of Common Stock or (B) a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise)), declared on the Common Stock since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Preferred Stock. If the Corporation shall at any time after May 17, 1999 (the "Rights

Declaration Date") pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under clause 2(a)(ii) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(b) The Corporation shall declare a dividend or distribution on the Series A Preferred Stock as provided in paragraph 2(a) above immediately after it declares a dividend or distribution on the Common Stock (other than as described in clauses 2(a)(ii)(A) and 2(a)(ii)(B) above); provided that if no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date (or, with respect to the first Quarterly Dividend Payment Date, the period between the first issuance of any share or fraction of a share of Series A Preferred Stock and such first Quarterly Dividend Payment Date), a dividend of \$1.00 per share on the Series A Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(c) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series A Preferred Stock, unless the date of issue of such shares is on or before the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue and be cumulative from the date of issue of such shares, or unless the date of issue is a date after the record date for the determination of holders of shares of Series A Preferred Stock entitled to receive a quarterly dividend and on or before such Quarterly Dividend Payment Date, in which case dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares

of Series A Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall not be more than 60 days prior to the date fixed for the payment thereof.

(3) Voting Rights. In addition to any other voting rights required by law, the holders of shares of Series A Preferred Stock shall have the following voting rights:

(a) Subject to the provision for adjustment hereinafter set forth, each share of Series A Preferred Stock shall entitle the holder thereof to 100 votes on all matters submitted to a vote of stockholders of the Corporation. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the number of votes per share to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event shall be adjusted by multiplying such number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(b) Except as otherwise provided herein or by law, the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock shall vote together as a single class on all matters submitted to a vote of stockholders of the Corporation.

(c) (i) If at any time dividends on any Series A Preferred Stock shall be in arrears in an amount equal to six quarterly dividends thereon, the occurrence of such contingency shall mark the beginning of a period (herein called a "default period") which shall extend until such time when all accrued and unpaid dividends for all previous quarterly dividend periods and for the current quarterly dividend period on all shares of Series A Preferred Stock then outstanding shall have been declared and paid or set apart for payment. During each default period, all holders of Preferred Stock and any other series of Preferred Stock then entitled as a class to elect directors, voting together as a single class, irrespective of series, shall have the right to elect two Directors.

(ii) During any default period, such voting right of the holders of Series A Preferred Stock may be exercised initially at a special meeting called pursuant to subparagraph 3(c)(iii) hereof or

at any annual meeting of stockholders, and thereafter at annual meetings of stockholders; provided that neither such voting right nor the right of the holders of any other series of Preferred Stock, if any, to increase, in certain cases, the authorized number of Directors shall be exercised unless the holders of 10% in number of shares of Preferred Stock outstanding shall be present in person or by proxy. The absence of a quorum of holders of Common Stock shall not affect the exercise by holders of Preferred Stock of such voting right. At any meeting at which holders of Preferred Stock shall exercise such voting right initially during an existing default period, they shall have the right, voting as a class, to elect Directors to fill such vacancies, if any, in the Board of Directors as may then exist up to two Directors or, if such right is exercised at an annual meeting, to elect two Directors. If the number which may be so elected at any special meeting does not amount to the required number, the holders of the Preferred Stock shall have the right to make such increase in the number of Directors as shall be necessary to permit the election by them of the required number. After the holders of the Preferred Stock shall have exercised their right to elect Directors in any default period and during the continuance of such period, the number of Directors shall not be increased or decreased except by vote of the holders of Preferred Stock as herein provided or pursuant to the rights of any equity securities ranking senior to or pari passu with the Series A Preferred Stock.

(iii) Unless the holders of Preferred Stock shall, during an existing default period, have previously exercised their right to elect Directors, the Board of Directors may order, or any stockholder or stockholders owning in the aggregate not less than 10% of the total number of shares of Preferred Stock outstanding, irrespective of series, may request, the calling of a special meeting of holders of Preferred Stock, which meeting shall thereupon be called by the President, a Vice President or the Secretary of the Corporation. Notice of such meeting and of any annual meeting at which holders of Preferred Stock are entitled to vote pursuant to this paragraph 3(c)(iii) shall be given to each holder of record of Preferred Stock by mailing a copy of such

notice to him at his last address as the same appears on the books of the Corporation. Such meeting shall be called for a time not earlier than 20 days and not later than 60 days after such order or request or in default of the calling of such meeting within 60 days after such order or request, such meeting may be called on similar notice by any stockholder or

stockholders owning in the aggregate not less than 10% of the total number of shares of Preferred Stock outstanding, irrespective of series. Notwithstanding the provisions of this paragraph 3(c)(iii), no such special meeting shall be called during the period within 60 days immediately preceding the date fixed for the next annual meeting of stockholders.

(iv) In any default period, the holders of Common Stock, and other classes of stock of the Corporation if applicable, shall continue to be entitled to elect the whole number of Directors until the holders of Preferred Stock shall have exercised their right to elect two Directors voting as a class, after the exercise of which right (x) the Directors so elected by the holders of Preferred Stock shall continue in office until their successors shall have been elected by such holders or until the expiration of the default period, and (y) any vacancy in the Board of Directors may (except as provided in paragraph 3(c)(ii) hereof) be filled by vote of a majority of the remaining Directors theretofore elected by the holders of the class of stock which elected the Director whose office shall have become vacant. References in this paragraph 3(c) to Directors elected by the holders of a particular class of stock shall include Directors elected by such Directors to fill vacancies as provided in clause (y) of the foregoing sentence.

(v) Immediately upon the expiration of a default period, (x) the right of the holders of Preferred Stock as a class to elect Directors shall cease, (y) the term of any Directors elected by the holders of Preferred Stock as a class shall terminate, and (z) the number of Directors shall be such number as may be provided for in the certificate of incorporation or bylaws irrespective of any increase made pursuant to the provisions of paragraph 3(c)(ii) hereof (such number being subject, however, to change thereafter in any

manner provided by law or in the certificate of incorporation or bylaws). Any vacancies in the Board of Directors effected by the provisions of clauses (y) and (z) in the preceding sentence may be filled by a majority of the remaining Directors.

(d) The Certificate of Incorporation of the Corporation shall not be amended in any manner (whether by merger or otherwise) so as to adversely affect the powers, preferences or special rights of the Series A Preferred Stock without the affirmative vote of the holders of a majority of the outstanding shares of Series A Preferred Stock, voting separately as a class.

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(e) Except as otherwise provided herein, holders of Series A Preferred Stock shall have no special voting rights, and their consent shall not be required for taking any corporate action.

(4) Certain Restrictions.

(a) Whenever quarterly dividends or other dividends or distributions payable on the Series A Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on outstanding shares of Series A Preferred Stock shall have been paid in full, the Corporation shall not:

(i) declare or pay dividends on, or make any other distributions on, any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock;

(ii) declare or pay dividends on, or make any other distributions on, any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except dividends paid ratably on the Series A Preferred Stock and all such other parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(iii) redeem, purchase or otherwise acquire for value any shares of stock ranking junior (either as to dividends or

upon liquidation, dissolution or winding up) to the Series A Preferred Stock; provided that the Corporation may at any time redeem, purchase or otherwise acquire shares of any such junior stock in exchange for shares of stock of the Corporation ranking junior (as to dividends and upon dissolution, liquidation or winding up) to the Series A Preferred Stock; or

(iv) redeem, purchase or otherwise acquire for value any shares of Series A Preferred Stock, or any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of Series A Preferred Stock and all such other parity stock upon such terms as the Board of Directors, after consideration of the respective annual

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dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(b) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for value any shares of stock of the Corporation unless the Corporation could, under paragraph 4(a), purchase or otherwise acquire such shares at such time and in such manner.

(5) Reacquired Shares. Any shares of Series A Preferred Stock redeemed, purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock without designation as to series and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors as permitted by the Certificate of Incorporation or as otherwise permitted under Delaware Law.

(6) Liquidation, Dissolution and Winding Up. Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made (1) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock unless,

prior thereto, the holders of shares of Series A Preferred Stock shall have received \$1.00 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment; provided that the holders of shares of Series A Preferred Stock shall be entitled to receive an aggregate amount per share, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount to be distributed per share to holders of Common Stock, or (2) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, except distributions made ratably on the Series A Preferred Stock and all such other parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the aggregate amount to which holders of shares of Series A Preferred Stock were entitled immediately prior to such event under the proviso in clause (1) of the preceding sentence shall be adjusted by multiplying such amount by a fraction the numerator of which is

the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(7) Consolidation, Merger, Etc. If the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash or any other property, then in any such case the shares of Series A Preferred Stock shall at the same time be similarly exchanged for or changed into an amount per share, subject to the provision for adjustment hereinafter set forth, equal to 100 times the aggregate amount of stock, securities, cash or any other property, as the case may be, into which or for which each share of Common Stock is changed or exchanged. If the Corporation shall at any time after the Rights Declaration Date pay any dividend on Common Stock payable in shares of Common Stock or effect a subdivision or combination of the outstanding shares of Common Stock (by reclassification or otherwise) into a greater or lesser number of shares of Common Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of shares of Series A Preferred Stock shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of

shares of Common Stock that were outstanding immediately prior to such event.

(8) No Redemption. The Series A Preferred Stock shall not be redeemable.

(9) Rank. The Series A Preferred Stock shall rank junior (as to dividends and upon liquidation, dissolution and winding up) to all other series of the Corporation's preferred stock except any series that specifically provides that such series shall rank junior to the Series A Preferred Stock.

(10) Fractional Shares. Series A Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Preferred Stock.

ARTICLE FIFTH

The Board of Directors of the Corporation, acting by majority vote, may alter, amend or repeal the By-Laws of the Corporation. The stockholders may adopt, amend or repeal the By-Laws only with the affirmative vote of the holders

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of not less than 80% of the outstanding securities of the Corporation then entitled to vote thereon, voting together as a single class.

ARTICLE SIXTH

(1) The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. Officers of the Corporation shall be elected by, or in the manner approved by, the Board of Directors.

(2) The Board of Directors shall consist of not less than five nor more than twelve directors, with the exact number of directors to be determined from time to time by resolution adopted by the Board of Directors.

(3) The members of the Board of Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may reasonably be possible, of one-third of the total number of directors constituting the Board of Directors. Each director shall serve for a term ending on the date of the third annual meeting of stockholders next following the annual meeting at which such director was elected, provided that

directors initially designated as Class I directors shall serve for a term ending on the date of the year 2000 annual meeting, directors initially designated as Class II directors shall serve for a term ending on the date of the year 2001 annual meeting, and directors initially designated as Class III directors shall serve for a term ending on the date of the year 2002 annual meeting. Notwithstanding the foregoing, each director shall hold office until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal. In the event of any change in the number of directors, the Board of Directors shall apportion any newly-created directorships among, or reduce the number of directorships in, such class or classes as shall equalize, as nearly as may reasonably be possible, the number of directors in each class. In no event will a decrease in the number of directors shorten the term of any incumbent director.

(4) Initial Directors. The names and mailing addresses of the persons who are to serve initially as directors in each Class are:

| | Name ----- | Mailing Address ----- |
|---------|---|--|
| Class I | John T. Chain, Jr. Thomas C. Wajnert | R. J. Reynolds Tobacco Holdings, Inc. 401 North Main Street Winston-Salem, NC 27102 |

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| | | |
|----------|---|--|
| Class II | A. D. Frazier John G. Medlin, Jr. Nana Mensah | R. J. Reynolds Tobacco Holdings, Inc. 401 North Main Street Winston-Salem, NC 27102 |
|----------|---|--|

| | | |
|-----------|---|--|
| Class III | Denise Ilitch Andrew J. Schindler Joseph P. Viviano | R. J. Reynolds Tobacco Holdings, Inc. 401 North Main Street Winston-Salem, NC 27102 |
|-----------|---|--|

(5) There shall be no cumulative voting in the election of directors. Election of directors need not be by written ballot unless the By-Laws of the Corporation so provide. Directors need not be stockholders.

(6) Except as otherwise provided by law, vacancies on the Board of

Directors resulting from death, resignation, removal or otherwise and newly-created directorships resulting from any increase in the number of directors shall be filled only by a majority of the directors then in office (although less than a quorum) or by the sole remaining director and not by the stockholders, and each director so elected shall hold office for a term that shall coincide with the term of the Class to which such director shall have been elected.

(7) Each member of the Board of Directors shall have one vote on all matters presented to the Board of Directors, and a majority of the total number of directors at any time shall constitute a quorum for the transaction of business at that time. The Board of Directors may act by the unanimous written consent of the directors.

(8) Notwithstanding the foregoing, whenever the holders of one or more classes or series of Preferred Stock shall have the right, voting separately as a class or series, to elect directors, the election, term of office, filling of vacancies, removal and other features of such directorships shall be governed by the terms of the resolution or resolutions adopted by the Board of Directors pursuant to ARTICLE FOURTH applicable thereto, and such directors so elected shall not be subject to the provisions of this ARTICLE SIXTH unless otherwise provided in such resolution or resolutions.

ARTICLE SEVENTH

(1) To the fullest extent permitted by the DGCL as now in effect or as hereafter amended, no director or Continuing Director of the Corporation shall be liable for monetary damages for breach of fiduciary duty.

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(2) Each person who is or was a director or officer of the Corporation (and the heirs, executors or administrators of such person) who was or is a party or is threatened to be made a party to, or is involved in any threatened, pending or completed action, suit or proceeding (including an action, suit or proceeding by or in right of the Corporation), whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or officer, of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL. The right to indemnification conferred in this ARTICLE SEVENTH shall also include the right to be paid by the Corporation the expenses incurred in

connection with any such proceeding in advance of its final disposition to the fullest extent authorized by the DGCL. The right to indemnification conferred in this ARTICLE SEVENTH shall be a contract right.

(3) The Corporation may, by action of its Board of Directors, provide indemnification to such of the employees and agents of the Corporation to such extent and to such effect as the Board of Directors shall determine to be appropriate and authorized by the DGCL.

(4) The Corporation shall have power to purchase and maintain insurance, at its expense, on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss incurred by such person in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify such person in any such capacity and whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

(5) The rights and authority conferred in this ARTICLE SEVENTH shall not be exclusive of any other right which any person may otherwise have or hereafter acquire under any statute, provision of the Certificate of Incorporation or By-laws of the Corporation, agreement, vote of stockholders or disinterested directors or otherwise.

(6) Neither the amendment nor repeal of this ARTICLE SEVENTH, nor the adoption of any provision of this Certificate of Incorporation or the By-laws of the Corporation, nor, to the fullest extent permitted by the DGCL, any modification of law, shall eliminate or reduce the effect of this ARTICLE

SEVENTH in respect of any acts or omissions occurring prior to such amendment, repeal, adoption or modification.

ARTICLE EIGHTH

Any action required or permitted to be taken at any annual or special meeting of stockholders may be taken only upon the vote of stockholders at an annual or special meeting duly noticed and called in accordance with the DGCL and may not be taken by written consent of stockholders without a meeting.

ARTICLE NINTH

Special meetings of the stockholders may be called by the Board of Directors, the Chairman of the Board of Directors, the President or the Secretary of the Corporation and may not be called by any other person. Notwithstanding the foregoing, whenever holders of one or more classes or series of Preferred Stock shall have the right, voting separately as a class or series, to elect directors, such holders may call, pursuant to the terms of the resolution or resolutions adopted by the Board of Directors pursuant to ARTICLE FOURTH hereof, special meetings of holders of such Preferred Stock.

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IN WITNESS WHEREOF, the undersigned has duly executed this Restated Certificate of Incorporation as of June 14, 1999.

R.J. REYNOLDS TOBACCO HOLDINGS,
INC.

By: /s/ H. Colin McBride

Name: H. Colin McBride
Title: Senior Vice President,
Secretary and General Counsel

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R.J. REYNOLDS TOBACCO HOLDINGS, INC.

BY-LAWS

As Amended Effective June 14, 1999

* * * * *

ARTICLE 1
MEETINGS OF STOCKHOLDERS

SECTION 1.01. Place of Meetings. Meetings of stockholders of the Corporation shall be held at such place either within or without the State of Delaware as the Corporation's Board of Directors (the "Board") may determine.

SECTION 1.02. Annual and Special Meetings. Annual meetings of stockholders shall be held, at a date, time and place fixed by the Board and stated in the notice of meeting, to elect a Board and to transact such other business as may properly come before the meeting. Special meetings of stockholders may be called by the persons identified in the Corporation's Certificate of Incorporation.

SECTION 1.03. Notice. Except as otherwise provided by law or by the Certificate of Incorporation, written notice shall be given to each stockholder entitled to vote at least 10 and not more than 60 days before each meeting of stockholders, such notice to include the time, date and place of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

SECTION 1.04. Quorum. At any meeting of stockholders, the holders of record, present in person or by proxy, of a majority of the Corporation's stock issued and outstanding and entitled to vote shall constitute a quorum for the transaction of business, except as otherwise provided by law or by the Certificate of Incorporation. In the absence of a quorum, any officer entitled to preside at or to act as secretary of the meeting shall have power to adjourn the meeting from time to time until a quorum is present.

SECTION 1.05. Conduct of Meeting and Order of Business. The Chairman or, at the Chairman's request, the Chief Executive Officer, shall act as chairman at all meetings of stockholders. The Secretary of the Corporation or, in his or her absence, an Assistant Secretary shall act as secretary at all meetings of stockholders. The chairman of the meeting shall have the right and authority to determine and maintain the rules, regulations and procedures for the proper

conduct of the meeting, including but not limited to restricting entry to the meeting after it has commenced, maintaining order and the safety of those in attendance, opening and closing the polls for voting, dismissing business not properly submitted, and limiting time allowed for discussion of the business of the meeting.

Business to be conducted at annual meetings of stockholders shall be limited to that properly submitted to the meeting either by or at the direction of the Board or by any stockholder of the Corporation who shall be entitled to vote at such meeting and who complies with the notice requirements set forth in Section 1.06. If the chairman of the meeting shall determine that any business was not properly submitted in accordance with the terms of Section 1.06, he or she shall declare to the meeting that such business was not properly submitted and would not be transacted at that meeting.

SECTION 1.06. Advance Notice of Stockholder Proposals. In order to properly submit any business to an annual meeting of stockholders, a stockholder must give timely notice in writing to the Secretary of the Corporation. To be considered timely, a stockholder's notice must be delivered either in person or by United States certified mail, postage prepaid, and received prior to the close of business at the principal executive offices of the Corporation (a) not less than 120 days nor more than 150 days (unless, in either case, such day is not a business day in which case the immediately preceding business day) before the first anniversary of the Corporation's last annual meeting of stockholders or (b) if no annual meeting was held in the previous year or the date of the applicable annual meeting has been changed by more than 30 days from such anniversary date, not less than a reasonable time, as determined by the Board, prior to the date of the applicable annual meeting. In no event shall the public announcement of a postponement or adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above.

Nomination of persons for election to the Board may be made by the Board or any committee designated by the Board or by any stockholder entitled to vote for the election of directors at the applicable meeting of stockholders. However, nominations other than those made by the Board or its designated committee must comply with the procedures set forth in this Section 1.06, and no person shall be eligible for election as a director unless nominated in accordance with the terms of this Section 1.06.

A stockholder may nominate a person or persons for election to the Board by giving written notice to the Secretary of the Corporation in accordance with the procedures set forth above. In addition to the timeliness requirements set forth above for notice to the Corporation by a stockholder of business to be submitted

at an annual meeting of stockholders, with respect to any special meeting of stockholders called for the election of directors, written notice must be delivered in the manner specified above and not later than the close of business on the seventh day following the date on which notice of such meeting is first given to stockholders.

The Secretary of the Corporation shall deliver any stockholder proposals and nominations received in a timely manner for review by the Board or a committee designated by the Board.

A stockholder's notice to submit business to an annual meeting of stockholders shall set forth (i) the name and address of the stockholder, (ii) the class and number of shares of stock beneficially owned by such stockholder, (iii) the name in which such shares are registered on the stock transfer books of the Corporation, (iv) a representation that the stockholder intends to appear at the meeting in person or by proxy to submit the business specified in such notice, (v) any material interest of the stockholder in the business to be submitted and (vi) a brief description of the business desired to be submitted to the annual meeting, including the complete text of any resolutions to be presented at the annual meeting, and the reasons for conducting such business at the annual meeting. In addition, the stockholder making such proposal shall promptly provide any other information reasonably requested by the Corporation.

In addition to the information required above to be given by a stockholder who intends to submit business to a meeting of stockholders, if the business to be submitted is the nomination of a person or persons for election to the Board then such stockholder's notice must also set forth, as to each person whom the stockholder proposes to nominate for election as a director, (a) the name, age, business address and, if known, residence address of such person, (b) the principal occupation or employment of such person, (c) the class and number of shares of stock of the Corporation which are beneficially owned by such person, (d) any other information relating to such person that is required to be disclosed in solicitations of proxies for election of directors or is otherwise required by the rules and regulations of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934, as amended, (e) the written consent of such person to be named in the proxy statement as a nominee and to serve as a director if elected and (f) a description of all arrangements or understandings between such stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by such stockholder.

Any person nominated for election as a director by the Board or any committee designated by the Board shall, upon the request of the Board or such

committee, furnish to the Secretary of the Corporation all such information pertaining to such person that is required to be set forth in a stockholder's notice of nomination.

In addition to the foregoing provisions of this Section 1.06, a stockholder who seeks to have any proposal included in the Corporation's proxy statement shall comply with the requirements of Regulation 14A under the Securities Exchange Act of 1934, as amended.

SECTION 1.07. Voting. Except as otherwise provided by law or by the Certificate of Incorporation, all matters submitted to a meeting of stockholders shall be decided by vote of the holders of record, present in person or by proxy, of a majority of the Corporation's stock issued and outstanding and entitled to vote.

A proxy shall be executed in writing by the stockholder or by his or her duly authorized attorney-in-fact and shall be delivered to the secretary of the meeting at or prior to the time designated by the chairman of the meeting. No stockholder may designate more than four persons to act on his or her behalf at a meeting of stockholders.

SECTION 1.08. Inspectors of Election. Prior to any meeting of stockholders, the Board shall appoint one or more inspectors to act at the meeting and make a written report thereof in accordance with the Delaware General Corporation Law. The Board may designate one or more persons as alternate inspectors to replace any inspector who fails to act. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability.

ARTICLE 2 DIRECTORS

SECTION 2.01. Meetings. Regular meetings of the Board shall be held at such times and places as may from time to time be fixed by the Board or as may be specified in a notice of meeting. Special meetings of the Board may be held at any time upon the call of the Chairman or the Chief Executive Officer and shall be called by the Chairman, the Chief Executive Officer or the Secretary if directed by the Board. A meeting of the Board may be held without notice immediately after the annual meeting of stockholders. No notice shall be required for any regular meeting of the Board. Notice of the day, hour and place of holding of each special meeting shall be given by delivering the same at least two days

before the date of the meeting or by causing the same to be transmitted by telecopy or telegraph at least one day before the meeting to each director.

SECTION 2.02. Quorum. Except as otherwise provided in the Certificate of Incorporation, a majority of the total number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until such a quorum is present.

SECTION 2.03. Executive Committee. The Board, by resolution adopted by a majority of the entire Board, may appoint from among its members an Executive Committee consisting of the Chief Executive Officer, if such officer is a member of the Board, or the Chairman, if the Chief Executive Officer is not a member of the Board, and at least two other directors. Meetings of the Executive Committee shall be held without notice at such dates, times and places as shall be determined by the Executive Committee. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation that are permitted by law to be exercised by a committee of the Board, including the power to declare dividends, to authorize the issuance of stock and to adopt a certificate of ownership and merger of parent corporation and subsidiary or subsidiaries; provided, however, that the Executive Committee shall not have the power or authority of the Board in reference to amending the Certificate of Incorporation or any preferred stock rights plan, adopting an agreement of merger or consolidation with respect to the Corporation, recommending to the stockholders the sale, lease or exchange of all or substantially all the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, amending the By-Laws of the Corporation or adopting a certificate of ownership and merger of the Corporation (other than a certificate of ownership and merger of parent corporation and subsidiary or subsidiaries). The majority of the members of the Executive Committee shall constitute a quorum. Minutes shall be kept of the proceedings of the Executive Committee, which shall be reported at meetings of the Board. The Executive Committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the Board of the Corporation, fix any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the Corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the Corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series.

SECTION 2.04. Other Committees of Directors. The Board may, by resolution adopted by a majority of the Board, designate one or more other committees to have and exercise such power and authority as the Board shall specify. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another director to act at the meeting in place of any such absent or disqualified member.

ARTICLE 3 OFFICERS

SECTION 3.01. Description and Terms. The officers of the Corporation shall be the Chairman, the Chief Executive Officer, a President, a Treasurer, a Secretary, who shall have the duty, among other things, to record the proceedings of the meetings of stockholders and directors in a book kept for that purpose, and such other additional officers with such titles as the Board shall determine, all of whom shall be chosen by and serve at the pleasure of the Board; provided that the Chief Executive Officer may appoint Senior Vice Presidents, Vice Presidents or Assistant Officers at his or her discretion. Subject to such limitations as may be imposed by the Board, the Chief Executive Officer shall have full executive power and authority with respect to the Corporation. The President, if separate from the Chief Executive Officer, shall have such powers and authority as the Chief Executive Officer may determine. If the Chief Executive Officer is absent or incapacitated, the Executive Committee shall determine the person who shall have all the power and authority of the Chief Executive Officer. Other officers shall have the usual powers and shall perform all the usual duties incident to their respective offices. All officers shall be subject to the supervision and direction of the Board. The authority, duties or responsibilities of any officer of the Corporation may be suspended by the Chief Executive Officer with or without cause. Any officer may be removed by the Board with or without cause. Subject to such limitations as the Board may provide, each officer may further delegate to any other officer or any employee or agent of the Corporation such portions of his or her authority as the officer shall deem appropriate, subject to such limitations as the officer shall specify, and may revoke such authority at any time.

SECTION 3.02. Stockholder Consents and Proxies. The Chairman, the Chief Executive Officer, each Vice Chairman, the President, the Secretary and the Treasurer, or any one of them, shall have the power and authority on behalf of the Corporation to execute any stockholders' consents or proxies and to attend and act and vote in person or by proxy at any meetings of stockholders of any corporation in which the Corporation may own stock, and at any such meetings shall possess

and may exercise any and all of the rights and powers incident to the ownership of such stock which as the owner thereof the Corporation might have possessed and executed if present. The Board by resolution from time to time may confer like powers upon any other officer.

ARTICLE 4
GENERAL PROVISIONS

SECTION 4.01. Notices. Whenever any statute, the Certificate of Incorporation or these By-Laws require notice to be given to any director or stockholder, such notice is to be given in writing by mail, addressed to such director or stockholder at his or her address as it appears on the records of the Corporation, with postage thereon prepaid. Such notice shall be deemed to have been given when it is deposited in the United States mail. Notice to directors may also be given by telegram or facsimile transmission or be delivered personally or by telephone.

SECTION 4.02. Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board.

SECTION 4.03. Certificates of Stock. Any certificates which represent shares of the Corporation shall be signed by the Chairman or the Chief Executive Officer and by the Secretary or an Assistant Secretary. Any and all signatures on any such certificates, including signatures of officers, transfer agents and registrars, may be facsimile.

RIGHTS AGREEMENT

dated as of

May 17, 1999

between

R.J. REYNOLDS TOBACCO HOLDINGS, INC.

and

THE BANK OF NEW YORK

as Rights Agent

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RIGHTS AGREEMENT

AGREEMENT dated as of May 17, 1999 between R.J. Reynolds Tobacco Holdings, Inc., a Delaware corporation (the "Company"), and The Bank of New York, a New York banking corporation as Rights Agent (the "Rights Agent"),

W I T N E S S E T H

WHEREAS, on May 17, 1999 the Board of Directors of the Company authorized and declared a dividend, payable on May 27, 1999 (the "Record Date"), of preferred stock purchase rights (the "Rights") in an amount such that one Right is payable with respect to each share of Common Stock (as hereinafter defined) outstanding at the close of business on June 14, 1999 and has authorized the issuance, upon the terms and subject to the conditions hereinafter set forth, of one Right (subject to adjustment) in respect of each share of Common Stock issued after June 14, 1999, each Right representing the right to purchase, upon the terms and subject to the conditions hereinafter set forth, one one-hundredth (subject to adjustment) of a share of Preferred Stock (as hereinafter defined);

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. Definitions. The following terms, as used herein, have the following meanings:

"Acquiring Person" means any Person who, together with all Affiliates and Associates of such Person, shall at any time after June 14, 1999 be the Beneficial Owner of 15% or more of the shares of Common Stock then outstanding, but shall not include an Exempt Person; provided, however, that (a) if the Board determines in good faith that a Person who would otherwise be an "Acquiring Person" became the Beneficial Owner of a number of shares of Common Stock such that the Person would otherwise qualify as an "Acquiring Person" inadvertently (including, without limitation, because (i) such Person was unaware that it beneficially owned a percentage of Common Stock that would otherwise cause such Person to be an "Acquiring Person" or (ii) such Person was aware of the extent of its Beneficial Ownership of Common Stock but had no actual knowledge of the consequences of such Beneficial Ownership under this Agreement) and without any intention of changing or influencing control of the Company, then such Person shall not be deemed to be or to have become an "Acquiring Person" for any purposes of this Agreement unless and until such Person shall have failed to divest itself, as soon as practicable (as determined, in good faith, by the Board of Directors of the Company), of Beneficial Ownership

of a sufficient number of shares of Common Stock so that such Person would no longer otherwise qualify as an "Acquiring Person"; and (b) no Person shall become an "Acquiring Person" as the result of any acquisition of shares of Common Stock by the Company which, by reducing the number of shares of Common Stock outstanding, increases the proportionate number of shares of Common Stock beneficially owned by such Person to 15% or more of the shares of Common Stock then outstanding; provided, however, that if a Person shall become the Beneficial Owner of 15% or more of the shares of Common Stock then outstanding by reason of such share acquisition by the Company and shall thereafter become the Beneficial Owner of any additional shares of Common Stock (other than pursuant to a dividend or distribution paid or made by the Company on the

outstanding Common Stock or pursuant to a split or subdivision of the outstanding Common Stock), then such Person shall be deemed to be an "Acquiring Person" unless upon becoming the Beneficial Owner of such additional shares of Common Stock such Person does not beneficially own 15% or more of the shares of Common Stock then outstanding.

"Affiliate" and "Associate" have the respective meanings ascribed to such terms in Rule 12b-2 under the Exchange Act as in effect on the date hereof.

A Person shall be deemed the "Beneficial Owner" of, and shall be deemed to have "Beneficial Ownership" of and to "beneficially own", any securities:

(a) which such Person or any of its Affiliates or Associates, directly or indirectly, beneficially owns (as determined pursuant to Rule 13d-3 under the Exchange Act as in effect on the date hereof);

(b) which such Person or any of its Affiliates or Associates, directly or indirectly, has

(i) the right to acquire (whether such right is exercisable immediately or only upon the occurrence of certain events or the passage of time or both) pursuant to any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities), or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; provided, however, that a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own", (A) securities tendered pursuant to a tender or exchange offer made by or on behalf of such Person or any of such Person's Affiliates or Associates until such tendered securities are accepted for purchase, (B) securities which such Person has a right to acquire upon the

exercise of Rights at any time prior to the time that any Person becomes an Acquiring Person or (C) securities issuable upon the exercise of Rights from and after the time that Person becomes an Acquiring Person if such Rights were acquired by such Person or any of such Person's Affiliates or Associates prior to the Distribution Date or pursuant to Section 3(a) or Section 22 hereof ("Original Rights") or pursuant to Section 11(i) or Section 11(p) with respect to

an adjustment to Original Rights; or

(ii) the right to vote (whether such right is exercisable immediately or only upon the occurrence of certain events or the passage of time or both) pursuant to any agreement, arrangement or understanding (whether or not in writing) or otherwise; provided that a Person shall not be deemed the "Beneficial Owner" of, or to "beneficially own", any security under this clause (ii) as a result of an agreement, arrangement or understanding to vote such security if such agreement, arrangement or understanding (A) arises solely from a revocable proxy or consent given in response to a public proxy or consent solicitation made pursuant to the applicable rules and regulations under the Exchange Act and (B) is not also then reportable by such Person on Schedule 13D under the Exchange Act (or any comparable or successor report); or

(c) which are beneficially owned, directly or indirectly, by any other Person (or any Affiliate or Associate thereof) and with respect to which such Person or any of its Affiliates or Associates has any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities) for the purpose of acquiring, holding, voting (except pursuant to a revocable proxy or consent as described in subparagraph (b)(ii) immediately above) or disposing of any such securities;

provided, however, that no Person who is an officer, director or employee of an Exempt Person shall be deemed, solely by reason of such Person's status or authority as such, to be the "Beneficial Owner" of, to have "Beneficial Ownership" of or to "beneficially own" any securities that are "beneficially owned", including, without limitation, in a fiduciary capacity, by an Exempt Person or by any other such officer, director or employee of an Exempt Person.

"Board" means the Board of Directors of the Company.

"Business Day" means any day other than a Saturday, Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

"Close of business" on any given date means 5:00 P.M., New York City time, on such date; provided that if such date is not a Business Day "close of business" means 5:00 P.M., New York City time, on the next succeeding Business Day.

"Common Stock" means the Common Stock, par value \$0.01 per share, of the Company, except that, when used with reference to any Person other than the Company, "Common Stock" means the capital stock of such Person with the greatest voting power, or the equity securities or other equity interest having power to control or direct the management, of such Person.

"Distribution Date" means the earlier of (a) the close of business on the tenth day (or such later day as may be designated by action of a majority of the Board) after the Stock Acquisition Date and (b) the close of business on the tenth Business Day (or such later day as may be designated prior to the occurrence of a Section 11(a)(ii) Event by action of the Board) after the date of the commencement of a tender or exchange offer by any Person if, upon consummation thereof, such Person would be an Acquiring Person; provided, however, that if either of such dates occurs after the date of this Agreement and on or prior to the Record Date, then the Distribution Date shall be the Record Date.

"Exempt Person" shall mean the Company or any Subsidiary of the Company, in each case including, without limitation, in its fiduciary capacity, or any employee benefit plan of the Company or of any Subsidiary of the Company, or any entity or trustee holding Common Stock for or pursuant to the terms of any such plan or for the purpose of funding any such plan or funding other employee benefits for employees of the Company or of any Subsidiary of the Company.

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

"Expiration Date" means the earlier of (a) the Final Expiration Date and (b) the time at which all Rights are redeemed as provided in Section 23 or exchanged as provided in Section 24.

"Final Expiration Date" means the close of business on May 27, 2009.

"Person" means an individual, corporation, limited liability company, partnership, association, trust or any other entity or organization.

"Preferred Stock" means the Series A Junior Participating Preferred Stock, par value \$0.01 per share, of the Company, having the terms set forth in the form of certificate of designation attached hereto as Exhibit A.

"Purchase Price" means the price (subject to adjustment as provided herein) at which a holder of a Right may purchase one one-hundredth of a share of Preferred Stock (subject to adjustment as provided herein) upon exercise of a Right, which price shall initially be \$150.

"Section 11(a) (ii) Event" means any event described in the first clause of Section 11(a) (ii).

"Section 13 Event" means any event described in clauses (x), (y) or (z) of Section 13(a).

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

"Stock Acquisition Date" means the date of the first public announcement (including the filing of a report on Schedule 13D under the Exchange Act (or any comparable or successor report)) by the Company or an Acquiring Person indicating that an Acquiring Person has become such.

"Subsidiary" of any Person means any other Person of which securities or other ownership interests having ordinary voting power, in the absence of contingencies, to elect a majority of the board of directors or other Persons performing similar functions are at the time directly or indirectly owned by such first Person.

"Trading Day" means a day on which the principal national securities exchange on which the shares of Common Stock are listed or admitted to trading is open for the transaction of business or, if the shares of Common Stock are not listed or admitted to trading on any national securities exchange, a Business Day.

"Triggering Event" means any Section 11(a) (ii) Event or any Section 13 Event.

SECTION 2. Appointment of Rights Agent. The Company hereby appoints the Rights Agent to act as agent for the Company in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. The Company may from time to time appoint such Co-Rights Agents as it may deem necessary or desirable upon prior written notice to the Rights Agent. The Rights Agent shall have no duty to supervise, and shall in no even be liable for, the acts or omissions of any such Co-Rights Agent. If the

Company appoints one or more Co-Rights Agents, the respective duties of the Rights Agent and any Co-Rights Agents shall be as the Company shall determine.

SECTION 3. Issue of Right Certificates. (a) Prior to the Distribution Date, (i) the Rights will be evidenced (subject to the penultimate sentence of this Section 3(a)) by the certificates for the Common Stock and not by separate Right Certificates (as hereinafter defined) and the registered holders of the Common Stock shall be deemed to be the registered holders of

the associated Rights, and (ii) the Rights will be transferable only in connection with the transfer of the underlying shares of Common Stock. With respect to certificates for Common Stock outstanding as of the Record Date, prior to the Distribution Date, the Rights will be evidenced by such certificates registered in the names of the holders thereof together with a copy of the Summary of Rights. Prior to the Distribution Date (or, if earlier, the Expiration Date), the surrender for transfer of any certificate for Common Stock outstanding on the Record Date, with or without a copy of the Summary of Rights, shall also constitute the transfer of the Rights associated with the Common Stock represented thereby.

(b) The Company shall give the Rights Agent prompt written notice of the Distribution Date. As soon as practicable after the Company has notified the Rights Agent of the occurrence of the Distribution Date, the Rights Agent will, at the Company's expense, send, by first-class, insured, postage prepaid mail, to each record holder of the Common Stock as of the close of business on the Distribution Date (other than any Acquiring Person or any Affiliate or Associate thereof), at the address of such holder shown on the records of the Company, one or more Right Certificates evidencing one Right (subject to adjustment as provided herein) for each share of Common Stock so held. If an adjustment in the number of Rights per share of Common Stock has been made pursuant to Section 11 the Company shall, at the time of distribution of the Right Certificates, make the necessary and appropriate rounding adjustments (in accordance with Section 14(a)) so that Right Certificates representing only whole numbers of Rights are distributed and cash is paid in lieu of any fractional Rights. From and after the Distribution Date, the Rights will be evidenced solely by such Right Certificates.

(c) Rights shall be issued in respect of all shares of Common Stock outstanding as of the Record Date or issued (on original issuance or out of treasury) after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date. In addition, in connection with the issuance or sale of shares of Common Stock following the Distribution Date and prior to the Expiration Date, the Company (i) shall, with respect to shares of Common Stock so issued or sold (x) pursuant to the exercise of stock options or under any employee plan or arrangement or (y) upon the exercise, conversion or exchange of other securities issued by the Company prior to the Distribution Date and (ii) may, in any other

case, if deemed necessary or appropriate by the Board, issue Right Certificates representing the appropriate number of Rights in connection with such issuance or sale; provided that no such Right Certificate shall be issued if, and to the extent that, (i) the Company shall be advised by counsel that such issuance would create a significant risk of material adverse tax consequences to the Company or the Person to whom such Right Certificate would be issued or (ii) appropriate adjustment shall otherwise have been made in

lieu of the issuance thereof.

(d) Certificates issued for Common Stock after the Record Date but prior to the earlier of the Distribution Date and the Expiration Date shall have impressed on, printed on, written on or otherwise affixed to them the following legend:

This certificate also evidences certain Rights as set forth in a Rights Agreement between R.J. Reynolds Tobacco Holdings, Inc. and The Bank of New York, as Rights Agent, dated as of May 17, 1999 and as amended from time to time (the "Rights Agreement"), the terms of which are hereby incorporated herein by reference and a copy of which is on file at the principal executive offices of the Company. The Company will mail to the holder of this certificate a copy of the Rights Agreement without charge promptly after receipt of a written request therefor. Under certain circumstances, as set forth in the Rights Agreement, such Rights may be evidenced by separate certificates and no longer be evidenced by this certificate, may be redeemed or exchanged or may expire. As set forth in the Rights Agreement, Rights issued to, or held by, any Person who is, was or becomes an Acquiring Person or an Affiliate or Associate thereof (as such terms are defined in the Rights Agreement), whether currently held by or on behalf of such Person or by any subsequent holder, may be null and void.

SECTION 4. Form of Right Certificates. The certificates evidencing the Rights (and the forms of assignment, election to purchase and certificates to be printed on the reverse thereof) (the "Right Certificates") shall be substantially in the form of Exhibit B hereto and may have such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any applicable law, rule or regulation or with any rule or regulation of any stock exchange on which the Rights may from time to time be listed, or to conform to usage. The Right Certificates shall be in a form reasonably satisfactory to the Rights Agent. The Right Certificates, whenever distributed, shall be dated as of the Record Date and show the date of countersignature.

SECTION 5. Countersignature and Registration. (a) The Right Certificates shall be executed on behalf of the Company by its Chairman of the Board, its President or any Vice President, either manually or by facsimile signature, and shall have affixed thereto the Company's seal or a facsimile thereof which shall be attested by the Secretary or an Assistant Secretary of the Company, either manually or by facsimile signature. The Right Certificates

shall be manually countersigned by the Rights Agent and shall not be valid for any purpose unless so countersigned. In case any officer of the Company whose manual or facsimile signature is affixed to the Right Certificates shall cease to be such officer of the Company before countersignature by the Rights Agent and issuance and delivery by the Company, such Right Certificates may, nevertheless, be countersigned by the Rights Agent and issued and delivered with the same force and effect as though the Person who signed such Right Certificates had not ceased to be such officer of the Company. Any Right Certificate may be signed on behalf of the Company by any Person who, at the actual date of the execution of such Right Certificate, shall be a proper officer of the Company to sign such Right Certificate, although at the date of the execution of this Rights Agreement any such Person was not such an officer.

(b) Following the Distribution Date, the Rights Agent will keep or cause to be kept, at its principal office or offices designated as the place for surrender of Right Certificates upon exercise, transfer or exchange, books for registration and transfer of the Right Certificates. Such books shall show with respect to each Right Certificate the name and address of the registered holder thereof, the number of Rights indicated on the certificate and the certificate number.

SECTION 6. Transfer and Exchange of Right Certificates; Mutilated, Destroyed, Lost or Stolen Right Certificates. (a) At any time after the Distribution Date and prior to the Expiration Date, any Right Certificate or Certificates may, upon the terms and subject to the conditions set forth in this Agreement, be transferred or exchanged for another Right Certificate or Certificates evidencing a like number of Rights as the Right Certificate or Certificates surrendered. Any registered holder desiring to transfer or exchange any Right Certificate or Certificates shall surrender such Right Certificate or Certificates (with, in the case of a transfer, the form of assignment and certificate on the reverse side thereof duly executed) to the Rights Agent at the principal office or offices of the Rights Agent designated for such purpose. Neither the Rights Agent nor the Company shall be obligated to take any action whatsoever with respect to the transfer of any such surrendered Right Certificate or Certificates until the registered holder of the Rights has complied with the requirements of Section 7(e). Upon satisfaction of the foregoing requirements, the Rights Agent shall, subject to Sections 7(d), 14 and 24, countersign and deliver to the Person entitled thereto a Right Certificate or Certificates as so

requested. The Company may require payment by the holders of Rights of a sum sufficient to cover any transfer tax or other governmental charge that may be imposed in connection with any transfer or exchange of any Right Certificate or Certificates.

(b) Upon receipt by the Company and the Rights Agent of evidence reasonably satisfactory to them of the loss, theft, destruction or mutilation of a Right Certificate, and, in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to them, and, at the Company's request, reimbursement to the Company and the Rights Agent of all reasonable expenses incidental thereto, and upon surrender to the Rights Agent and cancellation of the Right Certificate, if mutilated, the Company will issue and deliver a new Right Certificate of like tenor to the Rights Agent for countersignature and delivery to the registered owner in lieu of the Right Certificate so lost, stolen, destroyed or mutilated.

SECTION 7. Exercise of Rights; Purchase Price; Expiration Date of Rights. (a) The registered holder of any Right Certificate may exercise the Rights evidenced thereby (except as otherwise provided herein, including Sections 7(d), 7(e), 9(c), 11(a), 23 and 24) in whole or in part at any time after the Distribution Date and prior to the Expiration Date upon surrender of the Right Certificate, with the form of election to purchase and the certificate on the reverse side thereof duly executed, to the Rights Agent at the principal office or offices of the Rights Agent designated for such purpose, together with payment (in lawful money of the United States of America by certified check or bank draft payable to the order of the Company) of the aggregate Purchase Price with respect to the Rights then to be exercised and an amount equal to any applicable transfer tax or other governmental charge.

(b) Upon satisfaction of the requirements of Section 7(a) and subject to Section 20(k), the Rights Agent shall thereupon promptly (i) (A) requisition from any transfer agent of the Preferred Stock (or make available, if the Rights Agent is the transfer agent therefor) certificates for the total number of one one-hundredths of a share of Preferred Stock to be purchased (and the Company hereby irrevocably authorizes its transfer agent to comply with all such requests) or (B) if the Company shall have elected to deposit the shares of Preferred Stock issuable upon exercise of the Rights with a depository agent, requisition from the depository agent depository receipts representing interests in such number of one one-hundredths of a share of Preferred Stock as are to be purchased (in which case certificates for the shares of Preferred Stock represented by such receipts shall be deposited by the transfer agent with the depository agent) and the Company will direct the depository agent to comply with such request, (ii) requisition from the Company the amount of cash, if any, to be paid in lieu of issuance of fractional shares in accordance with Section 14 and (iii) after receipt of such certificates or

depository receipts and cash, if any, cause the same to be delivered to or

upon the order of the registered holder of such Right Certificate (with such certificates or receipts registered in such name or names as may be designated by such holder). If the Company is obligated to deliver Common Stock, other securities or assets pursuant to this Agreement, the Company will make all arrangements necessary so that such other securities and assets are available for delivery by the Rights Agent, if and when appropriate.

(c) In case the registered holder of any Right Certificate shall exercise less than all the Rights evidenced thereby, a new Right Certificate evidencing the number of Rights remaining unexercised shall be issued by the Rights Agent and delivered to, or upon the order of, the registered holder of such Right Certificate, registered in such name or names as may be designated by such holder, subject to the provisions of Section 14.

(d) Notwithstanding anything in this Agreement to the contrary, from and after the first occurrence of a Section 11(a)(ii) Event, any Rights beneficially owned by (i) an Acquiring Person or an Associate or Affiliate of an Acquiring Person, (ii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) who becomes a transferee after the Acquiring Person becomes such or (iii) a transferee of an Acquiring Person (or of any such Associate or Affiliate) who becomes a transferee prior to or concurrently with the Acquiring Person becoming such and receives such Rights pursuant to either (A) a transfer (whether or not for consideration) from the Acquiring Person (or any such Associate or Affiliate) to holders of equity interests in such Acquiring Person (or in any such Associate or Affiliate) or to any Person with whom the Acquiring Person (or any such Associate or Affiliate) has any continuing agreement, arrangement or understanding regarding the transferred Rights or (B) a transfer which is part of a plan, arrangement or understanding which has as a primary purpose or effect the avoidance of this Section 7(d) shall become null and void without any further action, and no holder of such Rights shall have any rights whatsoever with respect to such Rights, whether under any provision of this Agreement or otherwise. The Company shall use all reasonable efforts to insure that the provisions of this Section 7(d) are complied with, but shall have no liability to any holder of Right Certificates or other Person as a result of its failure to make any determinations with respect to an Acquiring Person or its Affiliates and Associates or any transferee of any of them hereunder.

(e) Notwithstanding anything in this Agreement to the contrary, neither the Rights Agent nor the Company shall be obligated to undertake any action with respect to a registered holder of Rights upon the occurrence of any purported transfer pursuant to Section 6 or exercise pursuant to this Section 7 unless such registered holder (i) shall have completed and signed the certificate contained in

the form of assignment or election to purchase, as the case may be, set forth

on the reverse side of the Right Certificate surrendered for such transfer or exercise, as the case may be, (ii) shall not have indicated an affirmative response to clause 1 or 2 thereof and (iii) shall have provided such additional evidence of the identity of the Beneficial Owner (or former Beneficial Owner) or Affiliates or Associates thereof as the Company shall reasonably request.

SECTION 8. Cancellation of Right Certificates. All Right Certificates surrendered for exercise, transfer or exchange shall, if surrendered to the Company or to any of its agents, be delivered to the Rights Agent for cancellation or in canceled form, or, if surrendered to the Rights Agent, shall be canceled by it, and no Right Certificates shall be issued in lieu thereof except as expressly permitted by this Agreement. The Company shall deliver to the Rights Agent for cancellation, and the Rights Agent shall cancel, any other Right Certificate purchased or acquired by the Company otherwise than upon the exercise thereof. The Rights Agent shall deliver all canceled Right Certificates to the Company.

SECTION 9. Reservation and Availability of Capital Stock. (a) The Company covenants and agrees that it will cause to be reserved and kept available a number of shares of Preferred Stock which are authorized but not outstanding or otherwise reserved for issuance sufficient to permit the exercise in full of all outstanding Rights as provided in this Agreement.

(b) So long as the Preferred Stock issuable upon the exercise of Rights may be listed on any national securities exchange, the Company shall use its best efforts to cause, from and after such time as the Rights become exercisable, all securities reserved for such issuance to be listed on any such exchange upon official notice of issuance upon such exercise.

(c) The Company shall use its best efforts (i) to file, as soon as practicable following the earliest date after the occurrence of a Section 11(a)(ii) Event as of which the consideration to be delivered by the Company upon exercise of the Rights has been determined in accordance with Section 11(a)(iii), or as soon as is required by law following the Distribution Date, as the case may be, a registration statement under the Securities Act with respect to the securities issuable upon exercise of the Rights, (ii) to cause such registration statement to become effective as soon as practicable after such filing and (iii) to cause such registration statement to remain effective (with a prospectus at all times meeting the requirements of the Securities Act) until the earlier of (A) the date as of which the Rights are no longer exercisable for such securities and (B) the Expiration Date. The Company will also take such action as may be appropriate under, or to ensure compliance with, the securities or blue sky laws of the various states in connection with the exercisability of the Rights. The Company may temporarily

suspend, for a period of time not to exceed 90 days after the date set forth in clause 9(c)(i), the exercisability of the Rights in order to prepare and file such registration statement and permit it to become effective. Upon any such suspension, the Company shall issue a public announcement, with simultaneous written notice to the Rights Agent, stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. Notwithstanding any such provision of this Agreement to the contrary, the Rights shall not be exercisable for securities in any jurisdiction if the requisite qualification in such jurisdiction shall not have been obtained, such exercise therefor shall not be permitted under applicable law or a registration statement in respect of such securities shall not have been declared effective. Until it has received notice to the contrary, the Rights Agent may assume that any Right exercised is permitted to be exercised under applicable law and shall have no liability for acting in reliance upon such assumption.

(d) The Company covenants and agrees that it will take all such action as may be necessary to insure that all one one-hundredths of a share of Preferred Stock issuable upon exercise of Rights shall, at the time of delivery of the certificates for such securities (subject to payment of the Purchase Price), be duly and validly authorized and issued and fully paid and nonassessable.

(e) The Company further covenants and agrees that it will pay when due and payable any and all federal and state transfer taxes and other governmental charges which may be payable in respect of the issuance or delivery of the Right Certificates and of any certificates for Preferred Stock upon the exercise of Rights. The Company shall not, however, be required to pay any transfer tax or other governmental charge which may be payable in respect of any transfer involved in the issuance or delivery of any Right Certificates or of any certificates for Preferred Stock to a Person other than the registered holder of the applicable Right Certificate, and prior to any such transfer, issuance or delivery any such tax or other governmental charge shall have been paid by the holder of such Right Certificate or it shall have been established to the Company's satisfaction that no such tax or other governmental charge is due.

SECTION 10. Preferred Stock Record Date. Each Person (other than the Company) in whose name any certificate for Preferred Stock is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of such Preferred Stock represented thereby on, and such certificate shall be dated, the date upon which the Right Certificate evidencing such Rights was duly surrendered and payment of the Purchase Price (and any transfer taxes or other governmental charges) was made; provided that if the date of such surrender and payment is a date upon which the transfer books of the Company relating to the Preferred Stock are closed, such Person shall be deemed to have become the

record holder of such shares on, and such certificate shall be dated, the next succeeding Business Day on which the applicable transfer books of the Company are open. Prior to the exercise of the Rights evidenced thereby, the holder of a Right Certificate shall not be entitled to any rights of a stockholder of the Company with respect to shares for which the Rights shall be exercisable, including the right to vote, to receive dividends or other distributions or to exercise any preemptive rights, and shall not be entitled to receive any notice of any proceedings of the Company except as provided herein.

SECTION 11. Adjustment of Purchase Price, Number and Kind of Shares or Number of Rights. (a) (i) If the Company shall at any time after the date of this Agreement (A) pay a dividend on the Preferred Stock payable in shares of Preferred Stock, (B) subdivide the outstanding Preferred Stock into a greater number of shares, (C) combine the outstanding Preferred Stock into a smaller number of shares or (D) issue any shares of its capital stock in a reclassification of the Preferred Stock (including any such reclassification in connection with a consolidation or merger involving the Company), the Purchase Price in effect immediately prior to the record date for such dividend or the effective date of such subdivision, combination or reclassification, and the number and kind of shares of Preferred Stock or other capital stock issuable on such date shall be proportionately adjusted so that each holder of a Right shall (except as otherwise provided herein, including Section 7(d)) thereafter be entitled to receive, upon exercise thereof at the Purchase Price in effect immediately prior to such date, the aggregate number and kind of shares of Preferred Stock or other capital stock, as the case may be, which, if such Right had been exercised immediately prior to such date and at a time when the applicable transfer books of the Company were open, such holder would have been entitled to receive upon such exercise and by virtue of such dividend, subdivision, combination or reclassification. If an event occurs which requires an adjustment under both this Section 11(a) (i) and Section 11(a) (ii), the adjustment provided for in this Section 11(a) (i) shall be in addition to, and shall be made prior to, any adjustment required pursuant to Section 11(a) (ii).

(ii) If any Person, alone or together with its Affiliates and Associates, shall, at any time after the date of this Agreement, become an Acquiring Person, then each holder of a Right shall (except as otherwise provided herein, including Section 7(d)) thereafter be entitled to receive, upon exercise thereof at the Purchase Price in effect immediately prior to the first occurrence of a Section 11(a) (ii) Event, in lieu of Preferred Stock, such number of duly authorized, validly issued, fully paid and nonassessable shares of Common Stock of the Company (such shares being referred to herein as the "Adjustment Shares") as shall be equal to the result obtained by

(x) the product obtained by multiplying the Purchase Price in effect immediately prior to the first occurrence of a Section 11(a)(ii) Event by the number of one one-hundredths of a share of Preferred Stock for which a Right was exercisable immediately prior to such first occurrence (such product being thereafter referred to as the "Purchase Price" for each Right) by

(y) 50% of the current market price (determined pursuant to Section 11(d)(i)) per share of Common Stock on the date of such first occurrence;

provided, however, that the Purchase Price (as so adjusted pursuant to the foregoing clause (ii)(x)) and the number of Adjustment Shares so receivable upon exercise of a Right shall, following the occurrence of such Section 11(a)(ii) Event, be subject to further adjustment as appropriate in accordance with Section 11(f). From and after the occurrence of a Section 13 Event, any Rights that theretofore have not been exercised pursuant to this Section 11(a)(ii) shall thereafter be exercisable only in accordance with Section 13 and not pursuant to this Section 11(a)(ii).

(iii) If the number of shares of Common Stock which are authorized by the Company's certificate of incorporation but not outstanding or reserved for issuance other than upon exercise of the Rights is not sufficient to permit the exercise in full of the Rights in accordance with Section 11(a)(ii), the Company shall, with respect to each Right, make adequate provision to substitute for the Adjustment Shares, upon payment of the Purchase Price then in effect, (A) (to the extent available) Common Stock and then, (B) (to the extent available) such number of one one-hundredths of a share of Preferred Stock as are then equivalent in value to the value of the Adjustment Shares, and then, if necessary, (C) other equity or debt securities of the Company, cash or other assets, a reduction in the Purchase Price or any combination of the foregoing, having an aggregate value (based upon the advice of a nationally recognized investment banking firm) equal to the value of the Adjustment Shares; provided that (x) the Company may, and (y) if the Company shall not have made adequate provision as required above to deliver value within 30 days following the first occurrence of a Section 11(a)(ii) Event (the "Substitution Period"), then the Company shall be obligated to deliver, upon the surrender for exercise of a Right and without requiring payment of the Purchase Price, (1) (to the extent available) Common Stock and then (2) (to the extent available) one-hundredths of a share of

of the Company, cash or other assets or any combination of the foregoing, having an aggregate value (based upon the advice of a nationally recognized investment banking firm) equal to the excess of the value of the Adjustment Shares over the Purchase Price. To the extent that the Company determines that some action is to be taken pursuant to the preceding sentence, the Company (X) shall provide, subject to Section 7(d), that such action shall apply uniformly to all outstanding Rights and (Y) may suspend the exercisability of the Rights until the expiration of the Substitution Period in order to decide the appropriate form and value of any consideration to be delivered as referred to in the preceding sentence. If any such suspension occurs, the Company shall issue a public announcement stating that the exercisability of the Rights has been temporarily suspended, as well as a public announcement at such time as the suspension is no longer in effect. For purposes of this Section 11(a)(iii), the value of the Common Stock shall be the current market price per share of Common Stock (as determined pursuant to Section 11(d)) on the date of the first occurrence of a Section 11(a)(ii) Event; any common stock equivalent shall be deemed to have the same value as the Common Stock on such date; and the value of other securities or assets shall be determined pursuant to Section 11(d)(iii).

(b) In case the Company shall fix a record date for the issuance of rights, options or warrants to all holders of Preferred Stock entitling them to subscribe for or purchase (for a period expiring within 45 calendar days after such record date) Preferred Stock (or securities having the same rights, privileges and preferences as the shares of Preferred Stock ("equivalent preferred stock")) or securities convertible into or exercisable for Preferred Stock (or equivalent preferred stock) at a price per share of Preferred Stock (or equivalent preferred stock) (in each case, taking account of any conversion or exercise price) less than the current market price (as determined pursuant to Section 11(d)) per share of Preferred Stock on such record date, the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such date by a fraction, the numerator of which shall be the number of shares of Preferred Stock outstanding on such record date, plus the number of shares of Preferred Stock which the aggregate price (taking account of any conversion or exercise price) of the total number of shares of Preferred Stock (and/or equivalent preferred stock) so to be offered would purchase at such current market price and the denominator of which shall be the number of shares of

Preferred Stock outstanding on such record date plus the number of additional shares of Preferred Stock (and/or equivalent preferred stock) so to be offered. In case such subscription price may be paid by delivery of consideration part or all of which shall be in a form other than cash, the value of such consideration shall be as determined in good faith by the Board, whose determination shall be described

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in a statement filed with the Rights Agent and shall be conclusive for all purposes. Shares of Preferred Stock owned by or held for the account of the Company shall not be deemed outstanding for the purpose of any such computation. Such adjustment shall be made successively whenever such a record date is fixed, and if such rights, options or warrants are not so issued, the Purchase Price shall be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(c) In case the Company shall fix a record date for the making of a distribution to all holders of Preferred Stock (including any such distribution made in connection with a consolidation or merger involving the Company) of evidences of indebtedness, equity securities other than Preferred Stock, assets (other than a regular periodic cash dividend out of the earnings or retained earnings of the Company) or rights, options or warrants (excluding those referred to in Section 11(b)), the Purchase Price to be in effect after such record date shall be determined by multiplying the Purchase Price in effect immediately prior to such record date by a fraction, the numerator of which shall be the current market price (as determined pursuant to Section 11(d)) per share of Preferred Stock on such record date, less the value (as determined pursuant to Section 11(d)(iii)) of such evidences of indebtedness, equity securities, assets, rights, options or warrants so to be distributed with respect to one share of Preferred Stock and the denominator of which shall be such current market price per share of Preferred Stock. Such adjustment shall be made successively whenever such a record date is fixed, and if such distribution is not so made, the Purchase Price shall be adjusted to be the Purchase Price which would then be in effect if such record date had not been fixed.

(d) (i) For the purpose of any computation hereunder other than computations made pursuant to Section 11(a)(iii) or 14, the "current market price" per share of Common Stock on any date shall be deemed to be the average of the daily closing prices per share of such Common Stock for the 30 consecutive Trading Days immediately prior to such date; for purposes of computations made pursuant to Section 11(a)(iii), the "current market price" per share of Common Stock on any date shall be deemed to be the average of the daily closing prices per share of such Common Stock for the 10 consecutive Trading Days immediately following such date; and for purposes of computations made pursuant to Section 14, the "current market price" per share of Common

Stock for any Trading Day shall be deemed to be the closing price per share of Common Stock for such Trading Day; provided that if the current market price per share of the Common Stock is determined during a period following the announcement by the issuer of such Common Stock of (A) a dividend or distribution on such Common Stock payable in shares of such Common Stock or securities exercisable for or convertible into shares of such Common Stock (other than the Rights), or (B) any

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subdivision, combination or reclassification of such Common Stock, and prior to the expiration of the requisite 30 Trading Day or 10 Trading Day period, as set forth above, after the ex-dividend date for such dividend or distribution, or the record date for such subdivision, combination or reclassification, then, and in each such case, the "current market price" shall be properly adjusted to take into account ex-dividend trading. The closing price for each day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the shares of Common Stock are not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the shares of Common Stock are listed or admitted to trading or, if the shares of Common Stock are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System ("NASDAQ") or such other system then in use or, if on any such date the shares of Common Stock are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Common Stock selected by the Board. If on any such date no market maker is making a market in the Common Stock, the fair value of such shares on such date as determined in good faith by the Board (or, if at the time of such determination there is an Acquiring Person, by a nationally recognized investment banking firm) shall be used. If the Common Stock is not publicly held or not so listed or traded, the "current market price" per share means the fair value per share as determined in good faith by the Board, or, if at the time of such determination there is an Acquiring Person, by a nationally recognized investment banking firm, which determination shall be described in a statement filed with the Rights Agent and shall be conclusive for all purposes.

(ii) For the purpose of any computation hereunder, the "current market price" per share of Preferred Stock shall be determined in the same manner as set forth above for the Common Stock in Section 11(d) (i) (other than the last sentence thereof). If the current market price per share of Preferred Stock cannot be determined in

such manner, the "current market price" per share of Preferred Stock shall be conclusively deemed to be an amount equal to 100 (as such number may be appropriately adjusted for such events as stock splits, stock dividends and recapitalizations with respect to the Common Stock occurring after the date of this Agreement) multiplied by the current market price per share of Common Stock (as determined pursuant to Section 11(d)(i) (other than the last sentence thereof)). If neither the Common Stock nor the Preferred Stock is publicly

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held or so listed or traded, the "current market price" per share of the Preferred Stock shall be determined in the same manner as set forth in the last sentence of Section 11(d)(i). For all purposes of this Agreement, the "current market price" of one one-hundredth of a share of Preferred Stock shall be equal to the "current market price" of one share of Preferred Stock divided by 100.

(iii) For the purpose of any computation hereunder, the value of any securities or assets other than Common Stock or Preferred Stock shall be the fair value as determined in good faith by the Board, or, if at the time of such determination there is an Acquiring Person, by a nationally recognized investment banking firm which determination shall be described in a statement filed with the Rights Agent and shall be conclusive for all purposes.

(e) Anything herein to the contrary notwithstanding, no adjustment in the Purchase Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Purchase Price; provided that any adjustments which by reason of this Section 11(e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 11 shall be made to the nearest cent or to the nearest ten-thousandth of a share of Common Stock or other share or one-millionth of a share of Preferred Stock, as the case may be.

(f) If at any time, as a result of an adjustment made pursuant to Section 11(a)(ii) or Section 13(a), the holder of any Right shall be entitled to receive upon exercise of such Right any shares of capital stock other than Preferred Stock, thereafter the number of such other shares so receivable upon exercise of any Right and the Purchase Price thereof shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Preferred Stock contained in Section 11(a), 11(b), 11(c), 11(e), 11(g), 11(h), 11(i), 11(j), 11(k) and 11(m), and the provisions of Sections 7, 9, 10, 13 and 14 with respect to the Preferred Stock shall apply on like terms to any such other shares.

(g) All Rights originally issued by the Company subsequent to any adjustment made hereunder shall evidence the right to purchase, at the Purchase Price then in effect, the then applicable number of one one-hundredths of a share of Preferred Stock and other capital stock of the Company issuable from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

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(h) Unless the Company shall have exercised its election as provided in Section 11(i), upon each adjustment of the Purchase Price as a result of the calculations made in Section 11(b) and 11(c), each Right outstanding immediately prior to the making of such adjustment shall thereafter evidence the right to purchase, at the adjusted Purchase Price, that number of one one-hundredths of a share of Preferred Stock (calculated to the nearest one-millionth) obtained by (i) multiplying (x) the number of one one-hundredths of a share for which a Right was exercisable immediately prior to this adjustment by (y) the Purchase Price in effect immediately prior to such adjustment of the Purchase Price and (ii) dividing the product so obtained by the Purchase Price in effect immediately after such adjustment of the Purchase Price.

(i) The Company may elect on or after the date of any adjustment of the Purchase Price to adjust the number of Rights, in lieu of any adjustment in the number of one one-hundredths of a share of Preferred Stock issuable upon the exercise of a Right. Each of the Rights outstanding after such adjustment of the number of Rights shall be exercisable for the number of one one-hundredths of a share of Preferred Stock for which such Right was exercisable immediately prior to such adjustment. Each Right held of record prior to such adjustment of the number of Rights shall become that number of Rights (calculated to the nearest ten-thousandth) obtained by dividing the Purchase Price in effect immediately prior to adjustment of the Purchase Price by the Purchase Price in effect immediately after adjustment of the Purchase Price. The Company shall make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the Purchase Price is adjusted or any day thereafter, but, if the Right Certificates have been issued, shall be at least 10 days later than the date of the public announcement. If Right Certificates have been issued, upon each adjustment of the number of Rights pursuant to this Section 11(i), the Company shall, as promptly as practicable, cause to be distributed to holders of record of Right Certificates on such record date Right Certificates evidencing, subject to Section 14, the additional Rights to which such holders shall be entitled as a result of such adjustment, or, at the option of the Company, shall cause to be distributed to such holders of record in substitution and replacement for the Right Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if

required by the Company, new Right Certificates evidencing all the Rights to which such holders shall be entitled after such adjustment. Right Certificates so to be distributed shall be issued, executed and countersigned in the manner provided for herein (and may bear, at the option of the Company, the adjusted Purchase Price) and shall be registered in the names of the holders of record of Right Certificates on the record date specified in the public announcement.

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(j) Irrespective of any adjustment or change in the Purchase Price or the number of one one-hundredths of a share of Preferred Stock issuable upon the exercise of the Rights, the Right Certificates theretofore and thereafter issued may continue to express the Purchase Price per one one-hundredth of a share and the number of shares which were expressed in the initial Right Certificates issued hereunder.

(k) Before taking any action that would cause an adjustment reducing the Purchase Price below the par value, if any, of the number of one one-hundredths of a share of Preferred Stock issuable upon exercise of the Rights, the Company shall take any corporate action which may, in the opinion of its counsel, be necessary in order that the Company may validly and legally issue fully paid and nonassessable such number of one one-hundredths of a share of Preferred Stock at such adjusted Purchase Price.

(l) In any case in which this Section 11 shall require that an adjustment in the Purchase Price be made effective as of a record date for a specified event, the Company may elect to defer until the occurrence of such event the issuance to the holder of any Right exercised after such record date the number of one one-hundredths of a share of Preferred Stock or other capital stock of the Company, if any, issuable upon such exercise over and above the number of one one-hundredths of a share of Preferred Stock or other capital stock of the Company, if any, issuable upon such exercise on the basis of the Purchase Price in effect prior to such adjustment; provided that the Company shall deliver to such holder a due bill or other appropriate instrument evidencing such holder's right to receive such additional shares upon the occurrence of the event requiring such adjustment.

(m) Anything in this Section 11 to the contrary notwithstanding, the Company shall be entitled to make such reductions in the Purchase Price, in addition to those adjustments expressly required by this Section 11, as and to the extent that it, in its sole discretion, shall determine to be advisable in order that any consolidation or subdivision of the Preferred Stock, issuance wholly for cash of any Preferred Stock at less than the current market price, issuance wholly for cash of Preferred Stock or securities which by their terms are convertible into or exercisable for Preferred Stock, stock dividends or issuance of rights, options or warrants referred to in this Section 11, hereafter made by the Company to the holders of its Preferred Stock, shall not

be taxable to such stockholders.

(n) The Company covenants and agrees that it will not at any time after the Distribution Date (i) consolidate, merge or otherwise combine with or (ii) sell or otherwise transfer (and/or permit any of its Subsidiaries to sell or otherwise transfer), in one transaction or a series of related transactions, assets or earning

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power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries, taken as a whole, to any other Person or Persons if (x) at the time of or immediately after such consolidation, merger, combination or sale there are any rights, warrants or other instruments or securities outstanding or any agreements or arrangements in effect which would substantially diminish or otherwise eliminate the benefits intended to be afforded by the Rights or (y) prior to, simultaneously with or immediately after such consolidation, merger, combination or sale, the stockholders of a Person who constitutes, or would constitute, the "Principal Party" for the purposes of Section 13 shall have received a distribution of Rights previously owned by such Person or any of its Affiliates and Associates.

(o) The Company covenants and agrees that after the Distribution Date, it will not, except as permitted by Sections 23, 24 and 27, take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will substantially diminish or otherwise eliminate the benefits intended to be afforded by the Rights.

(p) Notwithstanding anything in this Agreement to the contrary, if at any time after the date hereof and prior to the Distribution Date the Company shall (i) pay a dividend on the outstanding shares of Common Stock payable in shares of Common Stock, (ii) subdivide the outstanding Common Stock into a larger number of shares or (iii) combine the outstanding Common Stock into a smaller number of shares, the number of Rights associated with each share of Common Stock then outstanding, or issued or delivered thereafter as contemplated by Section 3(c), shall be proportionately adjusted so that the number of Rights thereafter associated with each share of Common Stock following any such event shall equal the result obtained by multiplying the number of Rights associated with each share of Common Stock immediately prior to such event by a fraction the numerator of which shall be the total number of shares of Common Stock outstanding immediately prior to the occurrence of the event and the denominator of which shall be the total number of shares of Common Stock outstanding immediately following the occurrence of such event.

SECTION 12. Certificate of Adjusted Purchase Price or Number of Shares. Whenever an adjustment is made as provided in Sections 11 and 13, the Company shall (a) promptly prepare a certificate setting forth such adjustment

and a brief statement of the facts accounting for such adjustment, (b) promptly file with the Rights Agent and with each transfer agent for the Preferred Stock and the Common Stock a copy of such certificate and (c) mail a brief summary thereof to each holder of a Right Certificate (or, if prior to the Distribution Date, to each holder of a certificate representing shares of Common Stock) in the manner set forth in Section 26. The Rights Agent shall be fully protected in relying on any

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such certificate and on any adjustment therein contained and shall not be deemed to have knowledge of such adjustment unless and until it shall have received such certificate.

SECTION 13. Consolidation, Merger or Sale or Transfer of Assets or Earning Power. (a) If, following the occurrence of a Section 11(a)(ii) Event, directly or indirectly,

(x) the Company shall consolidate with, merge into, or otherwise combine with, any other Person, and the Company shall not be the continuing or surviving corporation of such consolidation, merger or combination,

(y) any Person shall merge into, or otherwise combine with, the Company, and the Company shall be the continuing or surviving corporation of such merger or combination and, in connection with such merger or combination, all or part of the outstanding shares of Common Stock shall be changed into or exchanged for other stock or securities of the Company or any other Person, cash or any other property, or

(z) the Company and/or one or more of its Subsidiaries shall sell or otherwise transfer, in one transaction or a series of related transactions, assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries, taken as a whole, to any other Person or Persons,

then, and in each such case, proper provision shall promptly be made so that

(i) each holder of a Right shall thereafter be entitled to receive, upon exercise thereof at the Purchase Price in effect immediately prior to the first occurrence of a Section 11(a)(ii) Event, such number of duly authorized, validly issued, fully paid and nonassessable shares of freely tradeable Common Stock of the Principal Party (as hereinafter defined), not subject to any rights of call or first refusal, liens, encumbrances or other claims, as shall be equal to the result obtained by dividing

(A) the product obtained by multiplying the Purchase Price in effect immediately prior to the first occurrence of a Section 11(a)(ii) Event by the number of one one-hundredths of a share of Preferred Stock for which a Right was exercisable immediately prior to such first occurrence (such product being thereafter referred to as the "Purchase Price" for each Right and for all purposes of this Agreement) by

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(B) 50% of the current market price (determined pursuant to Section 11(d)(i)) per share of the Common Stock of such Principal Party on the date of consummation of such consolidation, merger, combination, sale or transfer;

provided, however, that the Purchase Price (as so adjusted pursuant to the foregoing clause (i)(A)) and the number of shares of Common Stock of such Principal Party so receivable upon exercise of a Right shall be subject to further adjustment as appropriate in accordance with Section 11(f) to reflect any events occurring in respect of the Common Stock of such Principal Party after the occurrence of such consolidation, merger, sale or transfer;

(ii) the Principal Party shall thereafter be liable for, and shall assume, by virtue of such consolidation, merger, combination, sale or transfer, all the obligations and duties of the Company pursuant to this Agreement;

(iii) the term "Company" shall thereafter be deemed to refer to such Principal Party, it being specifically intended that the provisions of Section 11 shall apply only to such Principal Party following the first occurrence of a Section 13 Event; and

(iv) such Principal Party shall take such steps (including the authorization and reservation of a sufficient number of shares of its Common Stock to permit exercise of all outstanding Rights in accordance with this Section 13(a)) in connection with the consummation of any such transaction as may be necessary to assure that the provisions hereof shall thereafter be applicable, as nearly as reasonably may be, in relation to the shares of its Common Stock thereafter deliverable upon the exercise of the Rights.

(b) "Principal Party" means

(i) in the case of any transaction described in Section 13(a) (x) or (y), the Person that is the issuer of any securities into which shares of Common Stock of the Company are converted in such merger, consolidation or combination, and if no securities are so issued, the Person that survives or results from such merger, consolidation or combination; and

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(ii) in the case of any transaction described in Section 13(a) (z), the Person that is the party receiving the greatest portion of the assets or earning power transferred pursuant to such transaction or transactions;

provided that in any such case, (A) if the Common Stock of such Person is not at such time and has not been continuously over the preceding 12-month period registered under Section 12 of the Exchange Act, and such Person is a direct or indirect Subsidiary of another Person the Common Stock of which is and has been so registered, "Principal Party" shall refer to such other Person; and (B) in case such Person is a Subsidiary, directly or indirectly, of more than one Person, the Common Stocks of two or more of which are and have been so registered, "Principal Party" shall refer to whichever of such Persons is the issuer of the Common Stock having the greatest aggregate market value.

(c) The Company shall not consummate any such consolidation, merger, combination, sale or transfer unless the Principal Party shall have a sufficient number of authorized shares of its Common Stock which are not outstanding or otherwise reserved for issuance to permit the exercise in full of the Rights in accordance with this Section 13 and unless prior thereto the Company and such Principal Party shall have executed and delivered to the Rights Agent a supplemental agreement providing for the terms set forth in Section 13(a) and 13(b) and providing that, as soon as practicable after the date of any consolidation, merger, combination, sale or transfer mentioned in Section 13(a), the Principal Party will:

(i) prepare and file a registration statement under the Securities Act with respect to the securities issuable upon exercise of the Rights, and will use its best efforts to cause such registration statement (A) to become effective as soon as practicable after such filing and (B) to remain effective (with a prospectus at all times meeting the requirements of the Securities Act) until the Expiration Date; and

(ii) deliver to holders of the Rights historical financial statements for the Principal Party and each of its Affiliates which comply in all respects with the requirements for registration on Form 10 under the Exchange Act.

(d) In no event shall the Rights Agent have any liability in respect of any such Principal Party transactions, including, without limitation, the propriety thereof. The Rights Agent may rely and be fully protected in relying upon a certificate of the Company stating that the provisions of this Section 13 have been fulfilled. Notwithstanding anything in this Agreement to the contrary, the prior

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written consent of the Rights Agent must be obtained in connection with any supplemental agreement which alters the rights or duties of the Rights Agent.

SECTION 14. Fractional Rights and Fractional Shares. (a) The Company shall not be required to issue fractions of Rights, except prior to the Distribution Date as provided in Section 11(p), or to distribute Right Certificates which evidence fractional Rights. In lieu of any such fractional Rights, the Company shall pay to the registered holders of the Right Certificates with regard to which such fractional Rights would otherwise be issuable an amount in cash equal to the same fraction of the current market price of a whole Right. For purposes of this Section 14(a), the current market price of a whole Right shall be the closing price of a Right for the Trading Day immediately prior to the date on which such fractional Rights would otherwise have been issuable. The closing price of a Right for any day shall be the last sale price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange or, if the Rights are not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Rights are listed or admitted to trading or, if the Rights are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by NASDAQ or such other system then in use or, if on any such date the Rights are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Rights selected by the Board. If on any such date no such market maker is making a market in the Rights, the current market price of the Rights on such date shall be as determined in good faith by the Board, or, if at the time of such determination there is an Acquiring Person, by a nationally recognized investment banking firm.

(b) The Company shall not be required to issue fractions of shares of Preferred Stock (other than fractions which are multiples of one one-hundredth of a share of Preferred Stock) upon exercise of the Rights or to distribute certificates which evidence fractional shares of Preferred Stock

(other than fractions which are multiples of one one-hundredth of a share of Preferred Stock). In lieu of any such fractional shares of Preferred Stock, the Company shall pay to the registered holders of Right Certificates at the time such Rights are exercised as herein provided an amount in cash equal to the same fraction of the current market price of one one-hundredth of a share of Preferred Stock. For purposes of this Section 14(b), the current market price of one one-hundredth of a share of Preferred Stock shall be one one-hundredth of the closing price of a share of Preferred Stock (as

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determined pursuant to Section 11(d)) for the Trading Day immediately prior to the date of such exercise.

(c) Following the occurrence of any Triggering Event or upon any exchange pursuant to Section 24, the Company shall not be required to issue fractions of shares of Common Stock upon exercise of the Rights or to distribute certificates which evidence fractional shares of Common Stock. In lieu of fractional shares of Common Stock, the Company shall pay to the registered holders of Right Certificates at the time such Rights are exercised or exchanged as herein provided an amount in cash equal to the same fraction of the current market price of a share of Common Stock. For purposes of this Section 14(c), the current market price of a share of Common Stock shall be the closing price of a share of Common Stock (as determined pursuant to Section 11(d)(i)) for the Trading Day immediately prior to the date of such exercise or exchange.

(d) The holder of a Right by the acceptance of the Right expressly waives his right to receive any fractional Rights or any fractional shares upon exercise of a Right except as permitted by this Section 14.

SECTION 15. Rights of Action. All rights of action in respect of this Agreement are vested in the respective registered holders of the Right Certificates (and, prior to the Distribution Date, the registered holders of certificates representing Common Stock); and any registered holder of any Right Certificate (or, prior to the Distribution Date, of any certificate representing Common Stock), without the consent of the Rights Agent or of the holder of any other Right Certificate (or, prior to the Distribution Date, of any certificate representing Common Stock), may, in his own behalf and for his own benefit, enforce, and may institute and maintain any suit, action or proceeding against the Company to enforce, or otherwise act in respect of, his right to exercise the Rights evidenced by such Right Certificate in the manner provided in such Right Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of the obligations of any Person

subject to, this Agreement.

SECTION 16. Agreement of Right Holders. Every holder of a Right by accepting the same consents and agrees with the Company and the Rights Agent and with every other holder of a Right that:

(a) prior to the Distribution Date, the Rights will be transferable only in connection with the transfer of Common Stock;

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(b) after the Distribution Date, the Right Certificates are transferable only on the registry books of the Rights Agent if surrendered at the principal office or offices of the Rights Agent designated for such purposes, duly endorsed or accompanied by a proper instrument of transfer and with the appropriate forms and certificates fully executed;

(c) subject to Sections 6 and 7, the Company and the Rights Agent may deem and treat the Person in whose name a Right Certificate (or, prior to the Distribution Date, a certificate representing shares of Common Stock) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on the Right Certificate or the certificate representing shares of Common Stock made by anyone other than the Company or the Rights Agent) for all purposes whatsoever, and neither the Company nor the Rights Agent, subject to the last sentence of Section 7(d), shall be affected by any notice to the contrary; and

(d) notwithstanding anything in this Agreement to the contrary, neither the Company nor the Rights Agent shall have any liability to any holder of a Right or other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by any governmental authority prohibiting or otherwise restraining performance of such obligation; provided that the Company must use its best efforts to have any such order, decree or ruling lifted or otherwise overturned as soon as possible.

SECTION 17. Right Certificate Holder Not Deemed a Stockholder. No holder, as such, of any Right Certificate shall be entitled to vote, receive dividends or be deemed for any purpose the holder of the shares of capital stock which may at any time be issuable on the exercise of the Rights represented thereby, nor shall anything contained herein or in any Right

Certificate be construed to confer upon the holder of any Right Certificate, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting stockholders (except as provided in Section 25), or to receive dividends or subscription rights, or otherwise, until the Right or Rights evidenced by such Right Certificate shall have been exercised in accordance with the provisions hereof.

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SECTION 18. Concerning the Rights Agent. (a) The Company agrees to pay to the Rights Agent such compensation as shall be agreed to in writing between the Company and the Rights Agent for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and counsel fees and disbursements and other disbursements incurred in the execution or administration of this Agreement and the exercise and performance of its duties hereunder. The Company also agrees to indemnify the Rights Agent for, and to hold it harmless against, any loss, liability, or expense, incurred without gross negligence, bad faith or willful misconduct on the part of the Rights Agent, for anything done or omitted by the Rights Agent in connection with the administration of this Agreement or the exercise or performance of its duties hereunder, including without limitation the costs and expenses of defending against any claim (whether asserted by the Company, a holder of Rights, or any other Person) of liability including reasonable attorney's fees and expenses. The provisions of this Section 18(a) shall survive the expiration of the Rights and the termination of this Agreement.

(b) The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with the administration of this Agreement or the exercise or performance of its duties hereunder in reliance upon any Right Certificate or certificate for Common Stock or for other securities of the Company, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, instruction, direction, consent, certificate, statement, or other paper or document believed by it to be genuine and to be signed and executed by the proper Person or Persons, and, where necessary, to be acknowledged.

SECTION 19. Merger or Consolidation or Change of Name of Rights Agents. (a) Any corporation into which the Rights Agent or any successor Rights Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Rights Agent or any successor Rights Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust or stock transfer business of the Rights Agent or any successor Rights Agent, shall be the successor to the Rights Agent under this Agreement without the execution

or filing of any paper or any further act on the part of any of the parties hereto; provided that such corporation would be eligible for appointment as a successor Rights Agent under the provisions of Section 21. In case at the time such successor Rights Agent shall succeed to the agency created by this Agreement, any of the Right Certificates shall have been countersigned but not delivered, any such successor Rights Agent may adopt the countersignature of a predecessor Rights Agent and deliver such Right Certificates so countersigned; and in case at that time any of the Right Certificates shall not have been countersigned, any successor Rights Agent may

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countersign such Right Certificates either in the name of the predecessor Rights Agent or in the name of the successor Rights Agent; and in all such cases such Right Certificates shall have the full force provided in the Right Certificates and in this Agreement.

(b) In case at any time the name of the Rights Agent shall be changed and at such time any of the Right Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Right Certificates so countersigned; and in case at that time any of the Right Certificates shall not have been countersigned, the Rights Agent may countersign such Right Certificates either in its prior name or in its changed name; and in all such cases such Right Certificates shall have the full force provided in the Right Certificates and in this Agreement.

SECTION 20. Duties of Rights Agent. The Rights Agent undertakes the duties and obligations expressly imposed by this Agreement, and no implied duties or obligations shall be read into this Agreement against the Rights Agent, upon the following terms and conditions, by all of which the Company and the holders of Right Certificates, by their acceptance thereof, shall be bound:

(a) The Rights Agent may consult with legal counsel of its selection (who may be legal counsel for the Company), and the opinion of such counsel shall be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion.

(b) Whenever in the performance of its duties under this Agreement the Rights Agent shall deem it necessary or desirable that any fact or matter (including, without limitation, the identity of any "Acquiring Person" and the determination of "current market price") be proved or established by the Company prior to taking, suffering or omitting to take any action hereunder, such fact or matter (unless

other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by the Chairman of the Board, the President or any Vice President and by the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of the Company and delivered to the Rights Agent; and such certificate shall be full authorization to the Rights Agent for any action taken, suffered or omitted in good faith by it under the provisions of this Agreement in reliance upon such certificate.

(c) The Rights Agent shall be liable hereunder only for its own gross negligence, bad faith or willful misconduct.

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(d) The Rights Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the Right Certificates (except its countersignature thereof) or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(e) The Rights Agent shall not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution hereof by the Rights Agent) or in respect of the validity or execution of any Right Certificate (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Right Certificate; nor shall it be responsible for any change in the exercisability of the Rights (including the Rights becoming void pursuant to Section 7(d)) or any adjustment in the terms of the Rights (including the manner, method or amount thereof) provided for in Sections 3, 11, 13, 23 or 24, or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights evidenced by Right Certificates after the Rights Agent's actual notice of any such adjustment); nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any shares of Common Stock or Preferred Stock to be issued pursuant to this Agreement or any Right Certificate or as to whether any shares of Common Stock or Preferred Stock will, when issued, be duly authorized, validly issued, fully paid and nonassessable, nor shall the Rights Agent be responsible for the legality of the terms hereof in its capacity as an administrative agent.

(f) The Company agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and

delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement.

(g) The Rights Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from the Chairman of the Board, the President or any Vice President or the Secretary or any Assistant Secretary or the Treasurer or any Assistant Treasurer of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken, suffered or omitted to be taken by it in good faith in

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accordance with instructions of any such officer or for any delay in acting while waiting for those instructions.

(h) The Rights Agent and any stockholder, director, officer or employee of the Rights Agent may buy, sell or deal in any of the Rights or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not the Rights Agent under this Agreement. Nothing herein shall preclude the Rights Agent from acting in any other capacity for the Company or for any other Person.

(i) The Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys or agents or for any loss to the Company or to any holders of Rights resulting from any such act, default, neglect or misconduct, provided that reasonable care was exercised in the selection and continued employment thereof.

(j) No provision of this Agreement shall require the Rights Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of its rights if there shall be reasonable grounds for believing that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to it.

(k) If, with respect to any Right Certificate surrendered to the Rights Agent for exercise or transfer, the certificate attached to the form of assignment or form of election to purchase, as the cases

may be, has either not been completed or indicates an affirmative response to clause 1 or 2 thereof, the Rights Agent shall not take any further action with respect to such requested exercise or transfer without first consulting with the Company.

(l) In addition to the foregoing, the Rights Agent shall be protected and shall incur no liability for, or in respect of, any action taken or omitted by it in connection with its administration of this Agreement if such acts or omissions are in reliance upon (i) the proper execution of the certification concerning beneficial ownership appended to the form of assignment and the form of election to purchase attached hereto unless the Rights Agent shall have actual knowledge that, as executed, such

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certification is untrue, or (ii) the non-execution of such certification including, without limitation, any refusal to honor any otherwise permissible assignment or election by reason of such non-execution.

(m) The Company agrees to give the Rights Agent prompt written notice of any event or ownership which would prohibit the exercise or transfer of the Right Certificates.

SECTION 21. Change of Rights Agent. The Rights Agent or any successor Rights Agent may resign and be discharged from its duties under this Agreement upon 30 days' notice in writing mailed to the Company. The Company may remove the Rights Agent or any successor Rights Agent upon 30 days' notice in writing, mailed to the Rights Agent or successor Rights Agent, as the case may be. If the Rights Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Rights Agent. If the Company shall fail to make such appointment within a period of 30 days after giving notice of such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent or by the holder of a Right Certificate (who shall, with such notice, submit his Right Certificate for inspection by the Company), then the Rights Agent or any registered holder of any Right Certificate may, at the expense of the Company, apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Company or by such a court, shall be (a) a corporation organized and doing business under the laws of the United States or of any state of the United States, in good standing, having a principal office in the State of New York, which is authorized under such laws to exercise stock transfer or corporate trust powers and is subject to supervision or examination by federal or state authority and which has at the time of its appointment as Rights Agent a combined capital and surplus of at least

\$50,000,000 or (b) an Affiliate of a corporation described in clause 21(a). After appointment, the successor Rights Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Company shall file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Common Stock and the Preferred Stock, and, subsequent to the Distribution Date, mail a notice thereof in writing to the registered holders of the Right Certificates. Failure to give any notice provided for in this Section 21, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent, as the case may be.

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SECTION 22. Issuance of New Right Certificates. Notwithstanding any of the provisions of this Agreement or of the Rights to the contrary, the Company may, at its option, issue new Right Certificates evidencing Rights in such form as may be approved by the Board to reflect any adjustment or change in the Purchase Price and the number or kind or class of shares of stock issuable upon exercise of the Rights made in accordance with the provisions of this Agreement.

SECTION 23. Redemption. (a) The Board may, at its option, at any time prior to the earlier of (i) the close of business on the tenth day after the Stock Acquisition Date (or such later date as a majority of the Board may designate prior to such time as the Rights are no longer redeemable) and (ii) the Final Expiration Date, redeem all but not less than all of the then outstanding Rights at a redemption price of \$.01 per Right, as such amount may be appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such redemption price being hereinafter referred to as the "Redemption Price"); provided that after any Person has become an Acquiring Person, any redemption of the Rights shall be effective only if such redemption shall have been approved by a majority of the Board. Notwithstanding anything in this Agreement to the contrary, the Rights shall not be exercisable after the first occurrence of a Section 11(a)(ii) Event until such time as the Company's right of redemption hereunder has expired. The redemption of the Rights may be made effective at such time, on such basis and with such conditions as the Board in its sole discretion may establish. The Redemption Price shall be payable, at the option of the Company, in cash, shares of Common Stock, or such other form of consideration as the Board shall determine.

(b) Immediately upon the action of the Board electing to redeem the

Rights (or at such later time as the Board may establish for the effectiveness of such redemption), and without any further action and without any notice, the right to exercise the Rights will terminate and thereafter the only right of the holders of Rights shall be to receive the Redemption Price for each Right so held. The Company shall promptly thereafter give notice of such redemption to the Rights Agent and the holders of the Rights in the manner set forth in Section 26; provided that the failure to give, or any defect in, such notice shall not affect the validity of such redemption. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption will state the method by which the payment of the Redemption Price will be made.

SECTION 24. Exchange. (a) At any time after the occurrence of a Section 11(a)(ii) Event, the Board may, at its option, exchange all or part of the then outstanding and exercisable Rights (which shall not include Rights that have become void pursuant to Section 7(d)) for shares of Common Stock at an

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exchange ratio of one share of Common Stock per Right, appropriately adjusted to reflect any stock split, stock dividend or similar transaction occurring after the date hereof (such exchange ratio being hereinafter referred to as the "Exchange Ratio"). Notwithstanding the foregoing, the Board shall not be empowered to effect such exchange at any time after an Acquiring Person together with all Affiliates and Associates of such Acquiring Person, becomes the Beneficial Owner of 50% or more of the shares of Common Stock then outstanding. From and after the occurrence of a Section 13 Event, any Rights that theretofore have not been exchanged pursuant to this Section 24(a) shall thereafter be exercisable only in accordance with Section 13 and may not be exchanged pursuant to this Section 24(a). The exchange of the Rights by the Board may be made effective at such time, on such basis and with such conditions as the Board in its sole discretion may establish.

(b) Immediately upon the effectiveness of the action of the Board electing to exchange any Rights pursuant to Section 24(a) and without any further action and without any notice, the right to exercise such Rights will terminate and thereafter the only right of a holder of such Rights shall be to receive that number of shares of Common Stock equal to the number of such Rights held by such holder multiplied by the Exchange Ratio. The Company shall promptly thereafter give notice of such exchange to the Rights Agent and the holders of the Rights to be exchanged in the manner set forth in Section 26; provided that the failure to give, or any defect in, such notice shall not affect the validity of such exchange. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of exchange will state the method by which the exchange of the shares of Common Stock for Rights will be effected and, in the

event of any partial exchange, the number of Rights which will be exchanged. Any partial exchange shall be effected pro rata based on the number of Rights (other than Rights which have become void pursuant to Section 7(d)) held by each holder of Rights.

(c) The Company may at its option substitute, and, in the event that there shall not be sufficient shares of Common Stock issued but not outstanding or authorized but unissued to permit the exchange of Rights for Common Stock ordered in accordance with Section 24(a), the Company shall substitute to the extent of such insufficiency, for each share of Common Stock that would otherwise be issuable upon exchange of a Right, a number of one-one hundredths of a share of Preferred Stock such that the current market price (determined pursuant to Section 11(d)) of such number of one-one hundredths of a share of Preferred Stock is equal to the current market price (determined pursuant to Section 11(d)) of one share of Common Stock as of the date of such exchange.

SECTION 25. Notice of Proposed Actions. (a) In case the Company shall propose, at any time after the Distribution Date, (i) to pay any dividend payable in stock of any class to the holders of Preferred Stock or to make any other distribution to the holders of Preferred Stock (other than a regular quarterly cash dividend out of earnings or retained earnings of the Company), or (ii) to offer to the holders of its Preferred Stock rights or warrants to subscribe for or to purchase any additional shares of Preferred Stock or shares of stock of any class or any other securities, rights or options, or (iii) to effect any reclassification of its Preferred Stock (other than a reclassification involving only the subdivision or combination of outstanding shares of Preferred Stock) or (iv) to effect any consolidation or merger with any other Person, or to effect and/or to permit one or more of its Subsidiaries to effect any sale or other transfer, in one transaction or a series of related transactions, of assets or earning power aggregating more than 50% of the assets or earning power of the Company and its Subsidiaries, taken as a whole, to any other Person or Persons, or (v) to effect the liquidation, dissolution or winding up of the Company, then, in each such case, the Company shall give to each holder of a Right and to the Rights Agent, to the extent feasible and in accordance with Section 26, a notice of such proposed action, which shall specify the record date for the purposes of any such dividend, distribution or offering of rights or warrants, or the date on which any such reclassification, consolidation, merger, sale, transfer, liquidation, dissolution or winding up is to take place and the date of participation therein by the holders of Preferred Stock, if any such date is to be fixed, and such notice shall be so given in the case of any action covered by clause 25(a) (i) or 25(a) (ii) above at least 20 days prior to the record date for determining holders of the Preferred Stock entitled to

participate in such dividend, distribution or offering, and in the case of any such other action, at least 20 days prior to the date of the taking of such proposed action or the date of participation therein by the holders of Preferred Stock, whichever shall be the earlier. The failure to give notice required by this Section or any defect therein shall not affect the legality or validity of the action taken by the Company or the vote upon any such action.

(b) Notwithstanding anything in this Agreement to the contrary, prior to the Distribution Date a public filing by the Company with the Securities and Exchange Commission shall constitute sufficient notice to the holders of securities of the Company, including the Rights, for purposes of this Agreement and no other notice need be given to such holders.

(c) If a Triggering Event shall occur, then, in any such case, (i) the Company shall as soon as practicable thereafter give to each holder of a Right and to the Rights Agent, in accordance with Section 26, a notice of the occurrence of such event, which shall specify the event and the consequences of the event to holders of Rights under Section 11(a)(ii) or 13, as the case may be, and (ii) all

references in Section 25(a) to Preferred Stock shall be deemed thereafter to refer to Common Stock or other capital stock, as the case may be.

SECTION 26. Notices. Notices or demands authorized by this Agreement to be given or made by the Rights Agent or by the holder of any Right to or on the Company shall be sufficiently given or made if sent by first-class mail (postage prepaid) to the address of the Company indicated on the signature page hereof or such other address as the Company shall specify in writing to the Rights Agent. Subject to the provisions of Section 21, any notice or demand authorized by this Agreement to be given or made by the Company or by the holder of any Right to or on the Rights Agent shall be sufficiently given or made if sent by first-class mail (postage prepaid) to the address of the Rights Agent indicated on the signature page hereof or such other address as the Rights Agent shall specify in writing to the Company. Notices or demands authorized by this Agreement to be given or made by the Company or the Rights Agent to the holder of any Right Certificate (or, prior to the Distribution Date, to the holder of any certificate representing shares of Common Stock) shall be sufficiently given or made if sent by first-class mail (postage prepaid) to the address of such holder shown on the registry books of the Company.

SECTION 27. Supplements and Amendments. For so long as the Rights are redeemable, the Company may, and the Rights Agent shall if the Company so directs, supplement or amend any provision of this Agreement in any respect

without the approval of any holders of certificates representing shares of Common Stock. At any time when the Rights are no longer redeemable, the Company may, and the Rights Agent shall if the Company so directs, supplement or amend this Agreement without the approval of any holders of Rights; provided, however, that no such supplement or amendment may (a) adversely affect the interests of the holders of Rights as such (other than an Acquiring Person or an Affiliate or Associate of an Acquiring Person), (b) cause this Agreement again to become amendable other than in accordance with this sentence, or (c) cause the Rights again to become redeemable. Notwithstanding the foregoing, after any Person has become an Acquiring Person, any supplement or amendment shall be effective only if such supplement or amendment has been approved by a majority of the Board. Upon the delivery of a certificate from an appropriate officer of the Company which states that the proposed supplement or amendment is in compliance with the terms of this Section, the Rights Agent shall execute such supplement or amendment. Notwithstanding any other provision hereof, the Rights Agent's consent must be obtained regarding any amendment or supplement pursuant to this Section 27 which alters the Rights Agent's rights or duties.

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SECTION 28. Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company or the Rights Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

SECTION 29. Determinations and Actions by the Board, etc. For all purposes of this Agreement, any calculation of the number of shares of Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Common Stock of which any Person is the Beneficial Owner, shall be made in accordance with the last sentence of Rule 13d-3(d)(1)(i) under the Exchange Act as in effect on the date of this Agreement. The Board shall have the exclusive power and authority to administer this Agreement and to exercise all rights and powers specifically granted to the Board or to the Company, or as may be necessary or advisable in the administration of this Agreement, including the right and power to (i) interpret the provisions of this Agreement and (ii) make all determinations deemed necessary or advisable for the administration of this Agreement (including a determination to redeem or exchange or not to redeem or exchange the Rights or to amend the Agreement).

SECTION 30. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any Person other than the Company, the Rights Agent and the registered holders of the Right Certificates (and, prior to the Distribution Date, the certificates representing the shares of Common Stock) any legal or equitable right, remedy or claim under this Agreement; but this Agreement shall be for the sole and exclusive benefit of the Company, the Rights Agent and the registered holders of the Right Certificates (and, prior

to the Distribution Date, the certificates representing the shares of Common Stock).

SECTION 31. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 32. Governing Law. This Agreement, each Right and each Right Certificate issued hereunder shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State, except that the rights and obligations of the Rights Agent shall be governed by the laws of the State of New York.

SECTION 33. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be

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deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

SECTION 34. Descriptive Headings. The captions herein are included for convenience of reference only, do not constitute a part of this Agreement and shall be ignored in the construction and interpretation hereof.

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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.

R.J. REYNOLDS TOBACCO HOLDINGS, INC.

By: /s/ William L. Rosoff

Name: William L. Rosoff

Title: Senior Vice President and

General Counsel

1301 Avenue of the Americas
New York, NY 10019-6013

THE BANK OF NEW YORK, as Rights Agent

By: /s/ Christopher Stevenson

Name: Christopher Stevenson
Title: Vice President

101 Barclay Street, Floor 12W
New York, NY 10286
Attention: Stock Transfer Administration

TAX SHARING AGREEMENT

dated as of June 14, 1999

among

RJR NABISCO HOLDINGS CORP.
(to be renamed "Nabisco Group Holdings Corp.")

R.J. REYNOLDS TOBACCO HOLDINGS, INC.
(formerly named "RJR Nabisco, Inc.")

NABISCO HOLDINGS CORP.

and

R. J. REYNOLDS TOBACCO COMPANY

TAX SHARING AGREEMENT

TAX SHARING AGREEMENT dated as of June 14, 1999 among RJR Nabisco Holdings Corp. (to be renamed "Nabisco Group Holdings Corp."), a Delaware corporation (together with its successors, "Holdings"), R.J. Reynolds Tobacco Holdings, Inc. (formerly named "RJR Nabisco, Inc."), a Delaware corporation (together with its successors, "RJRN"), Nabisco Holdings Corp., a Delaware corporation (together with its successors, "Nabisco"), and R. J. Reynolds Tobacco Company, a New Jersey corporation (together with its successors, "RJRT").

RECITALS

WHEREAS, pursuant to the tax laws of various jurisdictions, Holdings, certain members of the RJRN Tax Group and certain members of the Nabisco Tax Group, as defined below, file certain tax returns on an affiliated, consolidated, combined, unitary or other group basis (including as permitted by Section 1501 of the Internal Revenue Code of 1986, as amended (the "Code")) (each such group, a "Consolidated Group");

WHEREAS, the Board of Directors of Holdings has determined that it is in the best interests of Holdings and its stockholders to cause all of the outstanding shares of the Class B common stock of Nabisco to be directly held by Holdings (the "Internal Distribution") and to distribute all of the outstanding

shares of the common stock of RJRN to the holders of the common stock of Holdings on a pro rata basis (the "Distribution");

WHEREAS, in this Agreement, the parties have set forth certain representations and covenants that support the treatment of each of the Distribution and the Internal Distribution as a transaction described in Section 355(a)(1) of the Code;

WHEREAS, in this Agreement, the parties have set forth the rights and obligations of Nabisco and the other members of the Nabisco Tax Group, RJRN and the other members of the RJRN Tax Group, and Holdings with respect to the handling and allocation of certain federal, state, local and other taxes incurred in Taxable periods beginning prior to the Distribution Date, and various other tax matters; and

WHEREAS, Holdings and the Nabisco Tax Group will continue to file certain tax returns on a Consolidated Group basis following the Distribution, and, in this Agreement, have set forth their respective rights and obligations with respect to the handling and allocation of certain federal, state, local and other taxes incurred in Taxable periods prior and subsequent to the Distribution;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

SECTION 1.01. Definitions. (a) As used herein, the following terms have the following meanings:

"After-Tax Amount" means an additional amount (taking into account any taxation of such additional amount) necessary to reflect the hypothetical tax consequences of the receipt or accrual of any payment, using the highest tax rate (or rates, in the case of an item that affects more than one tax) applicable to the recipient of such payment for the relevant taxable period, reflecting for example, the effect of any deductions available for interest paid or accrued and for appropriate taxes such as State Taxes.

"Business Day" means any day other than a Saturday, a Sunday or one on which banks are authorized or required by law to close in New York, New York.

"Combined State Taxes" mean any State Tax, the return for which is filed on an affiliated, consolidated, combined or unitary basis by (i) a group that includes Holdings and at least one member of the Nabisco Tax Group, or (ii) a group that includes at least one member of the RJRN Tax Group and at least one corporation among Holdings and the members of the Nabisco Tax Group.

"Deconsolidation Date" means the date of any Nabisco Deconsolidation.

"Del Monte State Tax" means any State Taxes for which the Nabisco Tax Group may be liable by reason of an assertion by a Taxing Authority or a Final Determination that Del Monte Corporation and at least one member of the Nabisco Tax Group are part of an affiliated, consolidated, combined or unitary group.

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"Designated RJRN Affiliate" means RJRT or the member of the RJRN Tax Group that has been designated as such by RJRN.

"Distribution Agreement" means the Distribution Agreement dated as of May 12, 1999 among Holdings, RJRN and RJRT.

"Distribution Date" means the Business Day on which the Distribution is effected.

"Effective Realization" (and the correlative terms, "Effectively Realized" and "Effectively Realizes") means, with respect to a tax saving, tax benefit or tax attribute, the earliest to occur of (i) the receipt by any of Holdings, a member of the Nabisco Tax Group or a member of the RJRN Tax Group of cash from a Taxing Authority reflecting such tax saving, tax benefit or tax attribute, or (ii) the application of such tax saving, tax benefit or tax attribute to reduce (A) the tax liability on a Return of any of such corporations or of any affiliated, consolidated, combined or unitary group of which any of such corporations is a member, or (B) any other outstanding tax liability of any of such corporations or of such group; provided that any reference in this definition to tax shall include, without limitation, a reference to a recovery of statutory interest.

"Federal Employment Tax" means the Federal Insurance Contributions Act, the Federal Unemployment Tax Act and any other federal tax that applies or that shall apply to a corporation in connection with the payment or provision of salaries, or the provision of benefits and other remuneration, to employees.

"Federal Tax" means any tax imposed under Subtitle A of the Code.

"Final Determination" means (i) with respect to Federal Taxes, (A) a "determination" as defined in Section 1313(a) of the Code, or (B) the acceptance by or on behalf of the IRS of Form 870-AD (or any successor form thereto) as a final resolution of Tax liability for any Taxable period, except as to items in respect of which the right of the taxpayer to file a claim for refund or the right of the IRS to assert a further deficiency has been reserved; (ii) with respect to Taxes other than Federal Taxes, any final determination of liability in respect of a Tax that, under applicable law, is not subject to further

appeal, review or modification, through Tax Proceedings or otherwise (including, without limitation, the expiration of a statute of limitations or a period for the filing of claims for refunds, amended returns or appeals from adverse determinations); or (iii) the payment of tax by the corporation among Holdings, the members of the Nabisco Tax Group and the members of the RJRN Tax Group that is responsible for payment of such tax under applicable law with respect to any item that has been disallowed or adjusted by a Taxing Authority and as to which Holdings has made

a determination that no recoupment would be sought. For the avoidance of doubt, any determination made by Holdings pursuant to clause (iii) of this definition shall not preclude Holdings from reversing or otherwise modifying such determination.

"Holdings Consolidated Group" means (i) Holdings and each direct and indirect corporate subsidiary (including predecessors and successors thereto) that is eligible to join with Holdings (A) with respect to Federal Taxes, in the filing of a consolidated Federal Tax return, (B) with respect to State Taxes, in the filing of an affiliated, consolidated, combined or unitary State Tax return, or (C) with respect to other Taxes, in the filing of a Tax return as an affiliated, consolidated, combined or unitary group, or (ii) the corporations that are members of a group that (A) files a Tax return as an affiliated, consolidated, combined or unitary group and (B) includes at least one member of the Nabisco Tax Group and one member of the RJRN Tax Group. A reference to the Holdings Consolidated Group in this Agreement shall include a reference to any affiliated, consolidated, combined or unitary group of which RJRN was the parent during any taxable period (or portion thereof) ending on or before April 29, 1989.

"Intercompany Interest Rate" means the rate, from time to time, that is equal to the London Interbank Offered Rate for dollar deposits.

"Intercompany Services Agreement" means the Intercompany Services Agreement to be dated as of the Distribution Date among Holdings, Nabisco and RJRN, substantially in the form of Exhibit C to the Distribution Agreement.

"Internal Distribution Date" means May 18, 1999.

"International Tobacco Purchase Agreement" means the Purchase Agreement dated as of March 9, 1999 among Japan Tobacco Inc., RJRT and RJRN.

"International Tobacco Sale" means (i) the sale to Japan Tobacco Inc. pursuant to the International Tobacco Purchase Agreement of the capital stock of

the companies listed in Exhibit D to such agreement and of certain other assets, and (ii) the restructuring transactions and other transactions undertaken in preparation for such sale.

"IRS" means the Internal Revenue Service.

"Nabisco Combined State Tax Liability" means, with respect to any taxable period and any jurisdiction, an amount of Combined State Taxes determined in accordance with the principles set forth in the definition of Nabisco

Federal Tax Liability and comparable provisions under applicable law.

"Nabisco Deconsolidation" means any event pursuant to which Nabisco ceases to be a subsidiary includible in a Consolidated Group filing a consolidated Federal Tax return of which Holdings is a member.

"Nabisco Federal Tax Liability" means, with respect to any taxable period, the sum of the Nabisco Tax Group's Federal Tax liability and any interest, penalties and other additions to such taxes for such taxable period, computed as if the Nabisco Tax Group were not part of the Holdings Consolidated Group, but rather were a separate affiliated group of corporations filing a consolidated Federal Tax return pursuant to Section 1501 of the Code; provided, however, that transactions with members of the RJRN Tax Group or Holdings shall be reflected in accordance with applicable provisions of the consolidated return regulations governing intercompany transactions. Without limiting the generality of the foregoing, such computation shall be made (i) without regard to the income, deductions (including, without limitation, net operating loss and capital loss deductions) and credits in any taxable period of any member of the Holdings Consolidated Group that is not a member of the Nabisco Tax Group, (ii) by taking account of any Tax Asset of the Nabisco Tax Group in accordance with the principles of Section 3.05(d), (iii) with regard to tax carryforwards and tax carrybacks (including, without limitation, carryforwards and carrybacks of net operating losses or capital losses) of any member of the Nabisco Tax Group, but without regard to any carryforwards from a taxable year or portion thereof ending on or before December 31, 1994 and arising solely due to creating the Nabisco Tax Group as if it were not part of the Holdings Consolidated Group, (iv) as though the highest rate of tax specified in Section 11(b) of the Code were the only rates set forth in that subsection, and (v) by taking account of the positions, elections and accounting methods reflected in the consolidated Federal Tax returns, as amended and as finally adjusted, of the Holdings Consolidated Group.

"Nabisco Tax Group" means, at any time, Nabisco and any direct or indirect corporate subsidiaries (including predecessors and successors thereto) of Nabisco that would be eligible, if Nabisco were not a member of a group that included Holdings or RJRN, to join with Nabisco, (i) with respect to Federal Taxes, in the filing of a consolidated Federal Tax return, (ii) with respect to State Taxes, in the filing of an affiliated, consolidated, combined or unitary State Tax return, or (iii) with respect to other Taxes, in the filing of a Tax return as an affiliated, consolidated, combined or unitary group.

"Name Change Merger" means such term as it is defined in the Distribution Agreement.

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"1999 Pre-Distribution Period" means the taxable period from January 1, 1999 through the Distribution Date.

"Post-Deconsolidation Period" means any taxable period (or portion thereof) beginning after the close of business on the Deconsolidation Date.

"Post-Distribution Period" means any taxable period (or portion thereof) beginning after the close of business on the Distribution Date.

"Post-1989 Period" means any taxable period (or portion thereof) beginning after the close of business on December 31, 1989.

"Pre-Deconsolidation Period" means any taxable period (or portion thereof) ending on or before the close of business on the Deconsolidation Date.

"Pre-Distribution Period" means any taxable period (or portion thereof) ending on or before the close of business on the Distribution Date.

"Pre-1990 Period" means any taxable period (or portion thereof) ending on or before the close of business on December 31, 1989.

"Return" means any Tax return, statement, report, form or election (including, without limitation, estimated Tax returns and reports, extension requests and forms, and information returns and reports) required to be filed with any Taxing Authority, in each case as amended and as finally adjusted.

"RJRN Combined State Tax Liability" means, with respect to any taxable period and any jurisdiction, an amount of Combined State Taxes determined in accordance with the principles set forth in the definition of RJRN Federal Tax Liability and comparable provisions under applicable law.

"RJRN Federal Tax Liability" means, with respect to any taxable period, the sum of the RJRN Tax Group's Federal Tax liability and any interest, penalties and other additions to such taxes for such taxable period, computed as if the RJRN Tax Group were not part of the Holdings Consolidated Group, but rather were a separate affiliated group of corporations filing a consolidated Federal Tax return pursuant to Section 1501 of the Code; provided, however, that transactions with members of the Nabisco Tax Group or Holdings shall be reflected in accordance with applicable provisions of the consolidated return regulations governing intercompany transactions. Without limiting the generality of the foregoing, such computation shall be made (i) without regard to the income, deductions (including, without limitation, net operating loss and capital loss deductions) and credits in any taxable period of any member of the Holdings

Consolidated Group that is not a member of the RJRN Tax Group, (ii) by taking account of any Tax Asset of the RJRN Tax Group in accordance with the principles of Section 3.04(d), (iii) with regard to tax carryforwards and tax carrybacks (including, without limitation, carryforwards and carrybacks of net operating losses or capital losses) of any member of the RJRN Tax Group, (iv) as though the highest rate of tax specified in Section 11(b) of the Code were the only rates set forth in that subsection, (v) by taking account of the positions, elections and accounting methods reflected in the consolidated Federal Tax returns, as amended and as finally adjusted, of the Holdings Consolidated Group, and (vi) without gain, if any, attributable to the Internal Distribution.

"RJRN Tax Group" means, at any time, RJRN and any direct or indirect corporate subsidiaries (including predecessors and successors thereto) of RJRN, except for the members of the Nabisco Tax Group, that would be eligible, if RJRN were not a member of a group that included Holdings, to join with RJRN, (i) with respect to Federal Taxes, in the filing of a consolidated Federal Tax return, (ii) with respect to State Taxes, in the filing of an affiliated, consolidated, combined or unitary State Tax return or (iii) with respect to other Taxes, in the filing of a Tax return as an affiliated, consolidated, combined or unitary group.

"State Tax" means any income, franchise or similar tax payable to a state or local taxing jurisdiction of the United States.

"Tax" (and the correlative term, "Taxable") means (i) any Federal Tax, or any net income, alternative or add-on minimum, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license,

withholding (as payor or recipient), payroll, employment, excise, severance, stamp, capital stock, occupation, property, real property gains, environmental, windfall, premium, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever (including, without limitation, any Tobacco Tax), together with any interest thereon and any penalty, addition to tax or additional amount thereto; (ii) any liability of a corporation for the payment of any amounts of the type described in clause (i) for any taxable period resulting from such corporation's being a part of a Consolidated Group pursuant to the application of Treasury Regulations Section 1.1502-6 (or a successor thereto) or any similar provision applicable under state, local or foreign law; or (iii) any liability for the payment of any amounts described in clause (i) as a result of any express or implied obligation to indemnify any other person.

"Tax Asset" means any net operating loss, net capital loss, investment tax credit, foreign tax credit, charitable deduction, or any other loss, credit, deduction or tax attribute that could be applied to reduce any tax (including, without limitation, deductions, credits, alternative minimum net operating loss

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carryforwards related to alternative minimum taxes or additions to the basis of property). For the avoidance of doubt, any elimination, reduction or other change in an overall foreign loss account or excess credit limitation shall not be considered a Tax Asset.

"Tax Opinion" means the opinion dated as of May 12, 1999 of Davis Polk & Wardwell regarding the Federal Tax consequences of the Distribution and the Internal Distribution, together with bring-downs of such opinion to each of the Internal Distribution Date and the Distribution Date.

"Tax Proceeding" means any Tax audit, dispute or proceeding (whether administrative or judicial). Without limiting the generality of the foregoing, a reference to a Tax Proceeding relating to any taxable year shall include a Tax Proceeding relating to multiple taxable years that include such taxable year, notwithstanding that other included taxable years may be (i) Post-Distribution Periods, in the case of the RJRN Tax Group, or (ii) Post-Deconsolidation Periods, in the case of the Nabisco Tax Group.

"Taxing Authority" means any governmental authority (whether United States or non-United States, and including, without limitation, any state, municipality, political subdivision or governmental agency) responsible for the imposition of any Tax.

"Tobacco Claim" means such terms as it is defined in the Distribution Agreement.

"Tobacco Tax" means (i) any excise, custom duty or other tax, whether United States or non-United States, (A) levied on or otherwise determined in whole or in part, directly or indirectly, by the quantity, weight, raw ingredient or other component content, value, cost or price (whether intercompany, wholesale, retail, undiscounted, discounted or otherwise) of cigarettes or other tobacco products, or (B) in connection with the manufacture, development, import, export, shipment, delivery, transportation, movement, receipt, distribution, sale, offering for sale, marketing, promotion or advertisement of cigarette or other tobacco products, or (ii) any claim for payment of any amounts described in clause (i), together, in the case of each of clauses (i) and (ii), with any interest thereon and any penalty, addition to tax or additional amount thereto.

"Two-Year Period" means the period that begins on the date on which the Internal Distribution shall be effected and that ends on the date that is two years after the Distribution Date.

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(b) Each of the following terms is defined in the Section set forth opposite such term:

| Term | Section |
|---------------------------------|----------|
| ----- | ----- |
| Combined State Tax Payment Date | 3.02 (a) |
| Corporate Headquarters Expenses | 6.04 (a) |
| Employer Group | 6.02 (a) |
| Federal Tax Payment Date | 3.02 (a) |
| Indemnitee | 7.04 |
| Indemnitor | 7.04 |
| Pro Forma Combined State Return | 3.04 (a) |
| Pro Forma Federal Return | 3.04 (a) |
| Pro Forma Returns | 3.04 (a) |
| R&D Credits | 3.10 |
| Tax Asset Beneficiary | 3.06 |
| Tax Asset Provider | 3.06 |

(c) Any term used in this Agreement that is not defined in this Agreement shall, to the extent the context requires, have the meaning assigned to it in the Code or in comparable provisions of applicable Tax law.

ARTICLE 2
ADMINISTRATIVE AND COMPLIANCE MATTERS

SECTION 2.01. Sole Tax Sharing Agreement. (a) Except for Sections 7.03, 8.04 and 10.08 of the Distribution Agreement, any and all existing Tax sharing agreements or arrangements, written or unwritten, among two or more of Holdings, any member of the Nabisco Tax Group and any member of the RJRN Tax Group (including, without limitation, the Tax Sharing Agreement dated January 26, 1995 between Holdings and Nabisco) shall be or shall have been terminated as of the Distribution Date. On and after the Distribution Date, none of Holdings, the members of the Nabisco Tax Group and the members of the RJRN Tax Group shall have any rights or liabilities (including, without limitation, any rights and liabilities that accrued prior to the Distribution Date) under such terminated agreements and arrangements, and this Agreement shall be the sole Tax sharing agreement among such corporations.

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(b) This Agreement shall not address the obligations or arrangements, if any, (i) among members of the RJRN Tax Group, or (ii) among members of the Nabisco Tax Group.

SECTION 2.02. Designation of Agent. (a) Each member of the RJRN Tax Group and each member of the Nabisco Tax Group hereby irrevocably authorizes and designates Holdings as its agent, attorney-in-fact, coordinator and administrator for the purposes of taking any and all actions with respect to (i) Taxes for which such member is a member of the Holdings Consolidated Group and (ii) Federal Employment Taxes of such member, in the case of each of clauses (i) and (ii) in connection with any taxable year that includes a Pre-Distribution Period, in the case of the RJRN Tax Group, or in connection with any taxable year that includes a Pre-Deconsolidation Period, in the case of the Nabisco Tax Group. In connection with any taxable year that includes a Pre-Distribution Period, in the case of a member of the RJRN Tax Group, or with any taxable year that includes a Pre-Deconsolidation Period, in the case of a member of the Nabisco Tax Group, Holdings shall have the same authority under this Section 2.02(a), with respect to such Taxes as are described in the preceding sentence, to act on behalf of each member of the RJRN Tax Group and each member of the Nabisco Tax Group as would such member, were such member acting on its own behalf, and as would the parent of the Consolidated Group that includes such member, were such parent acting on behalf of such member. Holdings covenants to the RJRN Tax Group and the Nabisco Tax Group that it shall be responsible to see that matters handled pursuant to its exercise of its authority under this Section 2.02(a) shall be handled promptly and, to the knowledge of Holdings,

appropriately.

(b) Without limiting the generality of Section 2.02(a), Holdings shall have the authority, with respect to such Taxes and such taxable years as are described in Section 2.02(a), to take any and all actions necessary, helpful or incidental to, or otherwise in connection with, (i) the preparation or filing of any Return or claim for refund (even where an item or Tax Asset giving rise to an amended Return or claim for refund arises in a Post-Distribution Period, in the case of the RJRN Tax Group, or in a Post-Deconsolidation Period, in the case of the Nabisco Tax Group), (ii) the conduct, management, prosecution, defense, contest, compromise or settlement of (A) any adjustment or deficiency proposed, asserted or assessed as a result of any audit of any Return or claim for refund, or (B) any other Tax Proceeding, (iii) the determination of the taxable years (including, without limitation, taxable years that include a Post-Distribution Period, in the case of the RJRN Tax Group, or a Post-Deconsolidation Period, in the case of the Nabisco Tax Group) that a settlement of a Tax Proceeding may impact and other timing considerations, (iv) the determination as to whether any refunds shall be received by way of refund, credited against tax liability or otherwise applied to any tax period, (v) the determination as to the treatment of

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Tax Assets that are allowed under applicable law to be carried back or carried forward, (vi) the determination as to whether any Tax elections shall be made or modified, (vii) the determination as to whether any extensions shall be requested or granted, (viii) the receipt of confidential information from, or the provision of such information to, any Taxing Authority, and (ix) the making of payments to, or collection of refunds from, any Taxing Authority.

(c) Notwithstanding anything in Section 11.07 to the contrary, Holdings may, in its sole and absolute discretion, delegate (including, without limitation, pursuant to the Intercompany Services Agreement) at any time all or a portion of its authority, rights or obligations under this Agreement to any corporation(s) or any person(s) (including, without limitation, Nabisco and/or Nabisco, Inc.). Such delegation may be revoked by Holdings in its sole and absolute discretion.

SECTION 2.03. Preparation of Returns. (a) Holdings shall prepare and file the Returns (including, without limitation, the consolidated Federal Tax Returns and Combined State Tax Returns) of the Holdings Consolidated Group for all taxable years through the taxable year in which a Nabisco Deconsolidation occurs with the assistance of the members of the Nabisco Tax Group and, in the case of any taxable year that includes a Pre-Distribution Period, the assistance

of the members of the RJRN Tax Group. In preparing such Returns, Holdings shall not discriminate among the members of the Holdings Consolidated Group. Without limiting the generality of Section 2.02, Holdings shall have the right to determine the manner in which such Returns shall be prepared and filed, including, without limitation, the manner in which any item of income, gain, loss, deduction or credit shall be reported thereon.

(b) The Returns of the Holdings Consolidated Group for the taxable year ended December 31, 1999 shall reflect the inclusion of the members of the RJRN Tax Group in the Holdings Consolidated Group for the 1999 Pre-Distribution Period.

SECTION 2.04. Certain Information Furnished By Holdings. Within a reasonable period of time (as determined by Holdings) following the Distribution, Holdings shall deliver to each of the Designated RJRN Affiliate and Nabisco a copy of such Federal Tax and Combined State Tax information on the International Tobacco Sale and other tax matters as is reasonably necessary for the preparation by the RJRN Tax Group of Pro Forma Returns pursuant to Section 3.04(a). Such information shall include (i) the amounts of gain or income, if any (by company and by the type of gain or income), on the dispositions of such assets as are described in clause (i) of the definition of International Tobacco Sale in Section 1.01(a), (ii) any rulings or opinions received from, or material correspondence with, Tax Authorities or independent counsel relating to the

International Tobacco Sale, (iii) any elections made or to be made in connection with the International Tobacco Sale (including, without limitation, any Federal Tax elections pursuant to Treasury Regulations Section 301.7701-2), (iv) foreign tax credit computations relating to the International Tobacco Sale, (v) pro forma Federal Tax returns for each of RJRN and RJR Industries, Inc., and (vi) pro forma Federal Tax returns for the corporations that were sold to Japan Tobacco Inc. and that were members of the Holdings Consolidated Group for Federal Tax purposes prior to the International Tobacco Sale.

SECTION 2.05. Allocation. Holdings may, at its option, elect, and the RJRN Tax Group shall join it in electing (if necessary), to ratably allocate items (other than extraordinary items) of the RJRN Tax Group in accordance with relevant provisions of Treasury Regulations Section 1.1502-76. If Holdings makes such an election, the members of the RJRN Tax Group shall provide to Holdings such statements as are required under the regulations and other appropriate assistance.

SECTION 2.06. Certain Other Returns. (a) The members of the RJRN Tax

Group shall be solely responsible for the preparation and filing of (i) their respective separate State Tax Returns, (ii) Returns filed on behalf of an affiliated, consolidated, combined or unitary group that includes neither Holdings nor any member of the Nabisco Tax Group, and (iii) Returns for all taxable years that begin after the Distribution Date.

(b) The members of the Nabisco Tax Group shall be solely responsible for the preparation and filing of (i) their respective separate State Tax Returns, (ii) Returns filed on behalf of an affiliated, consolidated, combined or unitary group that includes neither Holdings nor any member of the RJRN Tax Group, and (iii) Returns for all taxable years that begin after the Deconsolidation Date.

ARTICLE 3 TAX SHARING

SECTION 3.01. General Tax Sharing Principles. (a) The Designated RJRN Affiliate shall pay to Holdings an amount equal to the RJRN Federal Tax Liability, as shown on the Pro Forma Federal Return (as defined in Section 3.04(a) below) of the RJRN Tax Group for the 1999 Pre-Distribution Period. For each taxable year of the Holdings Consolidated Group during which income, loss or credit against tax of any member of the RJRN Tax Group is includible in a return relating to a Combined State Tax of the Holdings Consolidated Group, the

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Designated RJRN Affiliate shall pay to Holdings an amount equal to the RJRN Combined State Tax Liability, as shown on the Pro Forma Combined State Returns (as defined in Section 3.04(a) below) of the RJRN Tax Group for (i) such taxable year, if such taxable year ends prior to the Distribution Date, or (ii) the 1999 Pre-Distribution Period, if such taxable year includes the Distribution Date.

(b) For each taxable year of the Holdings Consolidated Group during which income, loss or credit against tax of any member of the Nabisco Tax Group is includible in the consolidated Federal Tax return of the Holdings Consolidated Group, Nabisco shall pay to Holdings an amount equal to the Nabisco Federal Tax Liability, as shown on the Pro Forma Federal Return of the Nabisco Tax Group for (i) such taxable year, if such taxable year ends prior to a Nabisco Deconsolidation, or (ii) the period from the beginning of such taxable year through the Deconsolidation Date, if a Nabisco Deconsolidation occurs during such taxable year. For each taxable year of the Holdings Consolidated Group during which income, loss or credit against tax of any member of the Nabisco Tax Group is includible in a return relating to a Combined State Tax of

the Holdings Consolidated Group, Nabisco shall pay to Holdings an amount equal to the Nabisco Combined State Tax Liability, as shown on the Pro Forma Combined State Returns of the Nabisco Tax Group for (i) such taxable year, if such taxable year ends prior to a Nabisco Deconsolidation, or (ii) the period from the beginning of such taxable year through the Deconsolidation Date, if a Nabisco Deconsolidation occurs during such taxable year.

SECTION 3.02. Estimated Payments by RJRN Tax Group. (a) No later than 20 Business Days prior to each date on which an estimated Federal Tax installment or an estimated Combined State Tax installment of the Holdings Consolidated Group is due (including all applicable and valid extensions) (a "Federal Tax Payment Date" or "Combined State Tax Payment Date", respectively) with respect to a taxable year during which any member of the RJRN Tax Group is included in the Holdings Consolidated Group, the Designated RJRN Affiliate shall (i) determine (under Section 6655(d) of the Code or, if applicable, Section 6655(e) or other provisions of the Code in the case of Federal Taxes, or under comparable provisions of Combined State Tax law) the estimated amount of the related installment of the RJRN Federal Tax Liability or of the RJRN Combined State Tax Liability, respectively (taking into account, without limitation, the inclusion of the RJRN Tax Group in the Holdings Consolidated Group for the 1999 Pre-Distribution Period, in the case of the taxable year that includes the Distribution Date), and (ii) deliver a written statement to Holdings reflecting such determination. No later than two Business Days prior to the Federal Tax Payment Date or the Combined State Tax Payment Date, as the case may be, the Designated RJRN Affiliate shall pay to Holdings the amount thus determined.

(b) Holdings may adjust the determination made by the Designated RJRN Affiliate under Section 3.02(a) if it notifies the Designated RJRN Affiliate, no later than 10 Business Days prior to the applicable Federal Tax Payment Date or Combined State Tax Payment Date, that the Designated RJRN Affiliate's calculation of any amounts reflected in such determination is incorrect or incomplete. Any adjustment made by Holdings under this Section 3.02(b) shall be treated for the purposes of Section 3.02(a) as though it had always been reflected in the determination made by the Designated RJRN Affiliate. The Designated RJRN Affiliate shall not be permitted to invoke the dispute resolution procedures in Section 11.02 until it shall have paid the amounts reflected on such determination, as adjusted by Holdings.

SECTION 3.03. Estimated Payments by Nabisco Tax Group. (a) No later than 20 Business Days prior to each Federal Tax Payment Date or Combined State Tax Payment Date with respect to a taxable year during which any member of the Nabisco Tax Group is included in the Holdings Consolidated Group, Nabisco shall

(i) determine (under Section 6655(d) of the Code or, if applicable, Section 6655(e) or other provisions of the Code in the case of Federal Taxes, or under comparable provisions of Combined State Tax law) the estimated amount of the related installment of the Nabisco Federal Tax Liability or of the Nabisco Combined State Tax Liability, respectively (taking into account, without limitation, the inclusion of the Nabisco Tax Group in the Holdings Consolidated Group only for the period from the beginning of the taxable year through the Deconsolidation Date, in the case of a taxable year during which a Nabisco Deconsolidation occurs), and (ii) notify Holdings of such determination. No later than two Business Days prior to the Federal Tax Payment Date or the Combined State Tax Payment Date, as the case may be, Nabisco shall pay to Holdings the amount thus determined.

(b) Holdings may adjust the determination made by Nabisco under Section 3.03(a) if it notifies Nabisco, no later than 10 Business Days prior to the applicable Federal Tax Payment Date or Combined State Tax Payment Date, that Nabisco's calculation of any amounts reflected in such determination is incorrect or incomplete. Any adjustment made by Holdings under this Section 3.03(b) shall be treated for the purposes of Section 3.03(a) as though it had always been reflected in the determination made by Nabisco. Nabisco shall not be permitted to invoke the dispute resolution procedures in Section 11.02 until it shall have paid the amounts reflected on such determination, as adjusted by Holdings.

SECTION 3.04. Payment of Taxes at Year-End by RJRN Tax Group. (a) No later than December 15, 1999, the Designated RJRN Affiliate shall deliver to Holdings a pro forma Federal Tax return (a "Pro Forma Federal Return") of the RJRN Tax Group reflecting the RJRN Federal Tax Liability for the 1999 Pre-

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Distribution Period. No later than December 15, 1999, for each Combined State Tax liability of the Holdings Consolidated Group, the Designated RJRN Affiliate shall deliver to Holdings a pro forma Combined State Tax Return (each a "Pro Forma Combined State Return", and, together with the Pro Forma Federal Return, the "Pro Forma Returns") of the RJRN Tax Group reflecting the related RJRN Combined State Tax Liability for the 1999 Pre-Distribution Period. The Designated RJRN Affiliate shall not take any unreasonable position in preparing such Pro Forma Returns. Each Pro Forma Return shall be delivered together with a statement showing a calculation of the amount to be paid pursuant to Section 3.04(c) below.

(b) Upon receipt of a Pro Forma Return from the Designated RJRN Affiliate, Holdings may adjust such return if it determines that the calculation of the RJRN Federal Tax Liability or the RJRN Combined State Liability, as the case may be, reflected on such return is incorrect or incomplete. Any adjustment

made by Holdings under this Section 3.04(b) shall be treated for purposes of Article 3 as though it had always been reflected on such Pro Forma Return. The Designated RJRN Affiliate shall not be permitted to invoke the dispute resolution procedures in Section 11.02 until it shall have paid any amounts required under Section 3.04(c).

(c) No later than two Business Days prior to the due date (including all applicable and valid extensions) for the Return of the Holdings Consolidated Group to which a Pro Forma Return described in Section 3.04(a) relates, the Designated RJRN Affiliate shall pay to Holdings, or Holdings shall pay to the Designated RJRN Affiliate, as appropriate, an amount equal to the difference, if any, between the RJRN Federal Tax Liability or the RJRN Combined State Tax Liability, as the case may be, reflected on such Pro Forma Return for the taxable period covered thereby and the aggregate amount of the estimated installments paid by the Designated RJRN Affiliate with respect to such taxable period in accordance with the principles of Section 3.02.

(d) If a Pro Forma Return of the RJRN Tax Group described in Section 3.04(a) reflects a Tax Asset that may under applicable law be used to reduce a Federal Tax liability or State Tax liability, in each case for any taxable period of a member of the Holdings Consolidated Group that is not also a member of the RJRN Tax Group, Holdings shall pay to the Designated RJRN Affiliate (and, as appropriate, shall receive payment from Nabisco of) an amount equal to the actual tax saving produced by such Tax Asset within 30 days of the Effective Realization of such tax saving, and the Pro Forma Returns of the RJRN Tax Group and other relevant determinations under this Article 3 shall thereafter reflect such use. The amount of the tax saving under this Section 3.04(d) or under Section 3.05(d) for any taxable period shall be the amount of the reduction in

Federal Taxes or State Taxes that are payable to a Taxing Authority with respect to such taxable period, as compared to the Federal Taxes or State Taxes that would have been payable to a Taxing Authority with respect to such taxable period in the absence of such Tax Asset. Without limiting the generality of the foregoing, the determination of the tax saving under this Section 3.04(d) or under Section 3.05(d) shall take into account the application of Section 3.06.

SECTION 3.05. Payment of Taxes at Year-End by Nabisco Tax Group. (a) No later than 20 Business Days prior to the due date (including all applicable and valid extensions) for the Holdings Consolidated Group's consolidated Federal Tax return for a taxable year that begins prior to a Nabisco Deconsolidation, Nabisco shall deliver to Holdings a Pro Forma Federal Return of the Nabisco Tax Group reflecting the Nabisco Federal Tax Liability for (i) such taxable year, if

such taxable year ends prior to a Nabisco Deconsolidation, or (ii) the period from the beginning of such taxable year through the Deconsolidation Date, if a Nabisco Deconsolidation occurs during such taxable year. No later than 20 Business Days prior to the due date (including all applicable and valid extensions) for each Combined State return of the Holdings Consolidated Group for a taxable year that begins prior to a Nabisco Deconsolidation, Nabisco shall deliver to Holdings a Pro Forma Combined State Return of the Nabisco Tax Group reflecting the related Nabisco Combined State Tax Liability for (i) such taxable year, if such taxable year ends prior to a Nabisco Deconsolidation, or (ii) the period from the beginning of such taxable year through the Deconsolidation Date, if a Nabisco Deconsolidation occurs during such taxable year. Nabisco shall not take any unreasonable position in preparing such Pro Forma Returns. Each Pro Forma Return shall be delivered together with a statement showing a calculation of the amount to be paid pursuant to Section 3.05(c) below.

(b) Upon receipt of a Pro Forma Return from Nabisco, Holdings may adjust such return if it determines that the calculation of the Nabisco Federal Tax Liability or the Nabisco Combined State Liability, as the case may be, reflected on such return is incorrect or incomplete. Any adjustment made by Holdings under this Section 3.05(b) shall be treated for the purposes of Article 3 as though it had always been reflected on such Pro Forma Return. Nabisco shall not be permitted to invoke the dispute resolution procedures in Section 11.02 until it shall have paid any amounts required under Section 3.05(c).

(c) No later than two Business Days prior to the due date for the Return of the Holdings Consolidated Group that results in the delivery of a Pro Forma Return pursuant to Section 3.05(a) above, Nabisco shall pay to Holdings, or Holdings shall pay to Nabisco, as appropriate, an amount equal to the difference, if any, between the Nabisco Federal Tax Liability or the Nabisco Combined State Tax Liability, as the case may be, reflected on such Pro Forma Return for the

taxable period covered thereby and the aggregate amount of the estimated installments paid by Nabisco with respect to such taxable period in accordance with the principles of Section 3.03.

(d) If a Pro Forma Return of the Nabisco Tax Group described in Section 3.05(a) reflects a Tax Asset that may under applicable law be used to reduce a Federal Tax liability or a State Tax liability, in each case for any taxable period of a member of the Holdings Consolidated Group that is not also a member of the Nabisco Tax Group, Holdings shall pay to Nabisco (and, as appropriate, shall receive payment from the Designated RJRN Affiliate of) an

amount equal to the actual tax saving (which would be computed in accordance with Section 3.04(d)) produced by such Tax Asset within 30 days of the Effective Realization of such tax saving, and the Pro Forma Returns of the Nabisco Tax Group and other relevant determinations under this Article 3 shall thereafter reflect such use.

SECTION 3.06. Foreign Tax Credit Considerations. In connection with any determinations under this Agreement of the tax saving or tax benefit Effectively Realized by a corporation (the "Tax Asset Beneficiary") from the use of a Tax Asset of another corporation (the "Tax Asset Provider"), (i) there shall be taken into account the tax saving or tax benefit from any net increase in the foreign tax credits that the Tax Asset Beneficiary or any other member of the Nabisco Tax Group or of the RJRN Tax Group, whichever (if either) includes the Tax Asset Beneficiary as a member, Effectively Realizes by reason of the use of such Tax Asset, at the time of the Effective Realization of such tax saving or tax benefit from the net increase in the foreign tax credits, and (ii) there shall not be taken into account the tax effect of (A) any net decrease in the foreign tax credits to which the corporations described in clause (i) may be entitled by reason of the use of such Tax Asset, or (B) any change in the foreign tax credits to which any other corporation, including the Tax Asset Provider, may be entitled by reason of the use of such Tax Asset.

SECTION 3.07. Remittances To Taxing Authorities. (a) In the event that Holdings makes a cash remittance (other than a mandatory estimated tax payment or a payment of tax in connection with the filing of a Return at year-end) with a Taxing Authority to stop the running of interest in whole or in part, Nabisco and the Designated RJRN Affiliate shall pay to Holdings an amount equal to the appropriate share of the Nabisco Tax Group or the RJRN Tax Group, respectively, of the amount to be so remitted no later than two Business Days prior to the date on which Holdings makes such remittance to such Taxing Authority. For purposes of this Section 3.07(a), the appropriate share of the Nabisco Tax Group or the RJRN Tax Group, as the case may be, of any remittance shall be determined by Holdings. No later than five Business Days prior to the date planned for a remittance under this Section 3.07(a), Holdings shall notify Nabisco

and the Designated RJRN Affiliate of (i) such planned date, and (ii) their respective appropriate shares of such remittance.

(b) Upon the Effective Realization by Holdings, any member of the Nabisco Tax Group or any member of the RJRN Tax Group of the benefit attributable to the refund or recoupment of amounts paid by Nabisco or the Designated RJRN Affiliate under Section 3.07(a), the corporation that

Effectively Realized such benefit shall pay to Nabisco or the Designated RJRN Affiliate, respectively, the amount of such refund or recoupment, together with interest, if any, received thereon, within 30 days of Effective Realization thereof. If and to the extent that any claim for refund or contest relating to amounts paid under Section 3.07(a) shall be unsuccessful, any payment made by Nabisco or the Designated RJRN Affiliate under Section 3.07(a) shall be credited toward any payment obligations of Nabisco or the RJRN Tax Group, respectively, under Article 3.

SECTION 3.08. Carrybacks from Periods After the Distribution. (a) Holdings agrees to pay the Designated RJRN Affiliate, within 30 days of Effective Realization, the actual Federal Tax or Combined State Tax benefit Effectively Realized by any member of the Holdings Consolidated Group from the use in any taxable year that includes a Pre-Distribution Period (but that is not a Pre-1990 Period) of a carryback of any Tax Asset of any member of the RJRN Tax Group from a Post-Distribution Period. Such tax benefit shall be considered equal to the excess of (i) the amount of Federal Taxes or Combined State Taxes, as the case may be, that would have been payable (or the Federal Tax or Combined State Tax refund actually receivable) by the Holdings Consolidated Group in the absence of such carryback, over (ii) the amount of Federal Taxes or Combined State Taxes actually payable (or the Federal Tax or Combined State Tax refund that would have been receivable). The determination of the tax benefit under this Section 3.08(a) shall take into account (A) the application of Section 3.06, (B) the receipt by any member of the Holdings Consolidated Group of any interest on a carryback that results in a tax refund, or (C) the reduction of any interest otherwise owed by any member of the Holdings Consolidated Group as a result of a carryback that reduces a tax deficiency.

(b) If, subsequent to the payment by Holdings to the Designated RJRN Affiliate of an amount pursuant to Section 3.08(a), there shall be (i) a Final Determination that results in a disallowance or a reduction of the Tax Asset so carried back or (ii) a reduction in the amount of the tax benefit Effectively Realized by the Holdings Consolidated Group from such Tax Asset as a result of the use by the Holdings Consolidated Group of a Tax Asset of Holdings or any member of the Nabisco Tax Group, the Designated RJRN Affiliate shall repay to Holdings, within 30 days of such event, any amount that would not have been

payable by Holdings pursuant to Section 3.08(a) had the amount of the tax benefit been determined in light of such event. In addition, the RJRN Tax Group shall hold Holdings and the Nabisco Tax Group harmless from any penalty or interest payable as a result of any event described in the preceding sentence.

SECTION 3.09. Treatment of Adjustments. (a) If any adjustment is made

in a Return relating to Federal Taxes or Combined State Taxes of the Holdings Consolidated Group, after the filing thereof, in which income or loss of any member of the RJRN Tax Group is included, then within 30 days of the time of a Final Determination of such adjustment, the Designated RJRN Affiliate shall pay to Holdings, or Holdings shall pay to the Designated RJRN Affiliate, as the case may be and as appropriate, (i) the difference between (A) all payments actually made, net of all refunds or recoupments received or otherwise Effectively Realized, by the Designated RJRN Affiliate (or treated as such) in accordance with the principles of Article 3 for the taxable year covered by such Return, and (B) all payments that would have been made by the Designated RJRN Affiliate (or treated as such) in accordance with the principles of this Article 3 for the taxable year covered by such Return taking such adjustment into account, and (ii) related adjustments to penalties and interest. Without limiting the generality of Section 3.09(a)(ii) or 3.09(b)(ii), the determination of penalties and interest generally shall take into account the timing and magnitude of the relevant payments, refunds or recoupments made.

(b) If any adjustment is made in a Return relating to Federal Taxes or Combined State Taxes of the Holdings Consolidated Group, after the filing thereof, in which income or loss of any member of the Nabisco Tax Group is included, then within 30 days of the time of a Final Determination of such adjustment, Nabisco shall pay to Holdings, or Holdings shall pay to Nabisco, as the case may be and as appropriate, (i) the difference between (A) all payments actually made, net of all refunds or recoupments received or otherwise Effectively Realized, by Nabisco (or treated as such) in accordance with the principles of Article 3 for the taxable year covered by such Return, and (B) all payments that would have been made by Nabisco (or treated as such) in accordance with the principles under Article 3 for the taxable year covered by such Return taking such adjustment into account, and (ii) related adjustments to penalties and interest.

(c) Any refunds or credits of tax received or otherwise Effectively Realized by Holdings, a member of the Nabisco Tax Group or a member of the RJRN Tax Group, as the case may be, relating to a taxable year that includes a Pre-Distribution Period, to the extent reflecting a tax saving attributable to any item of income, loss, credit, deduction or other tax attribute of (i) any member of the Nabisco Tax Group or of the RJRN Tax Group, in the case of Holdings, shall be paid to Nabisco or the Designated RJRN Affiliate, respectively, (ii) Holdings

or any member of the RJRN Tax Group, in the case of a member of the Nabisco Tax Group, shall be paid to Holdings (and, as appropriate, forwarded by Holdings to

the Designated RJRN Affiliate), or (iii) Holdings or any member of the Nabisco Tax Group, in the case of a member of the RJRN Tax Group, shall be paid to Holdings (and, as appropriate, forwarded by Holdings to Nabisco), in each case within 30 days of Effective Realization of such tax saving. In addition, any refunds or credits of tax received or Effectively Realized by Holdings or a member of the Nabisco Tax Group, as the case may be, relating to a taxable year that includes a Post-Distribution Period, to the extent reflecting a tax saving attributable to any item of income, loss, credit, deduction or other tax attribute of any member of the Nabisco Tax Group or Holdings, respectively, shall be paid to Nabisco or Holdings, respectively, within 30 days of Effective Realization of such tax saving. Notwithstanding anything in this Section 3.09(c) to the contrary, no payment shall be required to the extent such refunds or credits are attributable to a Tax Asset or an adjustment for which the corporation that receives or otherwise Effectively Realizes the refund or credit has previously made payment in accordance with the principles of this Agreement.

(d) For purposes of this Agreement, any income, loss, credit, deduction or other tax attribute of, any tax liability, refund or credit of tax or interest of, or any payments by or on behalf of, any member of the Holdings Consolidated Group (including, without limitation, Holdings or a member of the Nabisco Tax Group) with respect to a Pre-1990 Period shall be treated as an item of the RJRN Tax Group. If, with respect to any Pre-1990 Period, Holdings or any member of the Nabisco Tax Group Effectively Realizes the benefit of a refund of any statutory interest or any Federal Tax or State Tax, Holdings or Nabisco, respectively, shall promptly remit to the Designated RJRN Affiliate the amount of such refund (net of any taxes on the taxable portion, if any, of such refund for which Holdings or the Nabisco Tax Group, respectively, is liable), together with any interest received thereon.

SECTION 3.10. Treatment of R&D Credits. For purposes of this Agreement, if the amount of the research and development credits (the "R&D Credits") actually allowable to the Holdings Consolidated Group with respect to any taxable period is less than the sum of (i) the separately computed amount of R&D Credits of the RJRN Tax Group with respect to such taxable period and (ii) the separately computed amount of R&D Credits of the Nabisco Tax Group with respect to such taxable period, in the case of each of clauses (i) and (ii), calculated as though the relevant tax group were not a part of the Holdings Consolidated Group (but rather were a separate Consolidated Group), then for purposes of this Agreement each of the RJRN Tax Group and the Nabisco Tax Group shall be entitled only to its proportionate share of the actually allowable R&D Credits of the Holdings Consolidated Group with respect to such taxable period.

ARTICLE 4

CERTAIN REPRESENTATIONS AND COVENANTS IN CONNECTION WITH THE
DISTRIBUTION AND THE INTERNAL DISTRIBUTION

SECTION 4.01. RJRN Tax Group Representations. RJRN and each other member of the RJRN Tax Group represent to Holdings and each member of the Nabisco Tax Group that as of the date of this Agreement there is no plan or intention to (i) liquidate RJRN or RJRT or merge or consolidate any of such corporations with any other person subsequent to the Distribution, (ii) sell or otherwise dispose of the assets of RJRN, RJRT or any other member of the RJRN Tax Group subsequent to the Distribution, except in the ordinary course of business, (iii) take any action inconsistent with the information and representations furnished by RJRN in connection with the Tax Opinion, (iv) purchase stock of RJRN other than in accordance with the requirements of Revenue Procedure 96-30 and in conformity with the representations furnished by RJRN in connection with the Tax Opinion, or (v) enter into any negotiations, agreements or arrangements with respect to transactions or events (including, without limitation, stock issuances, pursuant to the exercise of options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events, but excluding the Internal Distribution and the Distribution) that may cause the Distribution and/or the Internal Distribution to be treated as part of a plan pursuant to which one or more persons acquire directly or indirectly stock of RJRN, Nabisco or Holdings representing a "50-percent or greater interest" therein within the meaning of Section 355(d)(4) of the Code.

SECTION 4.02. Holdings and Nabisco Tax Group Representations. Holdings and each member of the Nabisco Tax Group represent to each member of the RJRN Tax Group that as of the date of this Agreement there is no plan or intention to (i) liquidate Holdings, Nabisco or Nabisco, Inc. or merge or consolidate any of such corporations with any other person subsequent to the Internal Distribution, (ii) sell or otherwise dispose of the assets of Holdings, Nabisco, Nabisco, Inc. or any other member of the Nabisco Tax Group subsequent to the Internal Distribution, except (A) in the ordinary course of business, or (B) pursuant to plant rationalization programs, to the extent implemented in a manner consistent with practice prior to the Distribution, (iii) take any action inconsistent with the information and representations furnished by Holdings in connection with the Tax Opinion, (iv) purchase stock of Nabisco or Holdings, other than (A) in accordance with the requirements of Revenue Procedure 96-30 and in conformity with the representations furnished by Holdings in connection with the Tax Opinion (including, without limitation, the purchase by Nabisco on the New York Stock Exchange of shares of its Class A common stock for delivery upon the exercise of employee stock options), or (B)

any payment of cash in lieu of fractional shares in any reverse stock split with respect to the common stock of Holdings or Nabisco following the Internal Distribution, or (v) enter into any negotiations, agreements or arrangements with respect to transactions or events (including stock issuances, pursuant to the exercise of options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events, but excluding the Internal Distribution and the Distribution) that may cause the Internal Distribution and/or the Distribution to be treated as part of a plan pursuant to which one or more persons acquire directly or indirectly stock of Nabisco, Holdings or RJRN representing a "50-percent or greater interest" therein within the meaning of Section 355(d)(4) of the Code.

SECTION 4.03. Representations of Holdings, RJRN Tax Group and Nabisco Tax Group. Each of Holdings, the members of the Nabisco Tax Group, RJRN and the other members of the RJRN Tax Group represents that it is not aware of any plan or intention by the shareholders or securityholders of Holdings to sell, exchange, transfer or otherwise dispose of any of their stock or securities in Holdings or RJRN subsequent to the Distribution.

SECTION 4.04. RJRN Tax Group Covenants. RJRN and each other member of the RJRN Tax Group covenant to Holdings and each member of the Nabisco Tax Group that (i) during the Two-Year Period, RJRN and RJRT shall not liquidate or merge or consolidate with any other person, (ii) during the Two-Year Period, RJRN shall not sell, exchange, distribute or otherwise dispose of the assets of RJRN, RJRT or any other member of the RJRN Tax Group, except in the ordinary course of business, (iii) during the Two-Year Period, RJRT shall continue the active conduct of the historic trade or business (i.e., the manufacture, distribution and sale of cigarettes and other tobacco products in the United States), within the meaning of Section 355 of the Code, conducted throughout the five-year period prior to the Internal Distribution, (iv) no member of the RJRN Tax Group shall purchase stock of RJRN, other than in accordance with the requirements of Revenue Procedure 96-30 and in conformity with the representations furnished by RJRN in connection with the Tax Opinion, (v) on or after the Distribution Date, RJRN shall not, nor shall it permit any member of the RJRN Tax Group to, make or change any tax election, change any accounting method, amend any Return or take any tax position on any Return, take any action, omit to take any action or enter into any transaction that results in an increased tax liability or reduction of any Tax Asset of Holdings or of the Nabisco Tax Group with respect to any Pre-Distribution Period that is not also a Pre-1990 Period, and (vi) during the Two-Year Period, RJRN shall not enter into any transaction or make any change in equity structure (including, without limitation, stock issuances, pursuant to the exercise of options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events, but

excluding the Distribution and the Internal Distribution) that may cause the Distribution and/or the Internal Distribution to be treated as part of a plan pursuant to which one or more persons acquire directly or indirectly stock of RJRN, Nabisco or Holdings representing a "50-percent or greater interest" therein within the meaning of Section 355(d)(4) of the Code. The RJRN Tax Group agrees that Holdings and the Nabisco Tax Group shall have no liability for any Tax resulting from any action referred to in the preceding sentence and agrees to hold harmless Holdings and the Nabisco Tax Group from any such Tax.

SECTION 4.05. Holdings and Nabisco Tax Group Covenants. Holdings and each member of the Nabisco Tax Group covenant to each member of the RJRN Tax Group that (i) during the Two-Year Period, Holdings, Nabisco and Nabisco, Inc. shall not liquidate or merge or consolidate with any other person, (ii) during the Two-Year Period, Holdings shall not sell, exchange, distribute or otherwise dispose of the assets of Holdings, Nabisco, Nabisco, Inc. or any other member of the Nabisco Tax Group, except (A) in the ordinary course of business, (B) pursuant to plant rationalization programs, to the extent implemented in a manner consistent with practice prior to the Distribution, or (C) for an asset, (I) the gross proceeds of disposition of which do not exceed \$10 million, (II) which, together with all other assets to which this clause (C) has been applied, would not have aggregate gross proceeds of disposition in excess of \$200 million, and (III) which is not part of a plan for the disposition of multiple assets unless each of the assets covered by such plan would meet the requirements of this clause (C), (iii) during the Two-Year Period, Nabisco, Inc. shall continue the active conduct of the historic trade or business (i.e., the manufacture, distribution and sale of cookies, crackers and other food and snack products within the United States), within the meaning of Section 355 of the Code, conducted throughout the five-year period prior to the Internal Distribution, (iv) during the Two-Year Period, neither any member of the Nabisco Tax Group nor Holdings shall purchase stock of Nabisco or Holdings other than (A) in accordance with the requirements of Revenue Procedure 96-30 and in conformity with the representations furnished by Holdings in connection with the Tax Opinion (including, without limitation, the purchase by Nabisco on the New York Stock Exchange of shares of its Class A common stock for delivery upon the exercise of employee stock options), or (B) any payment of cash in lieu of fractional shares in any reverse stock split with respect to the common stock of Nabisco or Holdings following the Internal Distribution, and (v) during the Two-Year Period, each of Nabisco and Holdings shall not enter into any transaction or make any change in equity structure (including, without limitation, stock issuances, pursuant to the exercise of options or otherwise, option grants, capital contributions or acquisitions, or a series of such transactions or events, but excluding the Internal Distribution and the Distribution) that may cause the Internal Distribution and/or the Distribution to be treated as part of a plan pursuant to which one or more persons acquire directly or

indirectly stock of Nabisco, Holdings or RJRN representing a "50-percent or greater interest" therein within the meaning of Section 355(d)(4) of the Code. Each of Holdings and Nabisco agrees that the members of the RJRN Tax Group shall have no liability for any Tax resulting from any action referred to in the preceding sentence taken by Holdings or any member of the Nabisco Tax Group, respectively, and agrees to indemnify and hold harmless any member of the RJRN Tax Group from any such Tax.

SECTION 4.06. Exceptions. Notwithstanding the foregoing, RJRN and the other members of the RJRN Tax Group shall be permitted to take an action inconsistent with the covenants contained in Section 4.04, and Holdings and the members of the Nabisco Tax Group shall be permitted to take an action inconsistent with the covenants contained in Section 4.05, if, prior to taking such action the Designated RJRN Affiliate, Holdings or Nabisco, as the case may be, (i) provides notification, upon determining that it shall pursue such action, to the other parties to this Agreement of its plans with respect to such action, and promptly responds to any inquiries made by such parties following such notification, and (ii) obtains either (A) a ruling from the IRS to the effect that such action shall not cause the Distribution to be taxable to Holdings or its shareholders or the Internal Distribution to be taxable to RJRN or Holdings, or (B) an opinion of Davis Polk & Wardwell (or of an independent counsel, comparable thereto, that is nationally recognized as an expert in Federal Tax matters), which opinion and, in the case of counsel other than Davis Polk & Wardwell, which counsel are acceptable to the parties to which the relevant covenant(s) in this Agreement have been made, to the same effect as is set forth in clause (A).

ARTICLE 5

COVENANTS AND OTHER MATTERS FOLLOWING NABISCO DECONSOLIDATION

SECTION 5.01. Certain Nabisco Covenants. Nabisco covenants to Holdings that upon or after a Nabisco Deconsolidation it shall not, nor shall it cause or permit any member of the Nabisco Tax Group to, make or change any tax election, change any accounting method, amend any Return or take any tax position on any Return, take any action, omit to take any action or enter into any transaction that results in any increased tax liability or reduction of any Tax Asset of the Holdings Consolidated Group with respect to any Pre-Deconsolidation Period; provided, however, that with respect to a Pre-Deconsolidation Period that is also a Post-1989 Period, for purposes of this Section 5.01, the Holdings Consolidated Group shall include only those members of the Holdings Consolidated

agrees that Holdings and the RJRN Tax Group, as applicable, shall have no liability for any tax or any increase in indemnification obligations resulting from any action referred to in the preceding sentence and agrees to hold harmless such corporations from any such tax or increase in indemnification obligations.

SECTION 5.02. Carrybacks from Periods Following Nabisco Deconsolidation. (a) Holdings agrees to pay to Nabisco the actual Federal Tax or Combined State Tax benefit Effectively Realized by any member of the Holdings Consolidated Group from the use in any taxable year that includes a Pre-Deconsolidation Period and that does not include a Pre-1990 Period of a carryback of any Tax Asset of any member of the Nabisco Tax Group from a taxable year that includes a Post-Deconsolidation Period. Such tax benefit shall be considered equal to the excess of (i) the Federal Taxes or Combined State Taxes, as the case may be, that would have been payable (or the Federal Tax or Combined State Tax refund actually receivable) by the Holdings Consolidated Group in the absence of such carryback, over (ii) the amount of Federal Taxes or Combined State Taxes actually payable (or the Federal Tax or Combined State Tax refund that would have been receivable). Without limiting the generality of the foregoing, the determination of the tax benefit under this Section 5.02(a) shall take into account the application of Section 3.06. Payment of the amount of the tax benefit under this Section 5.02(a) shall be made within 30 days of the Effective Realization thereof.

(b) If, subsequent to the payment by Holdings to Nabisco of an amount under Section 5.02(a), there shall be (i) a Final Determination that results in a disallowance or a reduction of the Tax Asset so carried back or (ii) a reduction in the amount of the benefit Effectively Realized by the Holdings Consolidated Group from such Tax Asset as a result of the use by the Holdings Consolidated Group of a Tax Asset of Holdings or of the RJRN Tax Group, Nabisco shall repay to Holdings, within 30 days of such event, any amount that would not have been payable to Nabisco pursuant to Section 5.02(a) had the amount of the benefit been determined in light of such events. Nabisco shall hold Holdings harmless from any penalty or interest payable as a result of any event described in the preceding sentence.

ARTICLE 6
DEDUCTIONS AND CERTAIN TAX MATTERS RELATED TO THE DISTRIBUTION
AGREEMENT

SECTION 6.01. Payment of After-Tax Amounts. If any amount paid by RJRN or Holdings under the Distribution Agreement results in any increased tax liability or reduction of any Tax Asset of Holdings or any member of the Nabisco Tax Group, in the case of RJRN, or any member of the RJRN Tax Group, in the case of Holdings, then the party making such payment shall, in addition to paying any amounts otherwise owed under the Distribution Agreement, indemnify the recipient of such payment against and hold it harmless from (i) such increased tax or the reduction of such Tax Asset, (ii) any interest or penalty attributable to such increased tax liability or the reduction of such Tax Asset and (iii) the After-Tax Amount.

SECTION 6.02. Deductions and Certain Taxes Related to Stock Options and Restricted Stock. (a) The Holdings Consolidated Group shall claim, and for purposes of this Agreement Holdings shall be entitled to the economic benefit of, any Federal Tax deductions and State Tax deductions with respect to a Post-Distribution Period that are attributable to the exercise of options to purchase the stock of Holdings, of Nabisco or of RJRN or the vesting of restricted stock of Holdings, of Nabisco or of RJRN, in each case that are held by a person who (i) at the time the deduction is claimed is an employee of Holdings, (ii) at the time the deduction is claimed is not employed by any corporation among Holdings, the members of the RJRN Tax Group and the members of the Nabisco Tax Group (collectively, the "Employer Group"), but who (A) on the day before the Distribution Date was an employee of Holdings or (B) on the day before the Distribution Date was not employed by any corporation in the Employer Group and was last employed, among the corporations in the Employer Group, by Holdings, or (iii) notwithstanding anything in Section 6.04 or this Section 6.02 to the contrary except for Section 6.02(b)(iii), has been an employee of Holdings at any time after the Distribution.

(b) The Holdings Consolidated Group shall claim, and for purposes of this Agreement the Nabisco Tax Group shall be entitled to the economic benefit of, any Federal Tax deductions and State Tax deductions with respect to a Post-Distribution Period that are attributable to the exercise of options to purchase the stock of Holdings, of Nabisco or of RJRN or the vesting of restricted stock of Holdings, of Nabisco or of RJRN, in each case that are held by a person who (i) at the time the deduction is claimed is an employee of a member of the Nabisco Tax Group, (ii) at the time the deduction is claimed is not employed by any corporation in the Employer Group, but who (A) on the day before the

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Distribution Date was an employee of a member of the Nabisco Tax Group or (B) on the day before the Distribution Date was not employed by any corporation in the Employer Group and was last employed, among the corporations in the Employer Group, by a member of the Nabisco Tax Group, or (iii) in the case of options to purchase the stock of Nabisco or restricted stock of Nabisco and notwithstanding anything in Section 6.04 or this Section 6.02 to the contrary, is Mr. Steven F. Goldstone or Mr. Charles M. Harper.

(c) The RJRN Tax Group shall claim, and for purposes of this Agreement the RJRN Tax Group shall be entitled to the economic benefit of, any Federal Tax deductions and State Tax deductions with respect to a Post-Distribution Period that are attributable to the exercise of options to purchase the stock of Holdings, of Nabisco or of RJRN or the vesting of restricted stock of Holdings, of Nabisco or of RJRN, in each case that are held by a person who (i) at the time the deduction is claimed is an employee of a member of the RJRN Tax Group, or (ii) at the time the deduction is claimed is not employed by any corporation in the Employer Group, but who (A) on the day before the Distribution Date was an employee of a member of the RJRN Tax Group or (B) on the day before the Distribution Date was not employed by any corporation in the Employer Group and was last employed, among the corporations in the Employer Group, by a member of the RJRN Tax Group.

(d) For purposes of this Section 6.02, references to options to purchase stock of any corporation and references to the restricted stock of any corporation are limited to options and restricted stock outstanding immediately after the Distribution.

SECTION 6.03. Certain Employment Taxes. (a) The employer of the person who exercises stock options or with respect to whom restricted stock vests (or, if such person is not employed by a corporation in the Employer Group at the time of such exercise or vesting, the corporation in the Employer Group that last employed such person) shall timely pay all applicable Federal Employment Taxes and state employment taxes in connection with such exercise or vesting.

(b) If the payor under Section 6.03(a) of Federal Employment Taxes and state employment taxes in connection with the exercise of options to purchase the stock of Nabisco, or the vesting of restricted stock of Nabisco, held by Mr. Steven F. Goldstone or Mr. Charles M. Harper is not a member of the Nabisco Tax Group, Nabisco shall pay to such payor an amount equal to such taxes within 30 days of Nabisco's receipt of documentation that such payor has remitted such taxes to the appropriate Taxing Authorities.

SECTION 6.04. Deductions Related to Employee Severance and Certain Other Expenses. (a) The Holdings Consolidated Group shall claim, and for purposes of this Agreement the Nabisco Tax Group shall be entitled to the economic benefit of, any Federal Tax deductions and State Tax deductions, as appropriate, that are attributable to (i) the expenses (except for expenses related to stock options and restricted stock) arising out of (A) the closing of the corporate headquarters of RJRN and Holdings, or (B) the severance and benefit payment obligations to Holdings Employees (as defined in the Distribution Agreement) arising as a result of the completion of the Distribution, or (ii) such miscellaneous expenses as are described in Section 10.03(b)(iii) of the Distribution Agreement (collectively, the "Corporate Headquarters Expenses").

(b) Notwithstanding anything in Section 10.03(b) of the Distribution Agreement to the contrary, upon the provision by Holdings of not less than 15 days' notice to Nabisco that (i) Holdings is required to make a cash payment of Corporate Headquarters Expenses to a third party no later than a specified date, and (ii) the sum of such payment and all prior payments of Corporate Headquarters Expenses exceeds the amount transferred by RJRN to Holdings pursuant to Section 10.03(b)(iii) of the Distribution Agreement, Nabisco shall remit to Holdings cash equal to such excess prior to such specified date.

SECTION 6.05. Deductions Related to Certain Litigation Expenses. The RJRN Tax Group shall claim, and for purposes of this Agreement RJRN shall be entitled to the economic benefit of, any Federal Tax deductions and State Tax deductions, as appropriate, that are attributable to the expenses (including, without limitation, attorneys' fees, expenses of investigation and other expenses) incurred in the defense of Tobacco Claims against (i) RJRN, including, without limitation, Tobacco Claims the defense of which has been assumed by Holdings pursuant to the Distribution Agreement, or (ii) Holdings, Nabisco, Nabisco, Inc. or any other Nabisco Indemnitee as such term is defined in the Distribution Agreement, to the extent that RJRN has agreed under the Distribution Agreement to indemnify such party against any liabilities in connection with such Tobacco Claims, provided that, in the case of each of (i) and (ii), RJRN has satisfied its obligations under the relevant provisions of the Distribution Agreement.

SECTION 6.06. Indemnification under Article 6. (a) To the extent that any deduction that is allocated to Holdings under Section 6.02(a) is disallowed because a Taxing Authority makes a Final Determination that a member of the RJRN Tax Group or of the Nabisco Tax Group should have claimed such deduction, the Designated RJRN Affiliate or Nabisco, respectively, shall pay to Holdings an amount equal to the resulting actual tax benefit Effectively Realized by the

RJRN Tax Group or the Nabisco Tax Group, respectively, within 30 days of the Effective Realization thereof.

(b) To the extent that any deduction that is allocated to a member of the Nabisco Tax Group under Section 6.02(b) or 6.04 is disallowed because a Taxing Authority makes a Final Determination that Holdings or a member of the RJRN Tax Group should have claimed such deduction, Holdings or the Designated RJRN Affiliate, respectively, shall pay to Nabisco an amount equal to the resulting actual tax benefit Effectively Realized by Holdings or the RJRN Tax Group, respectively, within 30 days of the Effective Realization thereof.

(c) To the extent that any deduction that is allocated to a member of the RJRN Tax Group under Section 6.02(c) or 6.05 is disallowed because a Taxing Authority determines that Holdings or a member of the Nabisco Tax Group should have claimed such deduction, Holdings or Nabisco, respectively, shall pay to the Designated RJRN Affiliate an amount equal to the resulting actual tax benefit Effectively Realized by Holdings or the Nabisco Tax Group, respectively, within 30 days of the Effective Realization thereof.

ARTICLE 7 INDEMNITIES

SECTION 7.01. Indemnification of Holdings and Nabisco Tax Group by RJRN Tax Group. RJRN, RJRT and each other member of the RJRN Tax Group shall jointly and severally indemnify Holdings, Nabisco, Nabisco, Inc. and the other members of the Nabisco Tax Group against and hold them harmless from:

(a) liability for Taxes attributable to any member of the RJRN Tax Group relating to any taxable period (provided that, for purposes of the foregoing portion of this Section 7.01(a), Taxes shall refer only to such taxes as are described in clause (i) of the definition of such term in Section 1.01(a)), including without limitation, (i) any Tax liability resulting from the International Tobacco Sale, (ii) any Tobacco Tax liability, (iii) any tax liability of any member of the RJRN Tax Group resulting from the existence of any excess loss accounts or deferred intercompany gains immediately before the Distribution, (iv) any Federal Employment Tax of any member of the RJRN Tax Group and (v) any Puerto Rican tax liability of any member of the RJRN Tax Group, but excluding any Tax liability resulting from the Internal Distribution except (A) to the extent the Internal Distribution is taxable by reason of a breach by RJRN or any other member of the RJRN Tax Group of any representation or covenant made by any member of the RJRN Tax Group in this Agreement, and (B)

for such amounts as are described in clause (iii) of this Section 7.01(a);

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(b) liability for Taxes relating to any taxable period resulting from a breach by RJRN or any other member of the RJRN Tax Group of any representation or covenant made by any member of the RJRN Tax Group in this Agreement;

(c) liability for Taxes relating to any Pre-1990 Period of Holdings, Nabisco, Nabisco, Inc. or any other member of the Holdings Consolidated Group; and

(d) liability for Taxes of Del Monte Corporation relating to any taxable period (or portion thereof) ending on or before the close of business on January 9, 1990, including, without limitation, (i) any tax liability pursuant to the Stock Purchase Agreement dated as of September 24, 1989, as amended, among DMPF Corp., RJR Investments, Inc., DMPF Holdings Corp. and RJRN, and (ii) any Del Monte State Tax.

SECTION 7.02. Indemnification of RJRN Tax Group by Holdings or Nabisco Tax Group. (a) Holdings shall indemnify RJRN, RJRT and the other members of the RJRN Tax Group against and hold them harmless from:

(i) liability for Taxes attributable to Holdings (including, without limitation, any Federal Employment Tax of Holdings) relating to a Post-1989 Period, provided that, for purposes of this Section 7.02(a) (i), (A) Tax shall refer only to such taxes as are described in clause (i) of the definition of such term in Section 1.01(a), and (B) any Federal Employment Tax relating to a Pre- 1990 Period shall be treated as relating to a Post-1989 Period;

(ii) liability for Taxes relating to any taxable period resulting from a breach by Holdings of any representation or covenant made by Holdings in this Agreement;

(iii) liability for Taxes resulting from the Name Change Merger; and

(iv) liability for Taxes resulting from the Internal Distribution or from the Distribution, except (A) to the extent that such liability arises by reason of the breach by RJRN or any other member of the RJRN Tax Group of any representation or covenant made by any member of the RJRN Tax

Group in this Agreement, and (B) for such amounts as are described in Section 7.01(a)(iii).

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(b) Nabisco, Nabisco, Inc. and each other member of the Nabisco Tax Group shall jointly and severally indemnify RJRN, RJRT and the other members of the RJRN Tax Group against and hold them harmless from:

(i) liability for Taxes attributable to any member of the Nabisco Tax Group (including, without limitation, any Federal Employment Tax of any member of the Nabisco Tax Group) relating to a Post-1989 Period, provided that, for purposes of this Section 7.02(b)(i), (A) Tax shall refer only to such taxes as are described in clause (i) of the definition of such term in Section 1.01(a), and (B) any Federal Employment Tax relating to a Pre- 1990 Period shall be treated as relating to a Post-1989 Period; and

(ii) liability for Taxes relating to any taxable period resulting from a breach by Nabisco or any other member of the Nabisco Tax Group of any representation or covenant made by any member of the Nabisco Tax Group in this Agreement.

SECTION 7.03. Indemnification Between Holdings and Nabisco. (a) Holdings shall indemnify Nabisco, Nabisco, Inc. and the other members of the Nabisco Tax Group against and hold them harmless from:

(i) liability for Taxes attributable to Holdings (including, without limitation, any Federal Employment Tax of Holdings) relating to a Post-1989 Period, provided that, for purposes of this Section 7.03(a)(i), (A) Tax shall refer only to such taxes as are described in clause (i) of the definition of such term in Section 1.01(a), and (B) any Federal Employment Tax relating to a Pre- 1990 Period shall be treated as relating to a Post-1989 Period;

(ii) liability for Taxes resulting from the Name Change Merger;

(iii) liability for Taxes resulting from the Internal Distribution or from the Distribution, except (A) the extent that such liability arises by reason of the breach by (I) RJRN or any other member of the RJRN Tax Group of any

representation or covenant made by any member of the RJRN Tax Group in this Agreement, or (II) Nabisco or any other member of the Nabisco Tax Group of any representation or covenant made by any member of the Nabisco Tax Group in this Agreement, (B) for such amounts as are described in Section 7.01(a)(iii), and (C) for any tax liability of any member of the Nabisco Tax Group resulting from the existence of any deferred intercompany gains immediately before the

Distribution; and

(iv) liability for Taxes relating to any taxable period resulting from a breach by Holdings of any representation or covenant made by Holdings in this Agreement.

(b) Nabisco, Nabisco, Inc. and each other member of the Nabisco Tax Group shall jointly and severally indemnify Holdings against and hold it harmless from:

(i) liability for Taxes attributable to the Nabisco Tax Group (including, without limitation, any Federal Employment Tax of the Nabisco Tax Group) relating to a Post-1989 Period, provided that, for purposes of this Section 7.03(b)(i), Tax shall refer only to such taxes as are described in clause (i) of the definition of such term in Section 1.01(a), and (B) any Federal Employment Tax relating to a Pre-1990 Period shall be treated as relating to a Post-1989 Period; and

(ii) liability for Taxes relating to any taxable period resulting from a breach by Nabisco or any other member of the Nabisco Tax Group of any representation or covenant made by any member of the Nabisco Tax Group in this Agreement.

SECTION 7.04. Additional Indemnity Amounts. Each party with indemnification obligations under Section 7.01, 7.02 or 7.03 (an "Indemnitor") shall also pay to each party that is indemnified by such Indemnitor under such provision (an "Indemnitee") all liabilities, losses, damages, assessments, settlements, judgments, costs or properly documented expenses (including, without limitation, expenses of investigation and attorneys' fees and expenses) arising out of or incident to the imposition, assessment or assertion of any liabilities or damage described in such provision, including, without limitation, those incurred in the contest in good faith in appropriate

proceedings relating to the imposition, assessment or assertion of any such liability or damage.

SECTION 7.05. Notice of Claim. The Indemnitee agrees to give prompt notice to the Indemnitor of the assertion of any claim, or the commencement of any suit, action or proceeding in respect of which indemnity may be sought under Section 7.01, 7.02 or 7.03.

SECTION 7.06. Discharge of Indemnity. An Indemnitor shall discharge its obligations by paying all amounts specified in Sections 7.01, 7.02, 7.03 and 7.04 within 30 days of demand therefor. After a Final Determination of an obligation

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for which an Indemnitee is to be indemnified, the Indemnitee shall send a statement to the Indemnitor showing the amount, if any, due under such provisions. Certain calculation mechanics relating to items described in Sections 7.01, 7.02 and 7.03 shall be in accordance with the principles of Article 3. Notwithstanding that an Indemnitor disputes in good faith the fact or the amount of any obligation under Section 7.01, 7.02 or 7.03, payment thereunder and under Section 7.04 shall be made within 30 days of demand therefor.

SECTION 7.07. Certain Effects of Indemnification Obligations. (a) If (i) (A) an indemnification obligation of the RJRN Tax Group under Section 7.01 arises in respect of an adjustment that makes a Tax Asset allowable to Holdings or any member of the Nabisco Tax Group in a Post-1989 Period or (B) any other adjustment for which the RJRN Tax Group is liable under this Agreement makes a Tax Asset allowable to Holdings or any member of the Nabisco Tax Group in a Post-1989 Period, and (ii) such Tax Asset would not be allowable but for such adjustment, then Holdings or Nabisco, respectively, shall pay to the Designated RJRN Affiliate an amount equal to the actual tax saving produced by such Tax Asset within 30 days of the Effective Realization of such tax saving, provided that the RJRN Tax Group has satisfied its obligations under this Agreement in respect of the adjustment giving rise to such tax saving.

(b) If (i) (A) an indemnification obligation of Holdings or any member of the Nabisco Tax Group under Section 7.02 or 7.03, as the case may be, arises in respect of an adjustment that makes a Tax Asset allowable to any member of the Holdings Consolidated Group in a Pre-1990 Period or to any member of the RJRN Tax Group in a Post-1989 Period or (B) any other adjustment for which Holdings or the Nabisco Tax Group is liable under this Agreement makes a Tax Asset allowable to any member or the RJRN Tax Group, and (ii) such Tax Asset

would not be allowable but for such adjustment, then the Designated RJRN Affiliate shall pay to Holdings or Nabisco, respectively, an amount equal to the actual tax saving produced by such Tax Asset within 30 days of the Effective Realization of such tax saving, provided that Holdings or Nabisco, as the case may be, has satisfied its obligations under this Agreement in respect of the adjustment giving rise to such tax saving. Without limiting the generality of the foregoing, if a Tax Asset is made allowable in a Pre-1990 Period, the amount to be paid under this Section 7.07(b) shall not exceed the indemnification obligation that arises in respect of the adjustment that makes such Tax Asset allowable.

(c) The amount of the tax saving under Section 7.07(a) or under Section 7.07(b) for any taxable period shall be the amount of the reduction in taxes payable to a Taxing Authority with respect to such taxable period as compared to the taxes that would have been payable to a Taxing Authority with respect to such taxable period in the absence of such Tax Asset. Without limiting the generality

of the foregoing, the determination of the tax saving under Section 7.07(a) or under Section 7.07(b) shall take into account the application of Section 3.06.

ARTICLE 8
AUDIT AND OTHER TAX PROCEEDINGS

SECTION 8.01. Control Over Tax Proceedings. (a) Notwithstanding Section 11.02 or anything in this Agreement to the contrary, Holdings shall have full control over any and all matters with respect to which the Nabisco Tax Group and the RJRN Tax Group have provided authority to Holdings under Section 2.02, including, without limitation, any and all matters that would give rise to an indemnification obligation under Article 7 on the part of any member of the Nabisco Tax Group or any member of the RJRN Tax Group. Holdings shall have absolute discretion with respect to any decisions to be made, or any action to be taken, with respect to any matter described in the preceding sentence.

(b) Without limiting the generality of Section 8.01(a), Holdings may, in its sole and absolute discretion, settle any Tax Proceeding with respect to the Taxes over which it has authority under Section 2.02(a) (including, without limitation, a Tax Proceeding relating to any and all matters that would give rise to an indemnification obligation under Section 7.01, 7.02 or 7.03). Any such settlement shall be binding on the parties to this Agreement without further recourse. Section 11.02 shall not apply with respect to (i) any such

settlement or (ii) any Tax Proceeding with respect to the Taxes over which Holdings has authority under Section 2.02(a).

SECTION 8.02. Del Monte State Taxes and Certain Other State Taxes. Holdings shall conduct, and shall have full control over all matters relating to, any Tax Proceedings in connection with (i) Del Monte State Taxes, or (ii) any State Tax liability of Holdings or any member of the Nabisco Tax Group (including, without limitation, tax liabilities that are reflected on (A) a separate State Tax return, or (B) a Combined State Tax return filed on behalf of an affiliated, consolidated, combined or unitary group that does not include any member of the RJRN Tax Group) with respect to any Pre-1990 Period. In its sole and absolute discretion, Holdings may determine that the RJRN Tax Group shall be required to conduct such Tax Proceedings following the provision by Holdings of not less than 180 days' notice to the Designated RJRN Affiliate to such effect.

SECTION 8.03. Federal Employment Taxes. Holdings shall conduct, and shall have full control over all matters relating to, any Tax Proceedings in

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connection with any Federal Employment Tax for which (i) any member of the Nabisco Tax Group is liable with respect to a taxable year that begins prior to a Nabisco Deconsolidation, or (ii) any member of the RJRN Tax Group is liable with respect to a taxable year that begins prior to the Distribution Date.

ARTICLE 9 COMMUNICATIONS AND COOPERATION

SECTION 9.01. Consult and Cooperate. Holdings, Nabisco, RJRN and RJRT shall consult and cooperate (and shall cause their respective subsidiaries to cooperate) fully at such time and to the extent reasonably requested by a party to this Agreement in connection with all matters subject to this Agreement; provided that (a) in the case of the companies listed in Exhibit D to the International Tobacco Purchase Agreement, RJRN and RJRT shall be required to cause such companies to cooperate only to the extent allowed under the International Tobacco Purchase Agreement, and (b) for the avoidance of doubt, any disagreement as to the scope of the consultation and cooperation required under this Section 9.01 shall be governed by Section 11.02. The cooperation under this Section 9.01 shall include, without limitation:

(i) the retention and provision on reasonable request of any information (including, without limitation, any books, records, documentation or other information) pertaining to Tax matters relating to Holdings, the Nabisco

Tax Group and the RJRN Tax Group, any necessary explanations of information, and access to personnel, until the expiration of the applicable statute of limitation (giving effect to any extension, waiver, or mitigation thereof);

(ii) the execution, acknowledgment and delivery of any instrument or document that may be necessary or helpful in connection with (A) any Return, (B) any Tax Proceeding or other litigation, investigation or action, or (C) the carrying out of the parties' respective obligations under this Agreement; and

(iii) the use of the parties' best efforts to obtain any documentation from a Taxing Authority, another governmental authority or another third party that may be necessary or helpful in connection with the foregoing.

SECTION 9.02. Provide Information. Holdings, Nabisco and the Designated RJRN Affiliate shall keep one another fully informed with respect to any material developments relating to the matters subject to this Agreement.

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SECTION 9.03. Tax Attribute Matters. Holdings, Nabisco and the Designated RJRN Affiliate shall promptly advise one another with respect to any proposed Tax adjustments, relating to a Consolidated Group, that are the subject of a Tax Proceeding or other litigation, investigation or action and that may materially affect any Tax liability or Tax attribute of the other parties to this Agreement.

ARTICLE 10 PAYMENTS

SECTION 10.01. Procedure for Making Payments. All payments to be made under this Agreement shall be made in immediately available funds. Except as otherwise provided, all payments required to be made under this Agreement shall be due 30 days after the receipt of notice of such payment or, where no notice is required, 30 days after (i) the fixing of a tax liability, (ii) the Effective Realization of a tax saving, tax benefit or tax attribute, (iii) the receipt of a refund, or (iv) the resolution of a dispute. Unless otherwise indicated, any payment that is not made when due shall bear interest at the Intercompany Interest Rate. If, pursuant to a Final Determination, any amount paid by Holdings, the members of the Nabisco Tax Group or the members of the RJRN Tax Group under this Agreement results in any increased tax liability or reduction of any Tax Asset of the recipient of such payment, then, in addition to any amounts otherwise owed under this Agreement, the payor shall pay the sum of (i) any interest or penalty attributable to such increased tax liability or to the

reduction of such Tax Asset, and (ii) the After-Tax Amount.

ARTICLE 11
MISCELLANEOUS

SECTION 11.01. Guarantee. Nabisco shall guarantee the obligations under this Agreement of each other member of the Nabisco Tax Group. RJRN and RJRT shall guarantee the obligations under this Agreement of each other member of the RJRN Tax Group.

SECTION 11.02. Dispute Resolution. If the parties hereto are unable to resolve any disagreement or dispute relating to this Agreement within 20 days, such disagreement or dispute shall be resolved by Holdings. Any such resolution shall be binding on the parties to this Agreement without further recourse.

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SECTION 11.03. Authorization. Each of Holdings, RJRN, Nabisco and RJRT hereby represents and warrants that (i) it has the power and authority to execute, deliver and perform this Agreement, (ii) this Agreement has been duly authorized by all necessary corporate action on the part of such party, (iii) this Agreement constitutes a legal, valid and binding obligation of such party, and (iv) the execution, delivery and performance of this Agreement by such party does not contravene or conflict with any provision or law or of such party's charter or bylaws or any agreement, instrument or order binding on such party.

SECTION 11.04. Notices. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or similar writing) and shall be given:

if to Holdings, to:

Nabisco Group Holdings Corp.
f/k/a RJR Nabisco Holdings Corp.
1301 Avenue of the Americas
New York, NY 10019
Attention: Chief Financial Officer
Facsimile: To be determined

if to RJRN and/or RJRT, to:

R.J. Reynolds Tobacco Holdings, Inc.
f/k/a/ RJR Nabisco, Inc.

R. J. Reynolds Tobacco Company
401 North Main Street
Plaza 6
Winston-Salem, NC 27102
Attention: Vice President -- Tax
Facsimile: 336-741-0259

if to Nabisco, to:

Nabisco Holdings Corp.
7 Campus Drive
Parsippany, NJ 07054-0311
Attention: Senior Vice President -- Tax
Facsimile: 973-682-6649

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and, in each case, to:

Nabisco, Inc.
200 DeForest Avenue
East Hanover, NJ 07936
Attention: Stephen Katzman
Vice President -- Tax Audits and Research
Facsimile: 973-503-3568

or any other address or facsimile number as such party may hereafter specify in writing for this purpose by notice to the other parties to this Agreement. Each such notice, request or other communication under this Section 11.04 shall be effective (a) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section and the appropriate facsimile confirmation is received or (b) if given by any other means, when delivered at the address specified in this Section.

SECTION 11.05. Amendments; No Waivers. (a) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed by the parties that would be affected by such amendment or waiver.

(b) Without limiting the generality of Section 11.05(a), Holdings and the Nabisco Tax Group shall have the right, in connection with any of the matters covered by this Agreement or other tax matters, to make additional arrangements between themselves without the approval of RJRN or RJRT, so long as the RJRT Tax Group's rights under this Agreement are not adversely affected by such additional arrangements.

(c) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 11.06. Expenses. (a) Except as specifically provided otherwise in this Agreement or in Section 10.03 or 10.08 of the Distribution Agreement, each party shall bear its own costs and expenses (including, without limitation, attorneys' fees and other professional fees and expenses).

(b) Without limiting the generality of Section 11.06(a), each party shall bear the costs and expenses in connection with the preparation for or conduct of

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litigation (or any other Tax Proceeding that is not a Tax audit) relating to taxes (i) that are a liability of such party, and/or (ii) against which such party has an indemnification obligation under Article 7.

SECTION 11.07. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors (whether by merger, acquisition of assets or otherwise, and, including, without limitation, any successor succeeding to the tax attributes of a party under Section 381 of the Code) and assigns, to the same extent as if such successor or assign had been an original party to this Agreement; provided that, except as set forth in this Agreement, no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of each of the other parties to this Agreement.

SECTION 11.08. Governing Law. This Agreement shall be construed in accordance with and governed by the internal laws of the State of New York.

SECTION 11.09. Counterparts; Effectiveness; No Third Party Beneficiaries. (a) This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective upon the consummation of the Distribution, provided that at or before such time, each party to this Agreement shall have received a counterpart of this Agreement signed by the other parties. The parties to this Agreement do not

intend that any of its provisions will or do confer any rights, benefits, remedies, obligations or liabilities under this Agreement upon any person other than (i) the parties to this Agreement, (ii) other members of the Nabisco Tax Group and (iii) other members of the RJRN Tax Group, together in each case with their respective successors and assigns.

(b) All rights and obligations arising under of this Agreement shall survive until they are fully effectuated or performed. Notwithstanding anything in this Agreement to the contrary, this Agreement shall remain in effect and its provisions shall survive for the full period of all applicable statutes of limitation (giving effect to any extension, waiver or mitigation thereof).

SECTION 11.10. Severability. If any one or more of the provisions of this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired by such holding. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions so that the replacement provisions will be valid, legal and enforceable and will have an economic effect which comes as close as

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possible to that of the invalid, illegal or unenforceable provisions.

SECTION 11.11. Specific Performance. Each of RJRN and the other members of the RJRN Tax Group acknowledges and agrees that damages for a breach or threatened breach of any of the provisions of this Agreement would be inadequate and that irreparable harm would occur. In recognition of this fact, each such corporation agrees that, if there is a breach or threatened breach, in addition to any damages, any of the other nonbreaching parties to this Agreement, without posting any bond, shall be entitled to seek and obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction, attachment or any other equitable remedy that may then be available to obligate the breaching party to (i) comply with the covenants made by, and perform other obligations of, it (or, as appropriate, of RJRN) under this Agreement, or (ii) if the breaching party is unable, for whatever reason, to comply with such covenants and perform such obligations, to take such other actions as are necessary, advisable or appropriate to give the other parties to this Agreement (and the other corporations in the Nabisco Tax Group) the tax effect and the economic effect that come as close as possible to compliance with such covenants and performance of such obligations.

SECTION 11.12. Captions. Section captions used in this Agreement are

for convenience only and shall not affect the construction of this Agreement.

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IN WITNESS WHEREOF, the parties to this Agreement have caused this Tax Sharing Agreement to be duly executed by their respective authorized officers as of the date first above written.

RJR NABISCO HOLDINGS CORP.

By /s/ J. T. Pearson

Name: J. T. Pearson
Title: Senior Vice President
-- Taxation

R.J. REYNOLDS TOBACCO HOLDINGS,
INC.

By /s/ J. T. Pearson

Name: J. T. Pearson
Title: Senior Vice President
-- Taxation

NABISCO HOLDINGS CORP.

By /s/ Gary Lewbel

Name: Gary Lewbel
Title: Senior Vice President -- Tax

R. J. REYNOLDS TOBACCO COMPANY

By /s/ Kenneth J. Lapiejko

Name: Kenneth J. Lapiejko
Title: Senior Vice President, Chief
Financial Officer and Treasurer

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R.J. REYNOLDS TOBACCO HOLDINGS, INC.
1999 LONG TERM INCENTIVE PLAN

1. Purpose of Plan

The R.J. Reynolds Tobacco Holdings, Inc. 1999 Long Term Incentive Plan is effective June 14, 1999 and is designed:

(a) to promote the long term financial interests and growth of R.J. Reynolds Tobacco Holdings, Inc. and subsidiaries (the "Corporation") by attracting and retaining management personnel with the training, experience and ability to enable them to make a substantial contribution to the success of the Corporation's business;

(b) to motivate management personnel by means of growth-related incentives to achieve long range goals; and

(c) to further the identity of interests of participants with those of the stockholders of the Corporation through opportunities for increased stock, or stock-based, ownership in the Corporation.

2. Definitions

As used in the Plan, the following words shall have the following meanings:

(a) "Base Value" means not less than the Fair Market Value on the date a Stock Appreciation Right is granted, or, in the case of a Stock Appreciation Right granted retroactively in tandem with (or in replacement of) an outstanding stock option, not less than the exercise price of such option;

(b) "Board of Directors" means the Board of Directors of RJR;

(c) "Code" means the Internal Revenue Code of 1986, as amended;

(d) "Committee" means the Compensation Committee of the Board of Directors;

(e) "Common Stock" or "Share" means common stock of RJR which may be authorized but unissued, or issued and reacquired;

(f) "Effective Date" shall have the meaning set forth in Section 12;

(g) "Exchange Act" means the Securities Exchange Act of 1934, as amended;

(h) "Fair Market Value" means such value of a Share as reported for

stock exchange transactions and/or determined in accordance with any applicable resolutions or regulations of the Committee in effect at the relevant time;

(i) "Grant Agreement" means an agreement between RJR and a Participant that sets forth the terms, conditions and limitations applicable to a Grant;

(j) "Grant" means an award made to a Participant pursuant to the Plan and described in Paragraph 5, including, without limitation, an award of an Incentive Stock Option, Other Stock Option, Stock Appreciation Right, Restricted Stock, Performance Units or Performance Shares or any combination of the foregoing;

(k) "Incentive Stock Options" shall have the meaning set forth in Section 5(a);

(l) "Other Stock Options" shall have the meaning set forth in Section 5(b);

(m) "Options" shall mean Incentive Stock Options and Other Stock Options;

(n) "Participant" means any employee, or other person having a unique relationship with RJR or one of its Subsidiaries, to whom one or more Grants have been made and such Grants have not all been forfeited or terminated under the Plan; provided, however, a non-employee director of RJR or one of its Subsidiaries may not be a Participant;

(o) "Performance Units" shall have the meaning set forth in Section 5(e);

(p) "Performance Shares" shall have the meaning set forth in Section 5(f);

(q) "Restricted Stock" shall have the meaning set forth in Section 5(d);

(r) "RJR" means R.J. Reynolds Tobacco Holdings, Inc. and any successors thereto;

(s) "Stock Appreciation Rights" shall have the meaning set forth in Section 5(c); and

(t) "Subsidiary" means any corporation or other entity in which RJR has a significant equity or other interest as determined by the Committee.

3. Administration of Plan

(a) The Plan shall be administered by the Committee or, in lieu of the

Committee, the Board of Directors. The Committee may adopt its own rules of procedure, and the action of a majority of the Committee, taken at a meeting or taken without a meeting by a writing signed by such majority, shall constitute action by the Committee. The Committee shall have the power and authority to administer, construe and interpret the Plan, to make rules for carrying it out and to make changes in such rules. Any such interpretations, rules, and administration shall be consistent with the basic purposes of the Plan.

(b) The Committee may delegate to the Chief Executive Officer and to other senior officers of the Corporation its duties under the Plan, subject to such conditions and limitations as the Committee shall prescribe, except that only the Committee may designate and make Grants to Participants who are subject to Section 16 of the Exchange Act.

(c) The Committee may employ attorneys, consultants, accountants, appraisers, brokers or other persons. The Committee, RJR, and the officers and directors of RJR shall be entitled to rely upon the advice, opinions or valuations of any such persons. All actions taken and all interpretations and determinations made by the Committee in good faith shall be final and binding upon all Participants, RJR and all other interested persons. No member of the Committee shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or the Grants, and all members of the Committee shall be fully protected by RJR with respect to any such action, determination or interpretation.

4. Eligibility

The Committee may from time to time make Grants under the Plan to such employees, or other persons having a unique relationship with RJR or any of its Subsidiaries, and in such form and having such terms, conditions and limitations as the Committee may determine. No Grants may be made under this Plan to non-employee directors of RJR or any of its Subsidiaries. Grants may be granted singly, in combination or in tandem. The terms, conditions and limitations of each Grant under the Plan shall be set forth in a Grant Agreement, in a form approved by the Committee, consistent, however, with the terms of the Plan; provided, however, such Grant Agreement shall contain provisions dealing with the treatment of Grants in the event of the termination, death or disability of a Participant, and may also include provisions concerning the treatment of Grants in the event of a change of control of RJR.

5. Grants

From time to time, the Committee will determine the forms and amounts of Grants for Participants. Such Grants may take the following forms in the Committee's sole discretion:

(a) Incentive Stock Options - These are stock options within the meaning of Section 422 of the Code to purchase Common Stock. In addition to other restrictions contained in the Plan, an option granted under this Section 5(a), (i) may not be exercised more than 10 years after the date it is granted, (ii) may not have an option price less than the Fair Market Value of Common Stock on the date the option is granted, (iii) must otherwise comply with Code Section 422, and (iv) must be designated as an "Incentive Stock Option" by the Committee. The maximum aggregate Fair Market Value of Common Stock (determined at the time of each Grant) with respect to which any Participant may first exercise Incentive Stock Options under this Plan and any Incentive Stock Options granted to the Participant for such year under any plans of RJR or any Subsidiary in any calendar year is \$100,000. Payment of the option price shall be made in cash or in shares of Common Stock, or a combination thereof, in accordance with the terms of the Plan, the Grant Agreement, and of any applicable guidelines of the Committee in effect at the time.

(b) Other Stock Options - These are options to purchase Common Stock which are not designated by the Committee as "Incentive Stock Options". At the time of the Grant the Committee shall determine, and shall have contained in the Grant Agreement or other Plan rules, the option exercise period, the option price, and such other conditions or restrictions on the grant or exercise of the option as the Committee deems appropriate. In addition to other restrictions contained in the Plan, an option granted under this Section 5(b), (i) may not be exercised more than 15 years after the date it is granted and (ii) except for options granted in connection with equitable adjustments made to RJR Nabisco Holdings Corp. options upon the distribution of Common Stock by RJR Nabisco Holdings Corp. to its shareholders, may not have an option exercise price less than the Fair Market Value of Common Stock on the date the option is granted. Payment of the option price shall be made in cash or in shares of Common Stock, or a combination thereof, in accordance with the terms of the Plan and of any applicable guidelines of the Committee in effect at the time. Payment of the option price may also be made by tender of an amount equal to the full exercise price which has been borrowed from RJR or one of its Subsidiaries if the Participant also authorizes the concurrent sale of the exercised Common Stock by a broker (through an arrangement established by RJR, or one of its Subsidiaries, for Participants) and repays the borrowing, all in accordance with any applicable guidelines of the Committee.

(c) Stock Appreciation Rights - These are rights that on exercise entitle the holder to receive the excess of (i) the Fair Market Value of a share of Common Stock on the date of exercise over (ii) the Base Value multiplied by (iii) the number of rights exercised in cash, stock or a combination thereof as determined by the Committee. Stock Appreciation Rights granted under the Plan may, but need not be, granted in conjunction with an Option under Paragraphs 5(a) or 5(b).

The Committee, in the Grant Agreement or by other Plan rules, may impose such conditions or restrictions on the exercise of Stock Appreciation Rights as it deems appropriate, and may terminate, amend, or suspend such Stock Appreciation Rights at any time. No Stock Appreciation Right granted under this Plan may be exercised more than 15 years after the date it is granted.

(d) Restricted Stock - Restricted Stock is a Grant of Common Stock or stock units equivalent to Common Stock subject to such conditions and restrictions as the Committee shall determine. Any rights to dividends or dividend equivalents accruing due to a grant of Restricted Stock shall also be determined by the Committee. Grants of Restricted Stock shall be subject to a normal minimum vesting schedule of 3 years. The number of shares of Restricted Stock and the restrictions or conditions on such shares, as the Committee may determine, shall be set forth in the Grant Agreement or by other Plan rules, and the certificate for the Restricted Stock shall bear evidence of the restrictions or conditions.

(e) Performance Units - These are rights, denominated in cash or cash units, to receive, at a specified future date, payment in cash or stock of an amount equal to all or a portion of the value of a unit granted by the Committee. At the time of the Grant, in the Grant Agreement or by other Plan rules, the Committee must determine the base value of the unit, the performance factors applicable to the determination of the ultimate payment value of the unit as set forth in Section 7 and the period over which performance will be measured.

(f) Performance Shares - These are rights granted in the form of Common Stock or stock units equivalent to Common Stock to receive, at a specified future date, payment in cash or Common Stock, as determined by the Committee, of an amount equal to all or a portion of the Fair Market Value at which the Common Stock is traded on the last day of the specified performance period of a specified number of shares of Common Stock based on performance during the period. At the time of the Grant, the Committee, in the Grant Agreement or by Plan rules, will determine the factors which will govern the portion of the Grants so payable as set forth in Section 7 and the period over which performance will be measured.

6. Limitations and Conditions

(a) The number of shares available for Grants under this Plan shall be 8 million shares of the authorized Common Stock as of the Effective Date. The maximum number of Shares subject to Grants of Options and Stock Appreciation Rights to any one Participant in any calendar year shall not exceed 2 million shares for each type of Grant, plus any amount of shares that were available within this limit for such type of Grant for any prior year such limitation was

in effect and which were not covered by Options or Stock Appreciation Rights granted to such Participant during such year. No more than 3 million shares of Common Stock may be granted as Incentive Stock Options. The maximum payment that any one Participant may be paid in respect of any Grant of Performance Units granted for any specified performance period shall not exceed \$10 million. The maximum payment that any one Participant may receive in respect of any Grant of Performance Shares granted for any specified performance period shall not exceed 500,000 shares of Common Stock or the cash equivalent thereof. The aggregate maximum number of shares of Common Stock to which Restricted Stock granted may relate shall not exceed 3 million shares. Shares related to Grants that are forfeited, terminated, cancelled, expire unexercised, settled in cash in lieu of stock, received in full or partial payment of any exercise price or in such manner that all or some of the Shares covered by a Grant are not issued to a Participant, shall immediately become available for Grants. A Grant may contain the right to receive dividends or dividend equivalent payments which may be paid either currently, credited to a Participant or deemed invested in shares or share units of Common Stock. Any such crediting of dividends or dividend equivalents or reinvestment in Shares may be subject to such conditions, restrictions and contingencies as the Committee shall establish, including the reinvestment of such credited amounts in Common Stock equivalents. Subject to the overall limitation on the number of shares of Common Stock that may be delivered under this Plan, the Committee may use available shares of Common Stock as the form of payment for compensation, grants or rights earned or due under any other compensation plans or arrangements of RJR, including the plan of any entity acquired by RJR.

(b) At the time a Grant is made or amended or the terms or conditions of a Grant are changed, the Committee may provide for limitations or conditions on such Grant. RJR may adopt other compensation programs, plans or arrangements as it deems appropriate.

(c) Nothing contained herein shall affect the right of the Corporation to terminate any Participant's employment at any time or for any reason.

(d) Deferrals of Grant payouts may be provided for, at the sole discretion of the Committee, in the Grant Agreements.

(e) No benefit under the Plan shall, prior to receipt thereof by the Participant, be in any manner liable for or subject to the debts, contracts, liabilities, engagements, or torts of the Participant.

(f) Except to the extent otherwise provided in any other retirement or benefit plan, any grant under this Plan shall not be deemed compensation for purposes of computing benefits or contributions under any retirement plan of RJR or its Subsidiaries and shall not affect any benefits under any other benefit

plan of any kind or subsequently in effect under which the availability or amount of benefits is related to level of compensation.

This Plan is not a "Retirement Plan" or "Welfare Plan" under the Employee Retirement Income Security Act of 1974, as amended. This Plan shall be unfunded and shall not create (or be construed to create) a trust or a separate fund or funds. The Plan shall not establish any fiduciary relationship between RJR and any Participant or beneficiary of a Participant. To the extent any person holds any obligation of RJR by virtue of an award granted under this Plan, such obligation shall merely constitute a general unsecured liability of RJR and accordingly shall not confer upon such person any right, title or interest in any assets of RJR.

(g) Unless the Committee determines otherwise, no benefit or promise under the Plan shall be secured by any specific assets of RJR or any of its Subsidiaries, nor shall any assets of RJR or any of its Subsidiaries be designated as attributable or allocated to the satisfaction of RJR's obligations under the Plan.

7. Performance Factors

The performance factors selected by the Compensation Committee in respect of Performance Units and Performance Shares shall be based on any one or more of the following: price of Common Stock or the stock of any affiliate, shareholder return, return on equity, return on investment, return on capital, return on invested capital, economic profit, economic value added, net income, cash net income, free cash flow, earnings per share, cash earnings per share, operating company contribution or market share. These factors shall have a minimum performance standard below which no amount will be paid and may have a maximum performance standard above which no additional payments will be made. The applicable performance period shall not exceed 10 years.

8. Adjustments

(a) In the event of any stock split, spin-off, stock dividend, extraordinary cash dividend, stock combination or reclassification, recapitalization or merger, change in control, or similar event, the Committee may adjust appropriately the number or kind of shares subject to the Plan and available for or covered by Grants, share prices related to outstanding Grants and the other applicable limitations of Section 6(a), and make such other revisions to outstanding Grants and the LTIP as it deems are equitably required.

(b) In the event of a Change of Control, except as otherwise set forth in the terms of a Grant:

(i) Options granted pursuant to paragraphs 5(a) or 5(b) hereof

shall become fully vested and exercisable; provided, however, that the Committee may make a cash payment to Participants (A) in cancellation of such Options as provided in the applicable Grant Agreements or any amendments or deemed amendments thereto entered into by RJR and the Participant in such amount as shall be provided in such Grant Agreements or amendments or (B) in lieu of the delivery of shares upon exercise, equal to the product of (x) and (y), where (x) is the excess of the Fair Market Value on the date of exercise over the exercise price, and (y) is the number of Shares subject to the stock options being exercised;

(ii) Stock Appreciation Rights shall become fully vested and exercisable;

(iii) Restricted Stock shall have all restrictions removed;

(iv) Performance Units whose performance period ends after the date of the Change of Control shall become vested as to a percentage of Performance Units granted equal to the number of months (including partial months) in the performance period before the date of the Change of Control, divided by the total number of months in the performance period. The value of the Performance Units shall be equal to the greater of the target value of the Performance Units or the value derived from the actual performance as of the date of the Change of Control;

(v) Performance Shares whose performance period ends after the date of the Change of Control shall become vested pro rata as to the number of Performance Shares granted equal to the number of months (including partial months) in the performance period before the date of Change of Control, divided by the total number of months in the performance period. The prorated number of Performance Shares derived from the preceding calculation shall be further adjusted by applying the higher of target or actual performance to the date of Change of Control; and

(vi) The Committee shall have authority to establish or to revise the terms of any such Grant or any other Grant as it, in its discretion, deems appropriate; provided, however, that the Committee may not make revisions that are adverse to the Participant without the Participant's consent unless such revision is provided for or contemplated in the terms of the Grant.

(c) For purposes of the Plan, a "Change of Control" shall mean the first to occur of the following events:

(i) an individual, corporation, partnership, group, associate or other entity or "person", as such term is defined in Section 14(d) of the Securities Exchange Act of 1934 (the "Exchange Act"), other than any employee benefit plans sponsored by RJR, is or becomes the "beneficial owner" (as defined

in Rule 13d-3 under the Exchange Act), directly or indirectly, of 30% or more of the combined voting power of RJR's outstanding securities ordinarily having the right to vote at elections of directors.

(ii) individuals who constitute the Board of Directors on June 14, 1999 (the "Incumbent Board") cease for any reason to constitute at least a majority thereof, provided that any person becoming a director subsequent to such date whose election, or nomination for election by RJR's shareholders, was approved by a vote of at least three-quarters of the directors comprising the Incumbent Board (either by a specific vote or by approval of the proxy statement of RJR in which such person is named as a nominee of RJR for director), but excluding for this purpose any such individual whose initial assumption of office occurs as a result of either an actual or threatened election contest (as such terms are used in Rule 14a-11 of Regulation 14A promulgated under the Exchange Act) or other actual or threatened solicitation of proxies or consents by or on behalf of an individual, corporation, partnership, group, associate or other entity or person other than RJR's Board, shall be, for purposes of this paragraph (ii), considered as though such person were a member of the Incumbent Board;

(iii) the approval by the shareholders of RJR of a plan or agreement providing (1) for a merger or consolidation of RJR other than with a wholly-owned subsidiary and other than a merger or consolidation that would result in the voting securities of RJR outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of RJR or such surviving entity outstanding immediately after such merger or consolidation, or (2) for a sale, exchange or other disposition of all or substantially all of the assets of RJR. If any of the events enumerated in this paragraph (iii) occur, RJR's Board shall determine the effective date of the Change of Control resulting therefrom for purposes of this Plan and the Grants hereunder.

9. Amendment and Termination

The Committee shall have the authority to make such amendments to any terms and conditions applicable to outstanding Grants as are consistent with this Plan, provided that, except for adjustments under Paragraph 8(a) hereof, no such action shall modify such Grant in a manner adverse to the Participant without the Participant's consent except as such modification is provided for or contemplated in the terms of the Grant. Except as provided in Section 8(a), the exercise price of any outstanding Option or Stock Appreciation Right may not be adjusted or amended, whether through amendment, cancellation or replacement, unless such adjustment or amendment is properly approved by RJR's shareholders. Likewise, the share and payment limitations set forth in Section 6(a) cannot be increased, and the minimum Option or Stock Appreciation Right grant price

limitations set forth in Sections 5(a), 5(b) and 5(c) cannot be reduced, in either case without proper shareholder approval. Subject to the foregoing, RJR's Board of Directors may amend, suspend or terminate this Plan as it deems necessary and appropriate to better achieve the Plan's purpose.

10. Foreign Options and Rights

(a) The Committee may make Grants to employees who are subject to the tax laws of nations other than the United States, which Grants may have terms and conditions that differ from the terms thereof as provided elsewhere in the Plan for the purpose of complying with the foreign tax laws. Grants of stock options may have terms and conditions that differ from Incentive Stock Options and Other Stock Options for the purpose of complying with the foreign tax laws.

(b) The terms and conditions of stock options granted under Paragraph 10(a) may differ from the terms and conditions which the Plan would require to be imposed upon Incentive Stock Options and Other Stock Options if the Committee determines that the Grants are desirable to promote the purposes of the Plan.

11. Withholding Taxes

The Corporation shall have the right to deduct from any payment or settlement made under the Plan any federal, state or local income or other taxes required by law to be withheld with respect to such payment.

12. Effective Date and Termination Dates

The Plan was adopted by RJR (and approved by its shareholder) on May 12, 1999. The Plan shall be effective on and as of June 14, 1999, and shall terminate ten years later, subject to earlier termination by the Board of Directors pursuant to Paragraph 9. The terms of Grants made on or before the expiration of the Plan shall extend beyond such expiration. Grants made under the Plan prior to the Effective Date shall be governed by the terms of the Plan as in effect on the date such Grant was made.

Letterhead of RJ Reynolds Tobacco Company

Contact: Maura Payne
(336) 741-6996

RJRT 99-15
June 15, 1999

SPIN-OFF OF R.J. REYNOLDS TOBACCO COMPANY COMPLETED

WINSTON-SALEM, N.C. - June 15, 1999 - R.J. Reynolds Tobacco Holdings, Inc. begins operating today as an independent, publicly held company, following the completion yesterday of the previously announced spin-off from its former parent company, RJR Nabisco Holdings Corp.

Shares in R.J. Reynolds Tobacco Holdings, Inc. will begin trading on the New York Stock Exchange (NYSE) today under the symbol "RJR." They have been trading on the NYSE since June 1 on a "when issued" basis.

On May 12, 1999, the RJR Nabisco board of directors declared a 1-for-3 stock dividend of shares in the domestic tobacco company to RJR Nabisco shareholders of record as of May 27, 1999. That distribution of shares took place yesterday afternoon, following the market's closing for the day.

"We are very pleased to be operating once again as a freestanding, publicly traded company," said Andrew J. Schindler, RJR's president and chief executive officer. "We are committed to a very clear set of goals: stabilizing and then growing our earnings and cash flow; providing an attractive return to our shareholders in the form of competitive and sustainable dividends; and profitably growing our key brands."

With 1998 annual pro-forma net sales of approximately \$5.7 billion, RJR is the nation's second-largest tobacco company, with about a 25 percent share of market. The company sells four of the top 10 U.S. cigarette brands: Winston, Salem, Camel and Doral. It will continue to operate out of its Winston-Salem, N.C., headquarters with a U.S. workforce of approximately 8,000.

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Letterhead of RJ Reynolds Tobacco Company

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RJRT 99-15
June 15, 1999

R.J. Reynolds Tobacco Holdings, Inc. announces
appointments to its Board of Directors

R.J. Reynolds Tobacco Holdings, Inc. has announced the appointment of eight individuals to its Board of Directors. The R.J. Reynolds Tobacco Holdings, Inc. Board of Directors will include Andrew J. Schindler, John T. Chain, Jr., A.D. Frazier, Jr., Denise Ilitch, John G. Medlin, Jr., Nana Mensah, Joseph P. Viviano and Thomas C. Wajnert.

"I am extremely pleased to have a group of such talented and experienced individuals join the R.J. Reynolds Tobacco Board of Directors," said Andrew J. Schindler, president and chief executive officer of R.J. Reynolds Tobacco. "They have an excellent understanding of our business and bring a wealth of experience to the RJR board. I am looking forward to working with them."

- o John T. Chain, Jr.: Gen. (Ret.) Chain has been the chairman of Thomas Group, Inc. since May 1998 and has been a member of the board of directors of Thomas Group since May 1995. He also serves as the president of Quarterdeck Equity Partners, Inc., an investor in the defense industry. He served as special assistant to the chairman of Burlington Northern Sante Fe Corporation from November 1995 to March 1996, and as executive vice president of Burlington Northern from 1991 to November 1995. For more than five years prior to that time, he served as a General (Commander-in-Chief, the Strategic Air Command) in the United States Air Force. Gen. Chain is a member of the boards of directors of Nabisco Group Holdings, Nabisco, Northrop Grumman Corporation, Kemper Insurance and Thomas Group.
- o A.D. Frazier: Frazier has been president and chief executive officer of INVESCO, Inc. since April 1997 and was executive vice president from November 1996 to April 1997. From March 1991 until November 1996, Frazier was chief operating officer of the Atlanta Committee for the Olympic Games. From September 1982 to March 1991 he was executive vice president of First Chicago Corporation, and prior to that was with Citizens and Southern National Bank from September 1969 to September 1982, where his last position was executive vice president. Frazier is a member of the boards of directors of AMVESCAP, PLC (the parent company of INVESCO, Inc.), Magellan Health Services, Inc., Apache Corporation and Rock-Tenn Company. He is also a member of the Georgia Board of Corrections.

- o Denise Ilitch: Ilitch, the vice chairwoman of Little Caesar Enterprises, Inc. since 1997, has served in a variety of corporate positions with her family's pizza chain for more than 20 years. Since 1996, she also has served as the president of Olympia Development, L.L.C., the Ilitch family's real estate and entertainment development company in downtown Detroit. In addition, she is executive vice president of Ilitch Ventures, Inc., a privately held company created in 1999 that owns and manages the Ilitch family's business interests in the food and entertainment industries (Little Caesar Enterprises, Olympia Entertainment, Olympia Development, the Detroit Red Wings, the Detroit Tigers, the Detroit Rockers and Olympia Specialty Foods.) Ilitch also has been president and owner of her own marketing firm, Bright Lites, Inc. She serves on the board of directors of the Detroit Branch of the Federal Reserve Bank of Chicago.
- o John G. Medlin, Jr.: Medlin is chairman emeritus of Wachovia Corporation and served as its chairman from 1988 to April 1998 and its chief executive officer from 1977 until December 1993. Medlin is a member of the boards of directors of BellSouth Corporation, Burlington Industries, Inc., Media General, Inc., National Service Industries, Inc., USAirways Group, Inc. and Wachovia Corporation. From 1983 until 1998, Medlin was a member of the board of directors of RJR Nabisco, Inc. and predecessor companies.
- o Nana Mensah: Mensah has served as president and chief operating officer of Long John Silver's Restaurants, Inc. since 1997. Previously, Mensah had been senior vice president - operations and concept development of PepsiCo Restaurants International since 1994. Prior to that time, he was vice president - operations for KFC USA, Inc., from 1990 until 1994, and from 1988 to 1990, he was market manager/regional operations director of Southland Corporation.
- o Joseph P. Viviano: Viviano has served as the vice chairman of Hershey Foods Corporation since January 1999. Previously, Viviano had been president and chief operating officer of Hershey Foods Corporation from 1994 through 1998. He is a member of the boards of directors of Hershey Foods Corporation, Chesapeake Corporation, Huffy Corporation and Harsco Corporation.
- o Thomas C. Wajnert: Wajnert has been chairman of Epix Holdings, Inc. since March 1998 where he is a significant investor and served as chief executive officer from March 1998 to April 1999. Previously, Wajnert was chairman of the board of directors from January 1992 until December 1997 and chief executive officer from November 1984 until December 1997 of AT&T Capital Corporation. From February 1968 until October 1984, he was employed by U.S. Leasing International, where he last held the position of executive vice president. Wajnert serves on the boards of JLG Industries, Inc., CNL Capital Corporation and Epix Holdings, Inc.

- o Andrew J. Schindler: Schindler has served as president and chief executive officer of Reynolds Tobacco since 1995. Schindler joined RJR in 1974, and after holding numerous positions, he became senior vice president operations in July 1989. He was elected executive vice president - operations in 1991. In May of 1994, Schindler assumed the position of president and chief operating officer of Reynolds Tobacco. He is vice chairman of the N.C. Emerging Technology Alliance and a member of the advisory board of Wachovia Bank of North Carolina, N.A., the North Carolina School of the Arts Foundation Board, the Wake Forest University Baptist Medical Center Board of Visitors and the Board of Directors of Winston-Salem Business, Inc.

The first meeting of the Board is scheduled for July 2.

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