

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

Quarterly Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934

For the quarterly period ended June 30, 2007

or

Transition Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934

For the transition period from _____ to _____

Commission file number 1-10948

Office Depot, Inc.

(Exact name of registrant as specified in its charter)

Office DEPOT

Delaware

(State or other jurisdiction of
incorporation or organization)

2200 Old Germantown Road; Delray Beach, Florida
(Address of principal executive offices)

59-2663954
(I.R.S. Employer
Identification No.)

33445
(Zip Code)

(561) 438-4800

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

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

Large accelerated filer Accelerated filer Non-accelerated filer

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

The number of shares outstanding of the registrant's common stock, as of the latest practicable date: At June 30, 2007 there were 272,769,744 outstanding shares of Office Depot, Inc. Common Stock, \$0.01 par value.

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share amounts)
(Unaudited)

	As of June 30, 2007	As of December 30, 2006	As of July 1, 2006
Assets			
Current assets:			
Cash and cash equivalents	\$ 122,695	\$ 173,552	\$ 341,350
Receivables, net	1,466,714	1,480,316	1,314,333
Inventories, net	1,615,598	1,559,981	1,450,440
Deferred income taxes	53,348	124,345	121,750
Prepaid expenses and other current assets	148,295	116,931	116,749
Total current assets	3,406,650	3,455,125	3,344,622
Property and equipment, net	1,463,361	1,424,967	1,326,128
Goodwill	1,228,681	1,198,886	1,091,427
Other assets	548,275	491,124	445,508
Total assets	<u>\$ 6,646,967</u>	<u>\$ 6,570,102</u>	<u>\$ 6,207,685</u>
Liabilities and stockholders' equity			
Current liabilities:			
Trade accounts payable	\$ 1,582,487	\$ 1,561,784	\$ 1,477,506
Accrued expenses and other current liabilities	1,095,197	1,224,565	1,068,020
Income taxes payable	2,167	135,448	117,774
Short-term borrowings and current maturities of long-term debt	68,878	48,130	34,114
Total current liabilities	2,748,729	2,969,927	2,697,414
Deferred income taxes and other long-term liabilities	534,679	403,289	368,170
Long-term debt, net of current maturities	564,107	570,752	581,761
Minority interest	14,737	16,023	10,270
Commitments and contingencies			
Stockholders' equity:			
Common stock — authorized 800,000,000 shares of \$.01 par value; issued and outstanding shares — 428,553,951 in 2007, 426,177,619 in December 2006 and 425,075,847 in July 2006	4,286	4,262	4,251
Additional paid-in capital	1,757,070	1,700,976	1,652,554
Accumulated other comprehensive income	340,551	295,253	249,752
Retained earnings	3,665,774	3,383,202	3,114,903
Treasury stock, at cost — 155,784,207 shares in 2007, 149,778,235 shares in December 2006 and 141,798,878 shares in July 2006	(2,982,966)	(2,773,582)	(2,471,390)
Total stockholders' equity	2,784,715	2,610,111	2,550,070
Total liabilities and stockholders' equity	<u>\$ 6,646,967</u>	<u>\$ 6,570,102</u>	<u>\$ 6,207,685</u>

This report should be read in conjunction with the Notes to Condensed Consolidated Financial Statements ("Notes") herein and the Notes to Consolidated Financial Statements in the Office Depot, Inc. Form 10-K filed February 14, 2007 (the "2006 Form 10-K").

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS
(In thousands, except per share amounts)
(Unaudited)

	13 Weeks Ended		26 Weeks Ended	
	June 30, 2007	July 1, 2006	June 30, 2007	July 1, 2006
Sales	\$3,631,599	\$3,494,907	\$7,725,199	\$7,310,607
Cost of goods sold and occupancy costs	<u>2,529,793</u>	<u>2,416,665</u>	<u>5,350,911</u>	<u>5,030,459</u>
Gross profit	1,101,806	1,078,242	2,374,288	2,280,148
Store and warehouse operating and selling expenses	799,494	756,505	1,685,186	1,600,026
General and administrative expenses	149,788	150,324	311,318	316,877
Amortization of deferred gain on building sale	<u>(1,873)</u>	<u>—</u>	<u>(3,746)</u>	<u>—</u>
Operating profit	154,397	171,413	381,530	363,245
Other income (expense):				
Interest income	1,241	1,086	2,101	7,345
Interest expense	(18,031)	(11,347)	(30,671)	(22,413)
Miscellaneous income, net	<u>9,874</u>	<u>6,625</u>	<u>19,695</u>	<u>14,089</u>
Earnings before income taxes	147,481	167,777	372,655	362,266
Income taxes	<u>38,405</u>	<u>49,471</u>	<u>107,735</u>	<u>114,430</u>
Net earnings	<u>\$ 109,076</u>	<u>\$ 118,306</u>	<u>\$ 264,920</u>	<u>\$ 247,836</u>
Earnings per common share:				
Basic	\$ 0.40	\$ 0.42	\$ 0.97	\$ 0.87
Diluted	0.40	0.41	0.95	0.85
Weighted average number of common shares outstanding:				
Basic	271,879	280,726	273,690	286,139
Diluted	275,952	287,326	278,041	292,832

This report should be read in conjunction with the Notes herein and the Notes to Consolidated Financial Statements in the 2006 Form 10-K.

OFFICE DEPOT, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	26 Weeks Ended	
	June 30, 2007	July 1, 2006
Cash flow from operating activities:		
Net earnings	\$ 264,920	\$ 247,836
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	139,609	137,373
Charges for losses on inventories and receivables	47,335	42,716
Changes in working capital and other	(158,701)	55,863
Net cash provided by operating activities	<u>293,163</u>	<u>483,788</u>
Cash flows from investing activities:		
Capital expenditures	(225,330)	(121,489)
Acquisitions and related payments	(47,591)	(176,022)
Advance payments	(11,992)	—
Proceeds from disposition of assets and advances returned	95,282	21,042
Purchases of short-term investments	—	(961,450)
Sales of short-term investments	—	961,650
Net cash used in investing activities	<u>(189,631)</u>	<u>(276,269)</u>
Cash flows from financing activities:		
Proceeds from exercise of stock options and sale of stock under employee stock purchase plans	25,294	82,111
Tax benefits from employee share-based payments	11,625	32,502
Acquisition of treasury stock	(199,592)	(670,222)
Treasury stock purchases related to employee plans	(9,801)	—
Net proceeds (payments) on long- and short-term borrowings	16,674	(22,651)
Net cash used in financing activities	<u>(155,800)</u>	<u>(578,260)</u>
Effect of exchange rate changes on cash and cash equivalents	<u>1,411</u>	<u>8,894</u>
Net decrease in cash and cash equivalents	(50,857)	(361,847)
Cash and cash equivalents at beginning of period	<u>173,552</u>	<u>703,197</u>
Cash and cash equivalents at end of period	<u>\$ 122,695</u>	<u>\$ 341,350</u>

This report should be read in conjunction with the Notes herein and the Notes to Consolidated Financial Statements in the 2006 Form 10-K.

OFFICE DEPOT, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note A — Basis of Presentation

Office Depot, Inc., (the "Company") including consolidated subsidiaries, is a global supplier of office products and services. Fiscal years are based on a 52- or 53-week period ending on the last Saturday in December. The condensed consolidated balance sheet at December 30, 2006 has been derived from audited financial statements at that date. The condensed interim financial statements as of June 30, 2007 and for the 13-week and 26-week periods ending June 30, 2007 (also referred to as "the second quarter of 2007" and "the first half of 2007") and July 1, 2006 (also referred to as "the second quarter of 2006" and "the first half of 2006") are unaudited. However, in our opinion, these financial statements reflect all adjustments (consisting only of normal, recurring items) necessary to provide a fair presentation of our financial position, results of operations and cash flows for the periods presented. In addition to the normal, recurring items recorded for fair interim financial statement presentation, we recognized expenses associated with exit and other activities because the related accounting criteria were met during the period. Certain prior period amounts have been reclassified to conform to current year presentation. We have included the balance sheet from July 1, 2006 to assist in viewing our Company on a full year basis.

These interim results are not necessarily indicative of the results that should be expected for the full year. For a better understanding of Office Depot, Inc. and its financial statements, we recommend reading these condensed interim financial statements in conjunction with the audited financial statements for the year ended December 30, 2006, which are included in our 2006 Annual Report on Form 10-K, filed with the U. S. Securities and Exchange Commission ("SEC").

New Accounting Pronouncements

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("FAS 157"). This Standard defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. FAS 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years. The adoption of FAS 157 is not expected to have a material impact on the Company's financial position, results of operations or cash flows.

The FASB also issued in September 2006 Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statement No. 87, 88, 106 and 132(R)* ("FAS 158"). This Standard includes two phases of implementation. In the first phase adopted in 2006, we reported approximately \$6 million of deferred pension losses in accumulated other comprehensive income. The second phase of FAS 158 requires that the valuation date of plan accounts be as of the end of the fiscal year, with that change required to be implemented by fiscal years ending after December 15, 2008. We will change the valuation date relating to our foreign plan, but have not yet analyzed the impact this change will have on our financial condition, results of operations or cash flows.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* ("FAS 159"). This Standard allows companies to elect to follow fair value accounting for certain financial assets and liabilities in an effort to mitigate volatility in earnings without having to apply complex hedge accounting provisions. FAS 159 is applicable only to certain financial instruments and is effective for fiscal years beginning after November 15, 2007. We have not yet completed our assessment of what impact, if any, FAS 159 will have on our financial condition, results of operations or cash flows.

Note B — Acquisitions

During the second quarter of 2007, we completed the acquisition of Axidata Inc., a small Canada-based office products delivery company with annual revenue of approximately \$60 million. Axidata is included in our North American Business Solutions Division. Both our integration plans and our assessment of the value of assets and liabilities acquired are in the process of being finalized and implemented. Accordingly, the amount initially allocated to goodwill likely will change as the integration and valuation processes are completed and amounts of separately identifiable intangible assets are recorded. The effects of this acquisition are not considered material.

Note C — Accounting for Uncertainty in Income Taxes

Effective at the beginning of the first quarter of 2007, we adopted FASB Interpretation No. 48, *Accounting for Uncertainties in Income Taxes* ("FIN 48"). The impact upon adoption was to increase retained earnings by approximately \$17.7 million and to decrease our accruals for uncertain tax positions and related interest by a corresponding amount. Additionally, we increased goodwill and accruals for uncertain tax positions by approximately \$3.8 million to reflect the measurement under the rules of FIN 48 of an uncertain tax position related to previous business combinations. After recognizing these impacts at adoption of FIN 48, the total unrecognized tax benefits were approximately \$90 million. Of this amount, approximately \$69 million would impact our effective tax rate if recognized. The difference of \$21 million primarily results from federal tax impacts on state issues and items that would impact goodwill and would not impact the effective rate if it were subsequently determined that such liability were not required. Additionally, adoption of FIN 48 resulted in the accruals for uncertain tax positions being reclassified from Income taxes payable to Accrued expenses and other long-term liabilities in our Condensed Consolidated Balance Sheet.

We regularly evaluate the legal organizational structure of our entities, tax regulatory developments and the progress of ongoing tax examinations and adjust tax attributes to enhance planning opportunities. While we are evaluating certain transactions that could reduce the need for certain accruals during fiscal year 2007, those considerations are not yet sufficiently developed to allow further adjustment to existing balances. One such transaction is a corporate restructuring that relates to one of the projects covered by our Charges (see Note G). Should that restructuring change our assessment of the need for an existing accrual for uncertain tax positions of approximately \$10 million, that reduction in our tax provision would be presented as a tax-related benefit to the Charges when recognized.

We file income tax returns in the U.S. federal jurisdiction and various states and foreign jurisdictions. With few exceptions, we are no longer subject to U.S. federal, state and local, or non-U.S. income tax examinations for years before 2000. Our U.S. federal filings for the years 2000 and 2002 through 2006 are under routine examination and that process is anticipated to be completed before the end of 2008. Additionally, the U.S. federal tax return for 2007 is under concurrent year processing and the review should be complete in early 2008. Also, significant international tax jurisdictions include the United Kingdom, the Netherlands, France and Germany. Generally, we are subject to routine examination for years 2000 and forward in these jurisdictions.

We recognize interest related to unrecognized tax benefits in interest expense and penalties in the provision for income taxes. During 2006, we recognized approximately \$5 million in interest and penalties. The Company had approximately \$29 million accrued for the payment of interest and penalties as of the date of adoption of FIN 48.

Note D — Comprehensive Income

Comprehensive income represents all non-owner changes in stockholders' equity and consists of the following:

(In thousands)

	Second Quarter		First Half	
	2007	2006	2007	2006
Net earnings	\$109,076	\$118,306	\$264,920	\$247,836
Other comprehensive income:				
Foreign currency translation adjustments, net	31,215	83,297	45,101	108,806
Amortization of gain on cash flow hedge	(414)	(415)	(829)	(829)
Unrealized gain (loss) on cash flow hedge	(19)	823	1,026	1,030
Total comprehensive income	<u>\$139,858</u>	<u>\$202,011</u>	<u>\$310,218</u>	<u>\$356,843</u>

Note E — Earnings Per Share (“EPS”)

The information related to our basic and diluted EPS is as follows:

(In thousands, except per share amounts)

	Second Quarter		First Half	
	2007	2006	2007	2006
Numerator:				
Net earnings	\$109,076	\$118,306	\$264,920	\$247,836
Denominator:				
Weighted average shares outstanding:				
Basic	271,879	280,726	273,690	286,139
Effect of dilutive stock options and restricted stock	4,073	6,600	4,351	6,693
Diluted	<u>275,952</u>	<u>287,326</u>	<u>278,041</u>	<u>292,832</u>
EPS:				
Basic	\$ 0.40	\$ 0.42	\$ 0.97	\$ 0.87
Diluted	0.40	0.41	0.95	0.85

Note F — Division Information

We continually assess our financial reporting practices and strive to provide meaningful and transparent communication of our results. In the third quarter of 2006, we modified our measurement of Division operating profit for segment reporting purposes to exclude the impact of costs related to asset impairments, exit costs and other charges, which resulted from a wide-ranging assessment of assets and commitments which began during the latter half of 2005 (the “Charges” — see Note G). The financial information used by our management to assess performance of the Divisions for the purpose of resource allocation now excludes the Charges. We believe this measure is an appropriate and useful indicator of the effectiveness of current management activities. Prior period Division operating profit has been recast to conform to the current presentation.

The following is a summary of our significant accounts and balances by reportable segment (or "Division"), reconciled to consolidated totals.

(In thousands)

	Sales			
	Second Quarter		First Half	
	2007	2006	2007	2006
North American Retail Division	\$1,525,334	\$1,507,612	\$3,373,934	\$3,298,340
North American Business Solutions Division	1,123,242	1,128,676	2,285,592	2,258,673
International Division	983,023	858,619	2,065,673	1,753,594
Total	<u>\$3,631,599</u>	<u>\$3,494,907</u>	<u>\$7,725,199</u>	<u>\$7,310,607</u>

(In thousands)

	Division Operating Profit			
	Second Quarter		First Half	
	2007	2006	2007	2006
North American Retail Division	\$103,596	\$ 96,386	\$258,284	\$231,211
North American Business Solutions Division	79,659	104,928	152,909	198,569
International Division	42,134	48,468	124,197	117,202
Total reportable segments	225,389	249,782	535,390	546,982
Eliminations	—	(27)	(73)	(155)
Total	<u>\$225,389</u>	<u>\$249,755</u>	<u>\$535,317</u>	<u>\$546,827</u>

A reconciliation of the measure of Division operating profit to consolidated earnings before income taxes is as follows:

(In thousands)

	Second Quarter		First Half	
	2007	2006	2007	2006
Total division operating profit	\$225,389	\$249,755	\$ 535,317	\$ 546,827
Charges, as defined above	(11,883)	(8,129)	(23,947)	(26,886)
Corporate general and administrative expenses (excluding Charges)	(60,982)	(70,213)	(133,586)	(156,696)
Amortization of deferred gain	1,873	—	3,746	—
Interest income	1,241	1,086	2,101	7,345
Interest expense	(18,031)	(11,347)	(30,671)	(22,413)
Miscellaneous income, net	9,874	6,625	19,695	14,089
Earnings before income taxes	<u>\$147,481</u>	<u>\$167,777</u>	<u>\$ 372,655</u>	<u>\$ 362,266</u>

Goodwill by division is as follows:

(In thousands)

	Goodwill		
	June 30, 2007	December 30, 2006	July 1, 2006
North American Retail Division	\$ 2,147	\$ 1,961	\$ 2,046
North American Business Solutions Division	366,993	359,417	335,040
International Division	859,541	837,508	754,341
Total	<u>\$1,228,681</u>	<u>\$ 1,198,886</u>	<u>\$1,091,427</u>

The change in goodwill balances compared to year end and second quarter 2006 result from changes in foreign currency exchange rates on goodwill balances recorded in local functional currencies, a change in a tax valuation allowance related to an earlier acquisition, the acquisitions during the periods, the resolution of fair value estimates on certain acquisitions made in 2006, and impacts from the adoption of FIN 48 relating to tax uncertainties associated with an earlier period acquisition.

Note G — Asset Impairments, Exit Costs and Other Charges

During the third quarter of 2005, we announced a number of material charges relating to asset impairments, exit costs and other operating decisions (the "Charges"). This announcement followed a wide-ranging assessment of assets and commitments which began in the second quarter of 2005. From inception through the end of the second quarter of 2007, we had recorded \$369 million of Charges. Expenses associated with future activities will be recognized as the individual plans are implemented and the related accounting recognition criteria are met. As with any estimate, the amounts may change when expenses are incurred.

During the second quarter of 2007, we recognized approximately \$12 million of Charges associated with these projects as the previously-identified plans were implemented and the related accounting recognition criteria were met. Approximately \$10 million is included in store and warehouse operating and selling expenses and \$2 million is included in general and administrative expenses. Implementation of projects during the quarter resulted in Charges for severance-related expenses and accelerated depreciation. The 2007 year-to-date Charges totaled \$24 million, of which, approximately \$19 million is presented in store and warehouse operating and selling expense and \$5 million is presented in general and administrative expenses.

The following table summarizes the Charges recognized in the first half of 2007 by type of activity as well as changes in the related accrual balances.

<i>(In millions)</i>	<u>Beginning Balance at January 1, 2007</u>	<u>Charge incurred</u>	<u>Cash payments</u>	<u>Non-cash settlements</u>	<u>Currency and Other Adjustments</u>	<u>Ending Balance at June 30, 2007</u>
One-time termination benefits	\$ 7	\$ 10	\$ (7)	\$ (1)	\$ —	\$ 9
Lease and contract obligations	22	—	(4)	(1)	(1)	16
Accelerated depreciation	—	13	—	(13)	—	—
Other associated costs	2	1	—	(3)	—	—
Total	\$ 31	\$ 24	\$ (11)	\$ (18)	\$ (1)	\$ 25

Note H — Pension Disclosures

The components of net periodic pension cost for our foreign defined benefit plans are as follows:

<i>(In millions)</i>	<u>Second Quarter</u>		<u>First Half</u>	
	<u>2007</u>	<u>2006</u>	<u>2007</u>	<u>2006</u>
Service cost	\$ 1.3	\$ 2.0	\$ 3.1	\$ 3.9
Interest cost	2.9	2.9	5.8	5.7
Expected return on plan assets	(2.2)	(1.9)	(4.4)	(3.8)
Net periodic pension cost	\$ 2.0	\$ 3.0	\$ 4.5	\$ 5.8

For the quarter and year-to-date periods ended June 30, 2007, we have contributed approximately \$1 million and \$3 million, respectively, to our foreign pension plans. We currently anticipate making annual contributions in a range of \$3 million to \$5 million to our foreign pension plans in 2007.

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

GENERAL

Office Depot, Inc., together with our subsidiaries, is a global supplier of office products and services. We sell to consumers and businesses of all sizes through our three reportable segments (or "Divisions"): North American Retail Division, North American Business Solutions Division, and International Division.

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to provide information to assist in better understanding and evaluating our financial condition and results of operations. We recommend that you read this MD&A in conjunction with our condensed consolidated financial statements and the notes to those statements included in Item 1 of this Quarterly Report on Form 10-Q, as well as our 2006 Annual Report on Form 10-K, filed with the U.S. Securities and Exchange Commission (the "SEC").

This MD&A contains significant amounts of forward-looking information. Without limitation, when we use the words "believe," "estimate," "plan," "expect," "intend," "anticipate," "continue," "may," "project," "probably," "should," "could," "will" and similar expressions in this Quarterly Report on Form 10-Q, we are identifying forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995). Our discussion of Risk Factors, found in Item 1A of this Form 10-Q and our 2006 Annual Report on Form 10-K, and Forward-Looking Statements, found immediately following the MD&A in our 2006 Annual Report on Form 10-K, apply to these forward-looking statements.

RESULTS OF OPERATIONS

OVERVIEW

A summary of factors important to understanding the results for the second quarter of 2007 is provided below and further discussed in the narrative that follows this overview.

- Second quarter sales grew 4% to \$3.6 billion compared to the second quarter of 2006. Sales growth in North America was flat in the second quarter down from 3% in the first quarter, reflecting a continuation of the weak economic conditions that we began to experience in the first quarter, particularly in our small business sector. North American Retail Division sales grew 1% with comparable store sales down 5% for the quarter. International Division sales increased 14% in U.S. dollars and 7% in local currencies.
- Our North American businesses were depressed by a continuation of the slowdown in housing sales, and a softening economy. Particularly affected were our small business customers in both our North American Retail Division as well as our North American Business Solutions Division.
- As part of our previously announced streamlining activities, we recorded \$12 million of charges in the second quarter of 2007 and \$8 million of charges in the second quarter of 2006 (the "Charges"). We have lowered our anticipated Charges for the full year 2007 and increased our estimates for 2008, in part reflecting the impact of external approvals required on certain International projects.
- Gross margin declined 50 basis points due principally to a shift in mix and increased property costs associated with new stores, partially offset by higher private brand sales. Operating expenses increased as a percentage of sales by approximately 10 basis points, reflecting investments made which more than offset benefits from cost management initiatives.

- Net earnings for the quarter were \$109 million compared to \$118 million in the same quarter of the prior year, and diluted earnings per share were \$0.40 in the second quarter of 2007 versus \$0.41 in the same period a year ago. After-tax second quarter Charges negatively impacted EPS by \$0.03 in 2007 and \$0.02 in 2006.
- Net earnings for the year to date period were \$265 million compared to \$248 million in the same period of the prior year, and diluted earnings per share were \$0.95 in the first six months of 2007 versus \$0.85 in the same period a year ago. After-tax Charges negatively impacted EPS by \$0.08 in 2007 and \$0.07 in 2006.
- During the second quarter of 2007, we acquired 3.1 million shares of our common stock under publicly announced share repurchase programs. Year to date share acquisitions under these programs total 5.7 million shares for approximately \$200 million.

Charges and Division Results

Charges

The Charges recognized during the second quarter and first half of 2007 and 2006 are included in the following lines in our Condensed Consolidated Statements of Earnings.

(In millions)

	Second Quarter		First Half	
	2007	2006	2007	2006
Cost of goods sold and occupancy costs	\$ —	\$ —	\$ —	\$ 1
Store and warehouse operating and selling expenses	10	6	19	21
General and administrative expenses	2	2	5	5
Total Charges	<u>\$ 12</u>	<u>\$ 8</u>	<u>\$ 24</u>	<u>\$ 27</u>

Charges incurred since this program began in the third quarter of 2005 total \$369 million. In our 2006 year end and first quarter 2007 disclosures we anticipated recognizing \$72 million of Charges during 2007. However, certain international projects will not be implemented in the timeframe originally anticipated in part due to required third party approvals on certain projects. We currently estimate recognizing \$30 million of Charges during the second half of 2007, for a 2007 total of \$54 million. We anticipate recognizing \$65 million of Charges in 2008. Charges will be recognized when the related accounting criteria are met. As with any estimate, the timing and amounts may change when projects are implemented. Additionally, changes in foreign currency exchange rates may have an impact on amounts reported in U.S. dollars related to foreign operations.

The portion of General and Administrative (“G&A”) expenses considered directly or closely related to unit activity is included in the measurement of Division operating profit. Other companies may charge more or less G&A expenses to their divisions, and our results therefore may not be comparable to similarly titled measures used by some other entities. Our measure of Division operating profit should not be considered as an alternative to operating income or net earnings determined in accordance with accounting principles generally accepted in the United States of America.

We continually assess our financial reporting practices and strive to provide meaningful and transparent communication of our results. As noted in previous disclosures, our measurement of Division operating profit excludes the Charges because they are evaluated internally at the corporate level. We will continue to review our internal financial reporting measures and modify our disclosures as appropriate.

North American Retail Division

(Dollars in millions)	Second Quarter		First Half	
	2007	2006	2007	2006
Sales	\$1,525.3	\$1,507.6	\$3,373.9	\$3,298.3
% change	1%	4%	2%	5%
Division operating profit	\$ 103.6	\$ 96.4	\$ 258.3	\$ 231.2
% of sales	6.8%	6.4%	7.7%	7.0%

Second quarter 2007 sales increased 1% to \$1.5 billion, compared to 3% growth in the first quarter. Comparable store sales in the 1,063 stores in the U.S. and Canada that have been open for more than one year decreased 5% for the second quarter and 4% for the first half of 2007. Comp sales were negatively impacted during the quarter by the continued softness in the economy, reflecting our customer base of predominately small and home office businesses, as well as non-business consumers. We experienced softer sales in furniture and supplies, and to a lesser extent technology, during the quarter as our customers adjusted their spending in reaction to macroeconomic conditions such as changes in the housing market and higher fuel costs. Also, we chose to reduce certain less effective promotional activity during the quarter which lowered our comp sales by approximately 70 basis points. Despite these soft market conditions, data from The NPD Group indicates that Office Depot's retail revenue share among office supply stores increased sequentially in the second quarter. Comp sales earlier in the year were also negatively impacted by soft computer sales in advance of the Microsoft® Vista™ software launch.

The continued decline in U.S. new home construction during the second quarter underlines an ongoing softening in the broader housing market. This trend significantly impacted our furniture business which continued to experience soft sales and accounted for approximately 160 basis points of impact to our overall comp sales decrease. In addition, we believe that the impact of this housing slump has adversely affected a broad range of small businesses and resulted in a reduction in our customers' overall spending patterns. Combined with rising fuel prices, these macroeconomic conditions have negatively impacted our sales. Other drivers of the negative comps include new store build out (70 basis points), changes in our mail-in rebate programs (40 basis points), and increases in private brand penetration (10 basis points).

Although comparable store sales were disappointing, the North American Retail Division delivered a 7% increase in operating profit to \$104 million for the second quarter of 2007, compared to \$96 million in the same period of the prior year. On a year to date basis, Division operating profit increased 12% to \$258 million.

Higher product margins and cost management initiatives more than offset the impact of the negative comps and increased property costs associated with new stores. Operating profit margins expanded to 6.8%, up 40 basis points from 6.4% in the prior year period. Average ticket size increased slightly. Year to date operating profit margin increased 70 basis points to 7.7% compared to the same period last year. However, looking ahead to the third quarter we are seeing early indications of a tough retail environment from a consumer slowdown in spending that could result in a more competitive and promotional environment for the back-to-school season.

Inventory per store was \$965 thousand as of the end of the second quarter of 2007, 3% lower than the same period last year. On an average basis, inventory per store was \$1,017 thousand for the second quarter of 2007, 4% higher than the same period last year.

During the second quarter, we opened 15 stores and closed 3 stores. At the end of the second quarter, Office Depot operated a total of 1,186 office products stores throughout the U.S. and Canada. Our current plans are to open approximately 125 stores this year, down from our previous estimate of 150. We also anticipate opening approximately 150 stores in 2008, down from our previous estimate

of 200. We believe that we continue to have significant opportunity to expand our store count, but have moderated our roll-out strategy to reflect current economic conditions. Most of these stores will be opened as fill-ins in markets in which we currently operate. The opening of such stores is likely to impact sales of existing stores in their respective markets. As an example, comp sales were negatively impacted by approximately 70 basis points in the quarter by the effect of these fill-ins. These additions, however, should allow us to leverage our advertising and supply chain costs. Further, we believe competitive intrusion had less than a 50 basis point impact on our sales.

In the second quarter, we remodeled 54 stores and have a goal of remodeling all remaining stores in the next few years. These remodeling activities affect the performance of the North American Retail Division from both acceleration of depreciation of store assets, as well as from the costs associated with the specific remodel efforts, some of which are not capitalizable. We exclude the brief remodel period from our comp store calculation.

North American Business Solutions Division

(Dollars in millions)	Second Quarter		First Half	
	2007	2006	2007	2006
Sales	\$1,123.2	\$1,128.7	\$2,285.6	\$2,258.7
% change	—%	6%	1%	7%
Division operating profit	\$ 79.7	\$ 104.9	\$ 152.9	\$ 198.6
% of sales	7.1%	9.3%	6.7%	8.8%

North American Business Solutions Division sales were essentially unchanged compared to the second quarter of last year, compared to 3% growth in the first quarter. Second quarter 2007 revenue reflects growth in the contract channel of 4%, which was offset by expected declines in our direct channel from the continued effects of our brand consolidation in the prior year. This consolidation was a deliberate action geared toward reducing unprofitable business from our portfolio. As with the North American Retail Division, sales in this Division are being impacted by a soft macroeconomic environment, especially in the small-sized businesses.

Offsetting softer sales in small-sized businesses is our strong momentum in our large-business and national accounts, especially in the government and education customer sectors. These are profitable customers for the Division and carry higher average total sales, although at lower margins.

The North American Business Solutions Division had an operating profit of \$80 million for the second quarter of 2007 compared to \$105 million for the same period of the prior year. On a sequential basis, operating margins improved 80 basis points from the first quarter of 2007, despite lower sales volume. Compared to the second quarter of 2006, however, operating margins declined as expected, reflecting a continuation of the temporarily higher expense levels associated with the investment in the expansion of both the contract sales force and the implementation costs associated with a new furniture delivery program, as well as the impact of changes in sales mix. We anticipate that our operating margins will continue to improve sequentially during the second half of the year.

During June 2007, we acquired Axidata Inc., a small Canada-based office products delivery company.

International Division

(Dollars in millions)	Second Quarter		First Half	
	2007	2006	2007	2006
Sales	\$ 983.0	\$ 858.6	\$2,065.7	\$1,753.6
% change	14%	1%	18%	(3%)
Division operating profit	\$ 42.1	\$ 48.5	\$ 124.2	\$ 117.2
% of sales	4.3%	5.6%	6.0%	6.7%

At almost \$1.0 billion, the International Division reported increased revenues of \$124 million, or an increase of 14% compared to the prior year. Sales in local currency increased 7% over the prior year. This marks the sixth consecutive quarter of sales growth in local currencies. In particular, our focus on expanding the contract sales force and new account acquisition continues to drive the top-line with sales in the contract channel growing by double digits in local currency versus the same period last year.

Division operating profit was \$42 million for the quarter, compared to \$48 million in the same period of 2006. Operating profit margin of 4.3% for the second quarter was 130 basis points lower than the second quarter of 2006. For the first half of 2007, operating profit margin was 70 basis points lower than the same period in 2006.

During the quarter, the International Division made a number of investments that resulted in short-term operating margin compression of approximately 100 basis points but positioned us to deliver longer term expansion. For example, we added almost 200 sales representatives in Europe and Asia, expanded our global sourcing office in China and expanded our regional offices in Asia and Latin America. We also re-branded our Korean business from Best Office to Office Depot, which introduces the benefits of a global brand to that market. We completed a similar re-branding in China last year. These investments during the quarter more than offset the benefits from our continued focus on reducing ongoing operating costs. Our efforts here are focused on investing in strategies that provide long term growth potential.

Acquisitions completed in the second half of 2006 also resulted in approximately 30 basis points of operating margin compression compared to the second quarter last year. However, collectively, the companies acquired in the prior year have grown their revenues by over 50% on an annualized basis. We see these smaller acquisitions as opportunities to seed emerging market growth.

It is expected that these investments will begin to expand operating margin beginning next year.

In Europe, we intend to migrate our Viking brand to our Office Depot brand over the next few years to expand our growing brand equity with our customers globally. We will migrate through a dual branding effort, transitioning our Viking name in a slow, thoughtful fashion.

Corporate and Other

General and Administrative Expenses: As noted above, the portion of G&A considered directly or closely related to unit activity is included in the measurement of Division operating profit. The remaining corporate G&A includes Charges of \$2 million in the second quarter of both 2007 and 2006 and \$5 million in the first half of 2007, as well as the first half of 2006. During 2006, we sold our current corporate campus and leased the facility back as construction of a new facility is being completed. Amortization of the deferred gain on the sale largely offsets the rent during the leaseback period. After considering the impact of Charges recognized in the period, corporate G&A expenses as a percentage of sales decreased approximately 40 basis points during the second quarter of 2007 compared to the same periods of 2006 reflecting the impact of leverage on higher sales, lower variable pay and current cost control efforts.

Other — Income Taxes: Our effective tax rate for the second quarter of 2007 was 26% and for the first half of the year 29%. The lower rate for the second quarter mainly reflects the impact from an adjustment to a valuation allowance based on current conditions. The effective tax rate may change due to shifts in domestic and international income and other factors. We anticipate our full year base operating rate to be approximately between 28.5% and 29%, though unforeseen events, including shifts in the relative percentage of domestic and international income, may impact the actual rate experienced.

Effective at the beginning of the first quarter of 2007, we adopted FASB Interpretation No. 48, *Accounting for Uncertainties in Income Taxes* ("FIN 48"). The impact upon adoption was to increase retained earnings by approximately \$17.7 million and to decrease our accruals for uncertain tax positions and related interest by a corresponding amount. Additionally, we increased goodwill and our accrual for uncertain tax positions by approximately \$3.8 million to reflect the measurement under the rules of FIN 48 of an uncertain tax position related to previous business combinations.

We regularly evaluate the legal organizational structure of our entities, tax regulatory developments and the progress of ongoing tax examinations and adjust tax attributes to enhance planning opportunities. While we are evaluating certain transactions that could reduce the need for certain accruals during the fiscal year 2007, those considerations are not yet sufficiently developed to allow further adjustment to existing balances. One such transaction is a corporate restructuring related to one of the projects covered by our Charges. Should that restructuring change our assessment of the need for an existing accrual for uncertain tax positions of approximately \$10 million, that reduction in our income tax provision would be presented as a benefit to the Charges when recognized.

Other income (expense) — Interest expense increased for both the quarter and first half of 2007 compared to the prior year, reflecting a higher level of short-term borrowings. Our average net debt, including short- and long-term borrowings, net of cash and investments, was \$591 million for the second quarter of 2007, compared to \$274 million for the same period in 2006 (see the Company's web site for reconciliation of Non-GAAP financial measures). The increase in interest expense was partially offset by higher earnings in our Office Depot joint venture operations in Mexico and Latin America.

LIQUIDITY AND CAPITAL RESOURCES

At June 30, 2007, we had approximately \$123 million of cash and cash equivalents, as well as \$844 million of available credit under our revolving credit facility. The credit availability reflects outstanding borrowings, as well as coverage of \$76 million of outstanding letters of credit. We had an additional \$51 million of letters of credit outstanding under separate agreements. We anticipate having sufficient liquidity to fund operations, planned store expansion, store remodels and other capital expenditures. We continue to evaluate and expect to execute further repurchases of our common stock based on cash flow and other considerations.

During the first half of 2007, cash provided by operating activities totaled \$293 million compared to \$484 million during the same period last year. Changes in net working capital and other components resulted in a \$159 million use of cash in 2007 compared to a source of \$56 million in 2006, primarily reflecting the timing of cash payments in both periods. Management of the timing of payments to vendors is subject to variability quarter to quarter depending on a variety of factors. These may include the flow of goods, credit terms, timing of promotions, vendor production planning, new product introduction and working capital management. For example, the timing of back-to-school activities is expected to be later this year than last year. This variability could result in an incremental use of about \$150 million in cash during the third quarter versus a year ago. The adoption of FIN 48 during the first quarter of 2007 resulted in the reclassification of certain tax-related working capital accounts from their appropriate presentation at the end of 2006, but this adoption had no cash impacts.

Cash used in investing activities was \$190 million in the first half of 2007, compared to \$276 million in the same period last year. The use of cash for the first half of 2007 reflects \$225 million of capital expenditures for our new store openings and remodels in North America, as well as distribution

network infrastructure costs and investments in information technology. During the first half of 2007, we received approximately \$95 million of proceeds from the disposition of assets, including proceeds from a second quarter sale-leaseback transaction related to a European warehouse facility. The gain realized on that transaction will be amortized over the lease term. We also acquired Axidata Inc., a small Canada-based office products delivery company. In addition to that acquisition, during the first six months of 2007 we have made previously accrued acquisition-related payments to former owners of entities acquired in 2006. Investing activities in 2006 included capital expenditures from our store expansion, as well as the net purchase of short-term investments. We anticipate capital spending for the full year 2007 to be under \$500 million, in part due to a decrease in planned new store openings from 150 to 125. For 2008, we expect capital expenditures of approximately \$500 million to \$550 million, down from the \$600 million estimated in the first quarter of 2007, which reflects a reduction in the number of planned new store openings from 200 to 150.

Cash used in financing activities was \$156 million in the first six months of 2007, compared to \$578 million during the same period in 2006. Under plans approved by our board of directors, we purchased 5.7 million shares of our common stock for approximately \$200 million in the first six months of 2007, compared to repurchases of 18.7 million shares for \$670 million in the same period of 2006. Additionally, net short-term borrowings in the first half of 2007 totaled approximately \$17 million, compared to net repayments of approximately \$23 million in the same period of 2006. Proceeds from the issuance of common stock under our employee related plans and tax benefits from employee exercises of share-based awards also had an impact on the first half of both years.

During May 2007, we amended and extended our Revolving Credit Facility (the "Agreement"). The Agreement provides for multi-currency borrowings of up to \$1 billion which, upon approval of the lenders, may be increased to \$1.25 billion. The Agreement has a sub-limit of up to \$350 million for standby and trade letters of credit issuances. Amounts may be borrowed, repaid and reborrowed through May 25, 2012. Borrowings under this Agreement will bear interest at either (a) the base rate, described in the Agreement as a fluctuating rate equal to the lead bank's base rate, (b) the Eurodollar rate, described in the Agreement as a periodic fixed rate equal to LIBOR plus a percentage spread based on the Company's credit rating and fixed charge coverage ratio, or (c) the rate set through a bid process. The Agreement contains pricing-related financial covenants, facility fees and default provisions that are customary for credit facilities of this type.

CRITICAL ACCOUNTING POLICIES

Our condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. Preparation of these statements requires management to make judgments and estimates. Some accounting policies have a significant impact on amounts reported in these financial statements. A summary of significant accounting policies and a description of accounting policies that are considered critical may be found in our 2006 Annual Report on Form 10-K, filed on February 14, 2007, in the Notes to the Consolidated Financial Statements, Note A, and the Critical Accounting Policies section.

New Accounting Pronouncements

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("FAS 157"). This Standard defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. FAS 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years. The adoption of FAS 157 is not expected to have a material impact on the Company's financial position, results of operations or cash flows.

The FASB also issued in September 2006 Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statement No. 87, 88, 106 and 132(R)* ("FAS 158"). This Standard includes two phases of implementation. In the first phase adopted in 2006, we reported approximately \$6 million of deferred pension losses in accumulated other comprehensive income. The second phase of FAS 158 requires that the valuation date of plan accounts be as of the end of the fiscal year, with that change required to be implemented by fiscal years ending after December 15, 2008. We will need to change the valuation date relating to one plan, but have not yet analyzed the impact this change will have on our financial condition, results of operations or cash flows.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* ("FAS 159"). This Standard allows companies to elect to follow fair value accounting for certain financial assets and liabilities in an effort to mitigate volatility in earnings without having to apply complex hedge accounting provisions. FAS 159 is applicable only to certain financial instruments and is effective for fiscal years beginning after November 15, 2007. We have not yet completed our assessment of what impact, if any, FAS 159 will have on our financial condition, results of operations or cash flows.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risks

At June 30, 2007, there had not been a material change in the interest rate risk information disclosed in the "Market Sensitive Risks and Positions" subsection of the Management's Discussion and Analysis of Financial Condition and Results of Operations set forth in Item 7 of our 2006 Annual Report on Form 10-K.

Foreign Exchange Rate Risks

At June 30, 2007, there had not been a material change in any of the foreign exchange risk information disclosed in the "Market Sensitive Risks and Positions" subsection of the Management's Discussion and Analysis of Financial Condition and Results of Operations set forth in Item 7 of our 2006 Annual Report on Form 10-K.

Item 4. Controls and Procedures

- (a) The Company's management, with the participation of the Company's Chief Financial Officer and the Company's Chief Executive Officer, has evaluated the effectiveness of the Company's disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this report. Based on that evaluation, these officers have concluded that the corporation's disclosure controls and procedures are effective for the purpose of ensuring that information required to be in this report is made known to them by others on a timely basis and that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.
- (b) Changes in Internal Controls. The Company is continuously seeking to improve the efficiency and effectiveness of its operations and of its internal controls. This results in refinements to processes throughout the Company. However, there has been no change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are involved in litigation arising in the normal course of our business. While, from time to time, claims are asserted that make demands for large sums of money (including, from time to time, actions which are asserted to be maintainable as class action suits), we do not believe that any of these matters, either individually or in the aggregate, will materially affect our financial position or the results of our operations.

Office Depot has received a letter of informal inquiry from the United States Securities & Exchange Commission ("SEC"), looking into the Company's contacts and communications with financial analysts during 2007. The Company intends to cooperate fully with the SEC and does not anticipate commenting further on this matter while the inquiry is pending.

Item 1A. Risk Factors

There have been no material changes in our risk factors from those disclosed in Part 1, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 30, 2006.

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

The following table provides information with respect to Company purchases made of Office Depot, Inc. common stock during the second quarter of the 2007 fiscal year:

Period	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1,2)	(d) Maximum Number of Shares (or Approximate Dollar Value) that May Yet Be Purchased Under the Plans or Programs
April 1, 2007 — April 28, 2007	2,396,800	\$35.57	2,396,800	\$524,281,213
April 29, 2007 — May 26, 2007	691,300	\$34.73	691,300	\$500,000,000
May 27, 2007 — June 30, 2007	—	\$ —	—	\$500,000,000
Total	3,088,100	\$35.38	3,088,100	\$500,000,000

- (1) On May 12, 2006, the board of directors authorized a common stock repurchase program whereby we were authorized to repurchase up to \$500 million of our common stock. This program commenced on August 3, 2006 and concluded on May 4, 2007.
- (2) On April 25, 2007, the board of directors authorized a common stock repurchase program whereby we are authorized to repurchase an additional \$500 million of our common stock. As of June 30, 2007, there had been no common stock repurchases made under this authorization.

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

The Company's annual meeting of stockholders was held on April 25, 2007. Of the total number of common shares outstanding on March 20, 2007, a total of 216,052,974 were represented in person or by proxy. Results of votes with respect to proposals submitted at that meeting are as follows:

- a. To elect 12 nominees to serve as directors to hold office until the next annual meeting of our stockholders or until their successors have been elected and qualified. Our stockholders voted to elect all 12 nominees to serve as directors. Votes recorded, by nominee, were as follows:

Nominee	For	Against/ Withheld
Lee A. Ault, III	213,980,034	2,072,939
Neil R. Austrian	212,485,932	3,567,041
David W. Bernauer	214,268,169	1,784,803
Abelardo E. Bru	214,260,890	1,792,082
Marsha Evans	214,268,332	1,784,641
David I. Fuente	213,900,743	2,152,229
Brenda J. Gaines	214,261,133	1,791,839
Myra M. Hart	214,143,598	1,909,376
W. Scott Hedrick	210,052,847	6,000,126
Kathleen Mason	213,682,098	2,370,876
Michael J. Myers	210,293,829	5,759,143
Steve Odland	208,920,171	7,132,801

- b. To approve our 2007 Long-Term Incentive Plan. Our stockholders voted to approve this proposal with 172,149,886 votes for and 18,872,751 votes against. There were 1,622,330 abstentions and 83,391,054 broker non-votes.
- c. To ratify our Board's appointment of Deloitte & Touche LLP as our independent public accountants for the 2007 fiscal year. Our stockholders voted to approve this proposal with 209,830,347 votes for and 4,619,866 votes against. There were 1,602,760 abstentions and 59,983,048 broker non-votes.

Item 6. Exhibits

Exhibits

- 10.1 Credit Agreement, dated May 25, 2007, among Office Depot, Inc., the several lenders from time to time party thereto and Wachovia Bank, N.A., as agent
- 31.1 Rule 13a-14(a)/15d-14(a) Certification of CEO
- 31.2 Rule 13a-14(a)/15d-14(a) Certification of CFO
- 32 Section 1350 Certification

SIGNATURES

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

OFFICE DEPOT, INC.
(Registrant)

Date: July 26, 2007

By: /s/ Steve Odland
Steve Odland
Chief Executive Officer and
Chairman, Board of Directors
(Principal Executive Officer)

Date: July 26, 2007

By: /s/ Patricia McKay
Patricia McKay
Executive Vice President and
Chief Financial Officer
(Principal Financial Officer)

Date: July 26, 2007

By: /s/ Jennifer Moline
Jennifer Moline
Senior Vice President
and Controller
(Principal Accounting Officer)

U.S. \$1,000,000,000

FIVE YEAR CREDIT AGREEMENT

Dated as of May 25, 2007

Among

OFFICE DEPOT, INC.
as Borrower

THE INITIAL LENDERS NAMED HEREIN
as Initial Lenders

CITICORP USA, INC.
and
BNP PARIBAS
as Syndication Agents

BANK OF AMERICA, N.A.
and
JPMORGAN CHASE BANK, N.A.
as Documentation Agents

CITIGROUP GLOBAL MARKETS INC.
WACHOVIA CAPITAL MARKETS, LLC
and
BNP PARIBAS SECURITIES CORP.
as Joint Lead Arrangers

CITIGROUP GLOBAL MARKETS INC.
as Sole Bookrunner

and

WACHOVIA BANK, NATIONAL ASSOCIATION
as Administrative Agent

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Exhibit A-2 — Form of Competitive Bid Note

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Exhibit B-2 — Form of Notice of Competitive Bid Borrowing

Exhibit B-3 — Form of Notice of Swing Line Borrowing

Exhibit C — Form of Assignment and Acceptance

Exhibit D — Form of Guaranty

Exhibit E — Form of Opinion of Counsel for the Borrower

FIVE YEAR CREDIT AGREEMENT

Dated as of May 25, 2007

OFFICE DEPOT, INC., a Delaware corporation (the "Borrower"), the banks, financial institutions and other institutional lenders (the "Initial Lenders") listed on the signature pages hereof, CITICORP USA, INC. and BNP PARIBAS, as syndication agents, BANK OF AMERICA, N.A. and JPMORGAN CHASE BANK, N.A., as documentation agents, CITIGROUP GLOBAL MARKETS INC., WACHOVIA CAPITAL MARKETS, LLC and BNP PARIBAS SECURITIES CORP., as joint lead arrangers (the "Arrangers"), CITIGROUP GLOBAL MARKETS INC., as sole bookrunner, and WACHOVIA BANK, NATIONAL ASSOCIATION ("Wachovia"), as administrative agent (the "Agent") for the Lenders (as hereinafter defined), agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.01. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Advance" means a Revolving Credit Advance, a Competitive Bid Advance or a Swing Line Advance.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director or officer of such Person. For purposes of this definition, the term "control" (including the terms "controlling", "controlled by" and "under common control with") of a Person means the possession, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by contract or otherwise.

"Agent's Account" means (a) in the case of Advances denominated in Dollars, the account of the Agent maintained by the Agent at Wachovia at its office at 201 South College Street, Charlotte, North Carolina 28288, Account No. 01459670001944, Attention: Syndication Agency Services, (b) in the case of Advances denominated in any Foreign Currency, the account of the Sub-Agent designated in writing from time to time by the Agent to the Borrower and the Lenders for such purpose and (c) in any such case, such other account of the Agent as is designated in writing from time to time by the Agent to the Borrower and the Lenders for such purpose.

"Agent's Correspondent" means Wachovia Bank, National Association, London Branch, or any other financial institution designated by the Agent and notified to the Borrower and the Lenders to act as the Agent's correspondent hereunder with respect to the distribution and payment of Advances.

"Applicable Fixed Charge Ratio" means, at any time, the ratio of (a) Consolidated EBITR of the Borrower and its Subsidiaries for the period of four consecutive fiscal quarters most recently ended to (b) the sum of (i) net interest payable on, and amortization of debt discount in respect of, all Debt during such period plus (ii) rentals payable under leases of real or personal, or mixed, property during such period plus (iii) interest and other continuing program fees (excluding initial closing fees) related to an accounts receivable securitization program payable during such period, as most recently reported to the Agent in accordance with Section 5.01(i)(i) and (ii), as applicable.

"Applicable Lending Office" means, with respect to each Lender, such Lender's Domestic Lending Office in the case of a Base Rate Advance and such Lender's Eurocurrency Lending Office in the case of a Eurocurrency Rate Advance and, in the case of a Competitive Bid Advance, the office of such Lender notified by such Lender to the Agent as its Applicable Lending Office with respect to such Competitive Bid Advance.

“Applicable Margin” means (a) for Base Rate Advances, 0% per annum and (b) for Eurocurrency Rate Advances, as of any date, a percentage per annum determined by reference to the Borrower’s Performance Level in effect on such date as set forth below:

Performance Level	Applicable Margin for Eurocurrency Rate Advances
Level 1	0.270%
Level 2	0.350%
Level 3	0.400%
Level 4	0.500%
Level 5	0.675%

“Applicable Percentage” means, as of any date a percentage per annum determined by reference to the Borrower’s Performance Level in effect on such date as set forth below:

Performance Level	Applicable Percentage
Level 1	0.080%
Level 2	0.100%
Level 3	0.125%
Level 4	0.150%
Level 5	0.200%

“Applicable Utilization Fee” means, as of any date that the sum of the aggregate Advances plus the Available Amount of all Letters of Credit exceed 50% of the aggregate Revolving Credit Commitments, a percentage per annum determined by reference to the Borrower’s Performance Level in effect on such date as set forth below:

Performance Level	Applicable Utilization Fee
Level 1	0.050%
Level 2	0.050%
Level 3	0.100%
Level 4	0.100%
Level 5	0.125%

“Assignment and Acceptance” means an assignment and acceptance entered into by a Lender and an Eligible Assignee, and accepted by the Agent, in substantially the form of Exhibit C hereto.

“Assuming Lender” has the meaning specified in Section 2.19(d).

“Assumption Agreement” has the meaning specified in Section 2.19(d)(ii).

“Available Amount” of any Letter of Credit means, at any time, the maximum amount available to be drawn under such Letter of Credit (assuming compliance at such time with all conditions to drawing).

“Base Rate” means a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of:

- (a) the rate of interest announced publicly by Wachovia in New York, New York, from time to time, as Wachovia’s base rate; and
- (b) 1/2 of one percent per annum above the Federal Funds Rate.

“Base Rate Advance” means a Revolving Credit Advance denominated in Dollars that bears interest as provided in Section 2.08(a)(i).

“Borrowing” means a Revolving Credit Borrowing, a Competitive Bid Borrowing or a Swing Line Borrowing.

“Business Day” means a day of the year on which banks are not required or authorized by law to close in New York City and (a) if the applicable Business Day relates to any Eurocurrency Rate Advances, Swing Line Advances or LIBO Rate Advances, on which dealings are carried on in the London interbank market and banks are open for business in London and (b) if the applicable Business Day relates to any Eurocurrency Rate Advances or LIBO Rate Advances, in the country of issue of the currency of such Eurocurrency Rate Advance or LIBO Rate Advance (or, in the case of an Advance denominated in Euro, on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System is open).

“Commitment” means a Revolving Credit Commitment, a Letter of Credit Commitment or a Swing Line Commitment.

“Commitment Date” has the meaning specified in Section 2.19(b).

“Commitment Increase” has the meaning specified in Section 2.19(a).

“Committed Currencies” means lawful currency of the United Kingdom of Great Britain and Northern Ireland, lawful currency of Japan and Euros.

“Competitive Bid Advance” means an advance by a Lender to the Borrower in Dollars or any Foreign Currency as part of a Competitive Bid Borrowing resulting from the competitive bidding procedure described in Section 2.03 and refers to a Fixed Rate Advance or a LIBO Rate Advance.

“Competitive Bid Borrowing” means a borrowing consisting of simultaneous Competitive Bid Advances from each of the Lenders whose offer to make one or more Competitive Bid Advances as part of such borrowing has been accepted under the competitive bidding procedure described in Section 2.03.

“Competitive Bid Note” means a promissory note of the Borrower payable to the order of any Lender, in substantially the form of Exhibit A-2 hereto, evidencing the indebtedness of the Borrower to such Lender resulting from a Competitive Bid Advance made by such Lender.

“Confidential Information” means information that the Borrower furnishes to the Agent, the Sub-Agent, any Lender or any of their respective agents or representatives, but does not include any such information that is or becomes generally available to the public or that is or becomes available to the Agent, the Sub-Agent, such Lender or such agent or representative from a source other than the Borrower which source, to the knowledge of any of the foregoing, is not prohibited from disclosing such information by a contractual, legal or fiduciary obligation.

“Consenting Lender” has the meaning specified in Section 2.20(b).

“Consolidated” refers to the consolidation of accounts in accordance with GAAP.

“Convert”, “Conversion” and “Converted” each refers to a conversion of Revolving Credit Advances of one Type into Revolving Credit Advances of the other Type pursuant to Section 2.09 or 2.10.

“Covenant Debt” of any Person, means Debt of the types referred to in clauses (a) through (e) of the definition of “Debt” and all reimbursement obligations in respect of acceptances, stand-by letters of credit or similar extensions of credit.

“Debt” of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than trade payables not overdue by more than 90 days incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (f) all obligations, contingent or otherwise, of such Person in respect of acceptances, letters of credit or similar extensions of credit, (g) all net obligations of such Person in respect of Hedge Agreements, (h) all Debt of others referred to in clauses (a) through (g) above or clause (i) below and other payment obligations guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (1) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (2) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (3) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (4) otherwise to assure a creditor against loss, and (i) all Debt referred to in clauses (a) through (h) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Lien on property (including, without limitation, accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Debt (it being understood that the amount of such Debt described in this clause (i) shall be deemed to be the lesser of the principal amount of such Debt and the value of the property subject to such Lien).

“Default” means any Event of Default or any event that would constitute an Event of Default but for the requirement that notice be given or time elapse or both.

“Disclosed Litigation” has the meaning specified in Section 3.01(b).

“Dollars” and the “\$” sign each means lawful currency of the United States of America.

“Domestic Lending Office” means, with respect to any Lender, the office of such Lender specified as its “Domestic Lending Office” opposite its name on Schedule I hereto or in the Assumption Agreement or the Assignment and Acceptance pursuant to which it became a Lender, or such other office of such Lender as such Lender may from time to time specify to the Borrower and the Agent.

“EBITDA” means, for any period, net income (or net loss) plus the sum of (a) net interest expense, (b) income tax expense, (c) depreciation expense, (d) amortization expense, (e) any items of loss resulting from the sale of assets other than in the ordinary course of business and (f) any non-cash charges relating to goodwill impairments, tangible or intangible asset impairments or asset write downs, and minus any items of gain resulting from the sale of assets other than in the ordinary course of business, in each case with amounts determined in accordance with GAAP for such period.

“EBITR” means, for any period, net income (or net loss) plus the sum of (a) net interest expense, (b) income tax expense, (c) rentals payable under leases of real or personal, or mixed, property, (d) any items of loss resulting from the sale of assets other than in the ordinary course of business and (e) any non-cash charges relating to goodwill impairments, tangible or intangible asset impairments or asset write downs, and minus any items of gain resulting from the sale of assets other than in the ordinary course of business, in each case with amounts determined in accordance with GAAP for such period.

“Effective Date” has the meaning specified in Section 3.01.

“Eligible Assignee” means (i) a Lender; (ii) an Affiliate of a Lender and (iii) any other Person approved by the Agent and, unless an Event of Default has occurred and is continuing at the time any assignment is effected in accordance with Section 8.07, the Borrower, such approval not to be unreasonably withheld or delayed; provided, however, that none of the Borrower, an Affiliate of the Borrower or any direct competitor of the Borrower shall qualify as an Eligible Assignee.

“Environmental Action” means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including, without limitation, (a) by any governmental or regulatory authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any governmental or regulatory authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

“Environmental Law” means any federal, state, local or foreign statute, law, ordinance, rule, regulation, code, order, judgment, decree or judicial or agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including, without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“Equivalent” in Dollars of any Foreign Currency on any date means the equivalent in Dollars of such Foreign Currency determined by using the quoted spot rate at which the Sub-Agent’s principal office in London offers to exchange Dollars for such Foreign Currency in London prior to 4:00 P.M. (London time) (unless otherwise indicated by the terms of this Agreement) on such date as is required pursuant to the terms of this Agreement, and the “Equivalent” in any Foreign Currency of Dollars means the equivalent in such Foreign Currency of Dollars determined by using the quoted spot rate at which the Sub-Agent’s principal office in London offers to exchange such Foreign Currency for Dollars in London prior to 4:00 P.M. (London time) (unless otherwise indicated by the terms of this Agreement) on such date as is required pursuant to the terms of this Agreement.

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

“ERISA Affiliate” means any Person that for purposes of Title IV of ERISA is a member of the Borrower’s controlled group, or under common control with the Borrower, within the meaning of Section 414 of the Internal Revenue Code.

“ERISA Event” means (a) (i) the occurrence of a reportable event, within the meaning of Section 4043 of ERISA, with respect to any Plan unless the 30-day notice requirement with respect to such event has been waived by the PBGC, or (ii) the requirements of subsection (1) of Section 4043(b) of ERISA (without regard to subsection (2) of such Section) are met with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of a Plan, and an event described in paragraph (9), (10), (11), (12) or (13)

of Section 4043(c) of ERISA is reasonably expected to occur with respect to such Plan within the following 30 days; (b) the application for a minimum funding waiver with respect to a Plan; (c) the provision by the administrator of any Plan of a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a plan amendment referred to in Section 4041(e) of ERISA); (d) the cessation of operations at a facility of the Borrower or any ERISA Affiliate in the circumstances described in Section 4062(e) of ERISA; (e) the withdrawal by the Borrower or any ERISA Affiliate from a Multiple Employer Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (f) the conditions for the imposition of a lien under Section 302(f) of ERISA shall have been met with respect to any Plan; (g) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA; or (h) the institution by the PBGC of proceedings to terminate a Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of, or the appointment of a trustee to administer, a Plan.

“Euro” means the lawful currency of the European Union as constituted by the Treaty of Rome which established the European Community, as such treaty may be amended from time to time and as referred to in the EMU legislation.

“Eurocurrency Liabilities” has the meaning assigned to that term in Regulation D of the Board of Governors of the Federal Reserve System, as in effect from time to time.

“Eurocurrency Lending Office” means, with respect to any Lender, the office of such Lender specified as its “Eurocurrency Lending Office” opposite its name on Schedule I hereto or in the Assumption Agreement or the Assignment and Acceptance pursuant to which it became a Lender (or, if no such office is specified, its Domestic Lending Office), or such other office of such Lender as such Lender may from time to time specify to the Borrower and the Agent.

“Eurocurrency Rate” means, for any Interest Period for each Eurocurrency Rate Advance comprising part of the same Revolving Credit Borrowing, an interest rate per annum equal to the rate per annum obtained by dividing (a) the rate per annum (rounded upward to the nearest whole multiple of 1/16 of 1% per annum) appearing on Reuters Screen LIBOR01 Page (or any successor page) as the London interbank offered rate for deposits in Dollars or the applicable Committed Currency at approximately 11:00 A.M. (London time) two Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period or, if for any reason such rate is not available, the average (rounded upward to the nearest whole multiple of 1/16 of 1% per annum, if such average is not such a multiple) of the rate per annum at which deposits in Dollars or the applicable Committed Currency is offered by the principal office of each of the Reference Banks in London, England to prime banks in the London interbank market at 11:00 A.M. (London time) two Business Days before the first day of such Interest Period in an amount substantially equal to such Reference Bank’s Eurocurrency Rate Advance comprising part of such Revolving Credit Borrowing to be outstanding during such Interest Period and for a period equal to such Interest Period by (b) a percentage equal to 100% minus the Eurocurrency Rate Reserve Percentage for such Interest Period. If the Reuters Screen LIBOR01 Page (or any successor page) is unavailable, the Eurocurrency Rate for any Interest Period for each Eurocurrency Rate Advance comprising part of the same Revolving Credit Borrowing shall be determined by the Agent on the basis of applicable rates furnished to and received by the Agent from the Reference Banks two Business Days before the first day of such Interest Period, subject, however, to the provisions of Section 2.09.

“Eurocurrency Rate Advance” means a Revolving Credit Advance denominated in Dollars or a Committed Currency that bears interest as provided in Section 2.08(a)(ii).

“Eurocurrency Rate Reserve Percentage” for any Interest Period for all Eurocurrency Rate Advances or LIBO Rate Advances comprising part of the same Borrowing means the reserve percentage applicable two Business Days before the first day of such Interest Period under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) for determining

the maximum reserve requirement (including, without limitation, any emergency, supplemental or other marginal reserve requirement) for a member bank of the Federal Reserve System in New York City with respect to liabilities or assets consisting of or including Eurocurrency Liabilities (or with respect to any other category of liabilities that includes deposits by reference to which the interest rate on Eurocurrency Rate Advances or LIBO Rate Advances is determined) having a term equal to such Interest Period.

“Events of Default” has the meaning specified in Section 6.01.

“Executive Officer” means, with respect to any Person, the president, executive vice president, chief executive officer, chief financial officer, treasurer, controller, secretary or any person holding comparable offices.

“Extension Date” has the meaning specified in Section 2.20(b).

“Federal Funds Rate” means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for such day on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by it.

“Fixed Rate Advances” has the meaning specified in Section 2.03(a)(i), which Advances shall be denominated in Dollars or in any Foreign Currency.

“Foreign Currency” means any Committed Currency and any other lawful currency (other than Dollars) that is freely transferable or convertible into Dollars.

“GAAP” has the meaning specified in Section 1.03.

“Guarantor” means each of The Office Club, Inc. and each other Subsidiary of the Borrower that shall be required to execute and deliver a guaranty pursuant to Section 5.01(j).

“Guaranty” has the meaning specified in Section 3.01(h)(ii).

“Hazardous Materials” means (a) petroleum and petroleum products, byproducts or breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls and radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

“Hedge Agreements” means interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, currency future or option contracts and other similar agreements.

“Increase Date” has the meaning specified in Section 2.19(a).

“Increasing Lender” has the meaning specified in Section 2.19(b).

“Information Memorandum” means the information memorandum dated May 8, 2007 used by the Arrangers in connection with the syndication of the Commitments.

“Initial Issuing Banks” means Wachovia and SunTrust Bank.

“Interest Period” means, for each Eurocurrency Rate Advance comprising part of the same Revolving Credit Borrowing and each LIBO Rate Advance comprising part of the same Competitive Bid Borrowing, the period commencing on the date of such Eurocurrency Rate Advance or LIBO Rate Advance or the date of the Conversion of any Base Rate Advance into such Eurocurrency Rate Advance and ending on the last day of the period selected by the Borrower pursuant to the provisions below and, thereafter, with respect to Eurocurrency Rate Advances, each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by the Borrower pursuant to the provisions below. The duration of each such Interest Period shall be one, two, three or six months, and subject to clause (c) of this definition, nine or twelve months, as the Borrower may, upon notice received by the Agent not later than 11:00 A.M. (New York City time) on the third Business Day prior to the first day of such Interest Period, select; provided, however, that:

(a) the Borrower may not select any Interest Period that ends after the final Termination Date;

(b) Interest Periods commencing on the same date for Eurocurrency Rate Advances comprising part of the same Revolving Credit Borrowing or for LIBO Rate Advances comprising part of the same Competitive Bid Borrowing shall be of the same duration;

(c) in the case of any such Revolving Credit Borrowing, the Borrower shall not be entitled to select an Interest Period having duration of nine or twelve months unless, by 2:00 P.M. (New York City time) on the third Business Day prior to the first day of such Interest Period, each Lender notifies the Agent that such Lender will be providing funding for such Revolving Credit Borrowing with such Interest Period (the failure of any Lender to so respond by such time being deemed for all purposes of this Agreement as an objection by such Lender to the requested duration of such Interest Period); provided that, if any or all of the Lenders object to the requested duration of such Interest Period, the duration of the Interest Period for such Revolving Credit Borrowing shall be one, two, three or six months, as specified by the Borrower in the applicable Notice of Revolving Credit Borrowing as the desired alternative to an Interest Period of nine or twelve months;

(d) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, provided, however, that, if such extension would cause the last day of such Interest Period of one month or longer to occur in the next following calendar month, the last day of such Interest Period shall occur on the next preceding Business Day; and

(e) whenever the first day of any Interest Period of one month or longer occurs on a day of an initial calendar month for which there is no numerically corresponding day in the calendar month that succeeds such initial calendar month by the number of months equal to the number of months in such Interest Period, such Interest Period shall end on the last Business Day of such succeeding calendar month.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

“Issuing Bank” means any Initial Issuing Bank or any Eligible Assignee to which a portion of the Letter of Credit Commitment hereunder has been assigned pursuant to Section 8.07 so long as such Eligible Assignee expressly agrees to perform in accordance with their terms all of the obligations that by the terms of this Agreement are required to be performed by it as an Issuing Bank and notifies the Agent of its Applicable Lending Office (which information shall be recorded by the Agent in the Register), for so long as such Initial Issuing Bank or Eligible Assignee, as the case may be, shall have a Letter of Credit Commitment.

“L/C Cash Collateral Account” means an interest bearing cash collateral account to be established and maintained by the Agent, over which the Agent shall have sole dominion and control, upon terms as may be satisfactory to the Agent.

“L/C Related Documents” has the meaning specified in Section 2.07(b)(i).

“Lenders” means the Initial Lenders, each Issuing Bank, each Assuming Lender that shall become a party hereto pursuant to Section 2.19 or 2.20 and each Person that shall become a party hereto pursuant to Section 8.07.

“Letter of Credit Agreement” has the meaning specified in Section 2.04(a).

“Letter of Credit Commitment” means, with respect to each Initial Issuing Bank, the amount set forth opposite such Initial Issuing Bank’s name on the signature pages hereto under the caption “Letter of Credit Commitment” or, if such Initial Issuing Bank has entered into one or more Assignment and Acceptances, the amount set forth for such Issuing Bank in the Register maintained by the Agent pursuant to Section 8.07(d) as such Issuing Bank’s “Letter of Credit Commitment”, as such amount may be reduced at or prior to such time pursuant to Section 2.06.

“Letter of Credit Facility” means, at any time, an amount equal to the lesser of (a) the amount of the Issuing Banks’ Letter of Credit Commitments at such time and (b) \$350,000,000, as such amount may be reduced at or prior to such time pursuant to Section 2.06.

“Letters of Credit” has the meaning specified in Section 2.01(b).

“LIBO Rate” means, for any Interest Period for all LIBO Rate Advances comprising part of the same Competitive Bid Borrowing, an interest rate per annum equal to the rate per annum obtained by dividing (a) the rate per annum (rounded upward to the nearest whole multiple of 1/16 of 1% per annum) appearing on Reuters Screen LIBOR01 Page (or any successor page) as the London interbank offered rate for deposits in Dollars or the applicable Foreign Currency at approximately 11:00 A.M. (London time) two Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period or, if for any reason such rate is not available, the average (rounded upward to the nearest whole multiple of 1/16 of 1% per annum, if such average is not such a multiple) of the rate per annum at which deposits in Dollars or the applicable Foreign Currency is offered by the principal office of each of the Reference Banks in London, England to prime banks in the London interbank market at 11:00 A.M. (London time) two Business Days before the first day of such Interest Period in an amount substantially equal to the amount that would be the Reference Banks’ respective ratable shares of such Borrowing if such Borrowing were to be a Revolving Credit Borrowing to be outstanding during such Interest Period and for a period equal to such Interest Period by (b) a percentage equal to 100% minus the Eurocurrency Rate Reserve Percentage for such Interest Period. If the Reuters Screen LIBOR01 Page (or any successor page) is unavailable, the LIBO Rate for any Interest Period for each LIBO Rate Advance comprising part of the same Competitive Bid Borrowing shall be determined by the Agent on the basis of applicable rates furnished to and received by the Agent from the Reference Banks two Business Days before the first day of such Interest Period, subject, however, to the provisions of Section 2.09.

“LIBO Rate Advances” means a Competitive Bid Advance denominated in Dollars or in any Foreign Currency and bearing interest based on the LIBO Rate.

“Lien” means any lien, security interest or other charge or encumbrance of any kind in the nature of the foregoing, or any other type of preferential arrangement, including, without limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property.

“Loan Document” means this Agreement, the Notes, the Guaranties and each Letter of Credit Agreement.

“Loan Party” means the Borrower and each Guarantor.

“Material Adverse Change” means any material adverse change in the business, condition (financial or otherwise), operations or prospects of the Borrower or the Borrower and its Subsidiaries taken as a whole.

“Material Adverse Effect” means a material adverse effect on (a) the business, condition (financial or otherwise), operations or prospects of the Borrower or the Borrower and its Subsidiaries taken as a whole, (b) the rights and remedies of the Agent or any Lender under any Loan Document or (c) the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party.

“Material Subsidiary” means each Subsidiary of the Borrower having assets that accounted for or produced, or would on a pro forma basis would have produced, more than 10% of Consolidated EBITR of the Borrower during any of the three most recently completed fiscal years of the Borrower.

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

“Multiemployer Plan” means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

“Multiple Employer Plan” means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of the Borrower or any ERISA Affiliate and at least one Person other than the Borrower and the ERISA Affiliates or (b) was so maintained and in respect of which the Borrower or any ERISA Affiliate could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

“Non-Consenting Lender” has the meaning specified in Section 2.20(b).

“Note” means a Revolving Credit Note or a Competitive Bid Note.

“Notice of Competitive Bid Borrowing” has the meaning specified in Section 2.03(a).

“Notice of Revolving Credit Borrowing” has the meaning specified in Section 2.02(a).

“Notice of Swing Line Borrowing” has the meaning specified in Section 2.02(b).

“Payment Office” means, for any payments in Dollars, the office of the Agent in the United States that it shall designate from time to time to the Borrower and the Lenders and, for payments in any Foreign Currency, such office of the applicable Agent’s Correspondent.

“PBGC” means the Pension Benefit Guaranty Corporation (or any successor).

“Performance Level” means, as of any date of determination, the numerically lowest level set forth below as then in effect, as determined in accordance with the following provisions of this definition:

Level 1	The Public Debt Rating is BBB+ or Baa1 or better by S&P or Moody’s, respectively, <u>or</u> the Applicable Fixed Charge Ratio is 2.75:1.00 or greater;
Level 2	The Public Debt Rating is BBB or Baa2 by S&P or Moody’s, respectively, <u>or</u> the Applicable Fixed Charge Ratio is 2.25:1.00 or greater but less than 2.75:1.00;

- Level 3 The Public Debt Rating is BBB- or Baa3 by S&P or Moody's, respectively, or the Applicable Fixed Charge Ratio is 2.00:1.00 or greater but less than 2.25:1.00;
- Level 4 The Public Debt Rating is BB+ or Ba1 by S&P or Moody's, respectively, or the Applicable Fixed Charge Ratio is 1.75:1.00 or greater but less than 2.00:1.00;
- Level 5 The Public Debt Rating is lower than BB+ and Ba1 by S&P and Moody's, respectively, and the Applicable Fixed Charge Ratio is lower than 1.75:1.00;

provided (a) if any rating established or deemed to have been established by S&P or Moody's shall be changed (other than as a result of a change in the rating system of either of S&P or Moody's), such change shall be effective as of the date on which such change is first announced publicly by the rating agency making such change, (b) any change in the Performance Level based on a change in the Applicable Fixed Charge Ratio shall be effective for all purposes on and after the date of delivery to the Agent of a certificate of the Borrower with respect to the financial statements to be delivered, as applicable, pursuant to Section 5.01(i) for the most recently ended fiscal quarter of the Borrower, (c) if the Public Debt Ratings by S&P and Moody's and the Applicable Fixed Charge Ratio shall fall within different Levels the Applicable Margin, the Facility Fee Percentage and the Utilization Fee Percentage shall be determined based upon the numerically lower Level (e.g., as between Level 1 and Level 2, Level 1 is the numerically lower Level), unless the lower of such Public Debt Ratings and the Applicable Fixed Charge Ratio is more than one Level lower than the higher of such Levels, in which case the Applicable Margin, the Facility Fee Percentage and the Utilization Fee Percentage shall be determined based upon the Level that is one Level above the lower Level and (d) notwithstanding the foregoing provisions of clause (b), no increase in the Performance Level shall be effective if any Default shall have occurred and be continuing.

“Permitted Liens” means such of the following as to which no enforcement, collection, execution, levy or foreclosure proceeding shall have been commenced: (a) Liens for taxes, assessments and governmental charges or levies to the extent not required to be paid under Section 5.01(b) hereof; (b) Liens imposed by law, such as materialmen's, mechanics', carriers', workmen's and repairmen's Liens and other similar Liens arising in the ordinary course of business (other than those being contested in good faith by appropriate proceedings and properly reserved in accordance with generally accepted accounting principles); (c) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure public or statutory obligations; and (d) easements, rights of way and other encumbrances on title to real property that do not render title to the property encumbered thereby unmarketable or materially adversely affect the use of such property for its present purposes.

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

“Plan” means a Single Employer Plan or a Multiple Employer Plan.

“Pro Rata Share” of any amount means, with respect to any Lender at any time, the product of such amount times a fraction the numerator of which is the amount of such Lender's Tranche A Commitment at such time (or, if the Tranche A Commitments shall have been terminated pursuant to Section 2.06 or 6.01, such Lender's Tranche A Commitment as in effect immediately prior to such termination) and the denominator of which is the aggregate amount of all Tranche A Commitments at such time (or, if the Tranche A Commitments shall have been terminated pursuant to Section 2.06 or 6.01, the aggregate amount of all Tranche A Commitments as in effect immediately prior to such termination).

“Public Debt Rating” means, as of any date, the rating that has been most recently announced by either S&P or Moody's, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Borrower or, if either such rating agency shall have issued more than one such rating, the lowest such rating issued by such rating agency. For purposes of the foregoing, (a) if only one

of S&P and Moody's shall have in effect a Public Debt Rating, the Applicable Margin, the Applicable Percentage and the Applicable Utilization Fee shall be determined by reference to the available rating; (b) if neither S&P nor Moody's shall have in effect a Public Debt Rating, the Applicable Margin, the Applicable Percentage and the Applicable Utilization Fee will be set in accordance with Level 5 under the definition of "Applicable Margin", "Applicable Percentage" or "Applicable Utilization Fee", as the case may be; (c) if the ratings established by S&P and Moody's shall fall within different levels, the Applicable Margin, the Applicable Percentage and the Applicable Utilization Fee shall be based upon the higher rating unless the differential is two levels or more, in which case the Applicable Margin, the Applicable Percentage and the Applicable Utilization Fee shall be based upon the level that is one level lower than the higher rating; (d) if any rating established by S&P or Moody's shall be changed, such change shall be effective as of the date on which such change is first announced publicly by the rating agency making such change; and (e) if S&P or Moody's shall change the basis on which ratings are established, each reference to the Public Debt Rating announced by S&P or Moody's, as the case may be, shall refer to the then equivalent rating by S&P or Moody's, as the case may be.

"Reference Banks" means Wachovia and Citicorp USA, Inc.

"Register" has the meaning specified in Section 8.07(d).

"Required Lenders" means at any time Lenders (voting as one class, i.e., by combining the Tranche A Commitments and the Tranche B Commitments) having at least a majority in interest of the Revolving Credit Commitments at such time, provided that if any Lender shall have failed to make any Revolving Credit Advance to the Borrower pursuant to Section 2.01 or 2.02, which such Lender was obligated to make, at or prior to such time (and as to which the Agent shall not have made such Advance for the account of such Lender pursuant to Section 2.02(d) as of such time), there shall be excluded from the determination of Required Lenders at such time the Revolving Credit Commitments of such Lender at such time.

"Revolving Credit Advance" means a Tranche A Advance or a Tranche B Advance.

"Revolving Credit Borrowing" means a borrowing consisting of simultaneous Revolving Credit Advances of the same Type made by each of the Lenders pursuant to Section 2.01.

"Revolving Credit Borrowing Minimum" means, in respect of Revolving Credit Advances denominated in Dollars, \$3,000,000, in respect of Revolving Credit Advances denominated in Sterling, £3,000,000, in respect of Revolving Credit Advances denominated in Yen, ¥300,000,000 and, in respect of Revolving Credit Advances denominated in Euros, €3,000,000.

"Revolving Credit Borrowing Multiple" means, in respect of Revolving Credit Advances denominated in Dollars, \$500,000, in respect of Revolving Credit Advances denominated in Sterling, £500,000, in respect of Revolving Credit Advances denominated in Yen, ¥50,000,000 and, in respect of Revolving Credit Advances denominated in Euros, €500,000.

"Revolving Credit Commitment" means a Tranche A Commitment or a Tranche B Commitment.

"Revolving Credit Note" means a promissory note of the Borrower payable to the order of any Lender, delivered pursuant to a request made under Section 2.17 in substantially the form of Exhibit A-1 hereto, evidencing the aggregate indebtedness of the Borrower to such Lender resulting from the Revolving Credit Advances made by such Lender.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc.

"Single Employer Plan" means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of the Borrower or any ERISA Affiliate and no Person other

than the Borrower and the ERISA Affiliates or (b) was so maintained and in respect of which the Borrower or any ERISA Affiliate could have liability under Section 4069 of ERISA in the event such plan has been or were to be terminated.

“Solvent” and “Solvency” mean, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Sub-Agent” means Wachovia Bank, National Association, London Branch.

“Subordinated Debt” means Debt of the Borrower and/or its Subsidiaries subordinated to all obligations of the Borrower and/or its Subsidiaries arising under the Loan Documents on terms and conditions satisfactory in all respects to the Agent and the Required Lenders, including without limitation, with respect to interest rates, payment terms, maturities, amortization schedules, covenants, defaults, remedies, and subordination provisions, as evidenced by the written approval of the Agent and Required Lenders.

“Subsidiary” of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency), (b) the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person’s other Subsidiaries.

“Swing Line Advance” means an advance made by any Swing Line Bank pursuant to Section 2.01(d) or any Lender pursuant to Section 2.02(b).

“Swing Line Bank” means Citicorp USA, Inc., Wachovia and their respective successors and assigns.

“Swing Line Borrowing” means a borrowing consisting of a Swing Line Advance made by any Swing Line Bank.

“Swing Line Commitment” means with respect to any Swing Line Bank at any time the amount set forth opposite such Swing Line Bank’s name on Schedule I hereto, as such amount may be reduced pursuant to Section 2.06.

“Swing Line Facility” has the meaning specified in Section 2.01(d).

“Swing Line LIBO Rate” means, for any Swing Line Borrowing, an interest rate per annum equal to the rate per annum (rounded upward to the nearest whole multiple of 1/16 of 1% per annum) appearing on Reuters Screen LIBOR01 Page (or any successor page) as the London interbank offered rate for deposits in U.S. dollars at approximately 11:00 A.M. (London time) two Business Days prior to the date of such Swing Line Borrowing for a term of one week or, if for any reason such rate is not available, the average

(rounded upward to the nearest whole multiple of 1/16 of 1% per annum, if such average is not such a multiple) of the rate per annum at which deposits in U.S. dollars are offered by the principal office of each of the Swing Line Banks in London, England to prime banks in the London interbank market at 11:00 A.M. (London time) two Business Days before the date of such Swing Line Borrowing in an amount substantially equal to such Swing Line Bank's Swing Line Advance comprising part of the applicable Swing Line Borrowing and for a period equal to one week.

“Swing Line Rate” with respect to any Swing Line Borrowing, means the lower of (a) the Base Rate and (b) a rate per annum equal at all times to the sum of (x) the Swing Line LIBO Rate for such Swing Line Advance plus (y) the Applicable Margin for Eurodollar Rate Advances in effect from time to time plus (z) the Applicable Utilization Fee, if any, in effect from time to time.

“Termination Date” means the earlier of (a) May 25, 2012, subject to the extension thereof pursuant to Section 2.20 and (b) the date of termination in whole of the Commitments pursuant to Section 2.06 or 6.01; provided, however, that the Termination Date of any Lender that is a Non-Consenting Lender to any requested extension pursuant to Section 2.20 shall be the Termination Date in effect immediately prior to the applicable Extension Date for all purposes of this Agreement.

“Tranche A Advance” means an advance by a Tranche A Lender to the Borrower as part of a Tranche A Borrowing and refers to a Base Rate Advance or a Eurocurrency Rate Advance (each of which shall be a “Type” of Revolving Credit Advance).

“Tranche A Commitment” means, with respect to any Lender at any time (a) the amount set forth opposite such Lender's name on the signature pages hereto under the caption “Tranche A Commitment”, (b) if such Lender has become a Lender hereunder pursuant to an Assumption Agreement, the amount set forth in such Assumption Agreement or (c) if such Lender has entered into one or more Assignment and Acceptances, set forth for such Lender in the Register maintained by the Agent pursuant to Section 8.07(d) as such Lender's “Tranche A Commitment”, as such amount may be reduced at or prior to such time pursuant to Section 2.06 or increased pursuant to Section 2.19.

“Tranche A Lender” means each Lender that has a Tranche A Commitment on the signature pages hereof or any Eligible Assignee to which a portion of the Tranche A Commitment hereunder has been assigned pursuant to Section 8.07.

“Tranche B Advance” means an advance by a Tranche B Lender to the Borrower as part of a Tranche B Borrowing and refers to a Base Rate Advance or a Eurocurrency Rate Advance (each of which shall be a “Type” of Revolving Credit Advance).

“Tranche B Commitment” means, with respect to any Lender at any time, the amount set forth opposite such Lender's name on the signature pages hereto under the caption “Tranche B Commitment” or, if such Lender has entered into one or more Assignment and Acceptances, set forth for such Lender in the Register maintained by the Agent pursuant to Section 8.07(d) as such Lender's “Tranche B Commitment”, as such amount may be reduced at or prior to such time pursuant to Section 2.06.

“Tranche B Lender” means each Lender that has a Tranche B Commitment on the signature pages hereof or any Eligible Assignee to which a portion of the Tranche B Commitment hereunder has been assigned pursuant to Section 8.07.

“Unused Commitment” means, with respect to each Tranche A Lender at any time, (a) such Lender's Tranche A Commitment at such time minus (b) the sum of (i) the aggregate principal amount (based in respect of any Tranche A Advance denominated in a Committed Currency by reference to the Equivalent thereof in Dollars at such time) of all Tranche A Advances made by such Lender (in its capacity as a Lender) and outstanding at such time, plus (ii) such Lender's Pro Rata Share of (A) the aggregate Available Amount of all the Letters of Credit outstanding at such time, (B) the aggregate principal amount

of all Tranche A Advances made by each Issuing Bank pursuant to Section 2.04(c) that have not been ratably funded by the Lenders and outstanding at such time, (C) the aggregate principal amount (based in respect of any Competitive Bid Advance denominated in a Foreign Currency by reference to the Equivalent thereof in Dollars at such time) of Competitive Bid Advances then outstanding and (D) the aggregate principal amount of all Swing Line Advances then outstanding.

“Voting Stock” means capital stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right to vote has been suspended by the happening of such a contingency.

SECTION 1.02. Computation of Time Periods. In this Agreement in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

SECTION 1.03. Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with accounting principles generally accepted in the United States of America consistent with those applied in the preparation of the financial statements referred to in Section 4.01(e) (“GAAP”).

ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES AND LETTERS OF CREDIT

SECTION 2.01. The Revolving Credit Advances, Swing Line Advances and Letters of Credit. (a) Tranche A Advances. Each Tranche A Lender severally agrees, on the terms and conditions hereinafter set forth, to make Tranche A Advances denominated in Dollars or any Committed Currency to the Borrower from time to time on any Business Day during the period from the Effective Date until the Termination Date applicable to such Lender in an aggregate amount (based on the Equivalent thereof in Dollars determined on the date of delivery of the applicable Notice of Revolving Credit Borrowing) not to exceed at any time such Lender’s Unused Commitment. Each Tranche A Borrowing shall be in an amount not less than the Revolving Credit Borrowing Minimum or the Revolving Credit Borrowing Multiple in excess thereof and shall consist of Tranche A Advances of the same Type and in the same currency made on the same day by the Tranche A Lenders ratably according to their respective Tranche A Commitments. Within the limits of each Lender’s Tranche A Commitment, the Borrower may borrow under this Section 2.01, prepay pursuant to Section 2.11 and reborrow under this Section 2.01(a).

(b) Letters of Credit. Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, to issue standby, commercial and documentary letters of credit (each, a “Letter of Credit”) for the account of the Borrower from time to time on any Business Day during the period from the Effective Date until 30 days before the final Termination Date in an aggregate Available Amount (converting all non-Dollar amount into the Equivalent amount in Dollars at such time) (i) for all Letters of Credit issued by the Issuing Banks not to exceed at any time the lesser of (x) the Letter of Credit Facility at such time and (y) such Issuing Bank’s Letter of Credit Commitment at such time and (ii) for each such Letter of Credit not to exceed an amount equal to the Unused Commitments of the Tranche A Lenders at such time. No Letter of Credit shall have an expiration date (including all rights of the Borrower or the beneficiary to require renewal) later than 10 Business Days before the Termination Date, provided that no Letter of Credit may expire after the Termination Date of any Non-Consenting Lender if, after giving effect to such issuance, the aggregate Revolving Credit Commitments of the Consenting Lenders (including any replacement Lenders) for the period following such Termination Date would be less than the Available Amount of the Letters of Credit expiring after such Termination Date. Within the limits referred to above, the Borrower may request the issuance of Letters of Credit under this Section 2.01(b), repay any Tranche A Advances resulting from drawings thereunder pursuant to Section 2.04(c) and request the issuance of additional Letters of Credit under this Section 2.01(b).

(c) Tranche B Advances. Each Tranche B Lender severally agrees, on the terms and conditions hereinafter set forth, to make Tranche B Advances denominated in Dollars or a Committed Currency to the Borrower from time to time on any Business Day during the period from the Effective Date until the

Termination Date applicable to such Lender in an aggregate amount (based on the Equivalent thereof in Dollars determined on the date of delivery of the applicable Notice of Revolving Credit Borrowing) not to exceed at any time such Lender's unused Tranche B Commitment. Each Tranche B Borrowing shall be in an amount not less than the Revolving Credit Borrowing Minimum or the Revolving Credit Borrowing Multiple in excess thereof and shall consist of Tranche B Advances of the same Type and in the same currency made on the same day by the Tranche B Lenders ratably according to their respective Tranche B Commitments. Within the limits of each Lender's Tranche B Commitment, the Borrower may borrow under this Section 2.01(c), prepay pursuant to Section 2.11 and reborrow under this Section 2.01(c).

(d) The Swing Line Advances. Each Swing Line Bank severally agrees, on the terms and conditions hereinafter set forth, to make Swing Line Advances denominated in Dollars to the Borrower from time to time on any Business Day during the period from the Effective Date until the Termination Date applicable to such Swing Line Bank (i) in an aggregate amount for all Swing Line Advances not to exceed at any time outstanding \$150,000,000 (the "Swing Line Facility"), (ii) in an aggregate amount for Swing Line Advances made by such Swing Line Bank not to exceed such Swing Line Bank's Swing Line Commitment and (iii) in an amount for each such Advance not to exceed the aggregate Unused Commitments of the Tranche A Lenders at such time. No Swing Line Advance shall be used for the purpose of funding the payment of principal of any other Swing Line Advance. Each Swing Line Borrowing shall be in an amount of \$1,000,000 or an integral multiple of \$1,000,000 in excess thereof. Within the limits referred to above, the Borrower may borrow under this Section 2.01(d), re pay or prepay pursuant to Section 2.02(a) or 2.11 and reborrow under this Section 2.01(d).

SECTION 2.02. Making the Revolving Credit Advances and Swing Line Advances. (a) Except as otherwise provided in Section 2.02(b) or Section 2.04(c), each Revolving Credit Borrowing shall be made on notice, given not later than (x) 12:00 noon (New York City time) on the third Business Day prior to the date of the proposed Revolving Credit Borrowing in the case of a Revolving Credit Borrowing consisting of Eurocurrency Rate Advances denominated in Dollars, (y) 4:00 P.M. (London time) on the fourth Business Day prior to the date of the proposed Revolving Credit Borrowing in the case of a Revolving Credit Borrowing consisting of Eurocurrency Rate Advances denominated in any Committed Currency, or (z) 12:00 noon (New York City time) on the date of the proposed Revolving Credit Borrowing in the case of a Revolving Credit Borrowing consisting of Base Rate Advances, by the Borrower to the Agent (and, in the case of a Revolving Credit Borrowing consisting of Eurocurrency Rate Advances, simultaneously to the Sub-Agent), which shall give to each Lender prompt notice thereof by telecopier. Each such notice of a Revolving Credit Borrowing (a "Notice of Revolving Credit Borrowing") shall be by telephone, confirmed promptly in writing, or telecopier in substantially the form of Exhibit B-1 hereto, specifying therein the requested (i) date of such Revolving Credit Borrowing, (ii) whether such Revolving Credit Borrowing consists of Tranche A Advances or Tranche B Advances, (iii) Type of Advances comprising such Revolving Credit Borrowing, (iv) aggregate amount of such Revolving Credit Borrowing and (v) in the case of a Revolving Credit Borrowing consisting of Eurocurrency Rate Advances, initial Interest Period and currency for each such Advance. Each Lender shall, before 1:00 P.M. (New York City time) on the date of such Revolving Credit Borrowing, in the case of a Revolving Credit Borrowing consisting of Advances denominated in Dollars, and before 11:00 A.M. (London time) on the date of such Revolving Credit Borrowing, in the case of a Revolving Credit Borrowing consisting of Eurocurrency Rate Advances denominated in any Committed Currency, make available for the account of its Applicable Lending Office to the Agent at the applicable Agent's Account, in same day funds, such Lender's ratable portion of such Revolving Credit Borrowing. After the Agent's receipt of such funds and upon fulfillment of the applicable conditions set forth in Article III, the Agent will make such funds available to the Borrower at the Agent's address referred to in Section 8.02 or at the applicable Payment Office, as the case may be; provided, however, that the Agent shall first make a portion of such funds in respect of any Tranche A Advances equal to the aggregate principal amount of any Swing Line Advances made by the Swing Line Banks and by any other Lender and outstanding on the date of such Revolving Credit Borrowing, plus interest accrued and unpaid thereon to and as of such date, available to the Swing Line Banks and such other Lenders for repayment of such Swing Line Advances.

(b) Each Swing Line Borrowing shall be made on notice, given not later than 2:00 P.M. (New York City time) on the date of the proposed Swing Line Borrowing by the Borrower to any Swing Line Bank and the Agent, of which the Agent shall give prompt notice to the Tranche A Lenders. Each such notice of a Swing Line Borrowing (a "Notice of Swing Line Borrowing") shall be by telephone, confirmed at once in writing, or telecopier in substantially the form of Exhibit B-3 hereto, specifying therein the requested (i) date of such

Borrowing, (ii) amount of such Borrowing and (iii) maturity of such Borrowing (which maturity shall be no later than the tenth day after the requested date of such Borrowing). The requested Swing Line Bank shall, before 4:00 P.M. (New York City time) on the date of such Swing Line Borrowing, make such Swing Line Borrowing to the Agent at the Agent's Account, in same day funds. After the Agent's receipt of such funds and upon fulfillment of the applicable conditions set forth in Article III, the Agent will make such funds available to the Borrower at the Borrower's account as specified in writing by the Borrower. Upon written demand by any Swing Line Bank with a Swing Line Advance, with a copy of such demand to the Agent, each Tranche A Lender will purchase from such Swing Line Bank, and such Swing Line Bank shall sell and assign to each such Tranche A Lender, such Tranche A Lender's Pro Rata Share of such outstanding Swing Line Advance, by making available for the account of its Applicable Lending Office to the Agent for the account of such Swing Line Bank, by deposit to the Agent's Account, in same day funds, an amount equal to the portion of the outstanding principal amount of such Swing Line Advance to be purchased by such Tranche A Lender; provided that upon such sale and assignment the Swing Line Rate shall be determined by reference to clause (a) of the definition of "Swing Line Rate". The Borrower hereby agrees to each such sale and assignment. Each Tranche A Lender agrees to purchase its Pro Rata Share of an outstanding Swing Line Advance on (i) the Business Day on which demand therefor is made by the Swing Line Bank which made such Advance, provided that notice of such demand is given not later than 11:00 A.M. (New York City time) on such Business Day or (ii) the first Business Day next succeeding such demand if notice of such demand is given after such time. Upon any such assignment by Swing Line Bank to any other Tranche A Lender of a portion of a Swing Line Advance, such Swing Line Bank represents and warrants to such other Tranche A Lender that such Swing Line Bank is the legal and beneficial owner of such interest being assigned by it free and clear of liens, claims and encumbrances, but makes no other representation or warranty and assumes no responsibility with respect to such Swing Line Advance, this Agreement, the Notes or the Borrower. If and to the extent that any Tranche A Lender shall not have so made the amount of such Swing Line Advance available to the Agent, such Tranche A Lender agrees to pay to the Agent forthwith on demand such amount together with interest thereon, for each day from the date such Lender is required to have made such amount available to the Agent until the date such amount is paid to the Agent, at the Federal Funds Rate. If such Tranche A Lender shall pay to the Agent such amount for the account of such Swing Line Bank on any Business Day, such amount so paid in respect of principal shall constitute a Swing Line Advance made by such Lender on such Business Day for purposes of this Agreement, and the outstanding principal amount of the Swing Line Advance made by such Swing Line Bank shall be reduced by such amount on such Business Day.

(c) Anything in subsection (a) above to the contrary notwithstanding, (i) the Borrower may not select Eurocurrency Rate Advances for any Revolving Credit Borrowing if the aggregate amount of such Revolving Credit Borrowing is less than the Revolving Credit Borrowing Minimum or if the obligation of the Lenders to make Eurocurrency Rate Advances shall then be suspended pursuant to Section 2.09 or 2.13 and (ii) the Eurocurrency Rate Advances may not be outstanding as part of more than sixteen separate Revolving Credit Borrowings.

(d) Each Notice of Revolving Credit Borrowing shall be irrevocable and binding on the Borrower. In the case of any Revolving Credit Borrowing that the related Notice of Revolving Credit Borrowing specifies is to be comprised of Eurocurrency Rate Advances, the Borrower shall indemnify each Lender against any loss, cost or expense incurred by such Lender as a result of any failure to fulfill on or before the date specified in such Notice of Revolving Credit Borrowing for such Revolving Credit Borrowing the applicable conditions set forth in Article III, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund the Revolving Credit Advance to be made by such Lender as part of such Revolving Credit Borrowing when such Revolving Credit Advance, as a result of such failure, is not made on such date.

(e) Unless the Agent shall have received notice from a Lender or a Swing Line Bank prior to the time of any Revolving Credit Borrowing or Swing Line Borrowing, as the case may be, that such Lender or Swing Line Bank will not make available to the Agent such Lender's or Swing Line Bank's ratable portion of such Revolving Credit Borrowing or Swing Line Borrowing, as the case may be, the Agent may assume that such Lender or Swing Line Bank has made such portion available to the Agent on the date of such Borrowing in accordance with subsection (a) or (b) of this Section 2.02, as applicable, and the Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender or Swing Line Bank shall not have so made such ratable portion available to the Agent, such Lender and the Borrower severally

agree to repay to the Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to the Advances comprising such Borrowing and (ii) in the case of such Lender or Swing Line Bank, the Federal Funds Rate. If such Lender or Swing Line Bank shall repay to the Agent such corresponding amount, such amount so repaid shall constitute such Lender's or Swing Line Bank's Advance as part of such Borrowing for purposes of this Agreement.

(f) The failure of any Lender to make the Revolving Credit Advance to be made by it as part of any Revolving Credit Borrowing or to purchase its Pro Rata Share of any Swing Line Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Credit Advance on the date of such Revolving Credit Borrowing or to purchase its Pro Rata Share of any Swing Line Borrowing as provided in subsection (b) of this Section 2.02, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Credit Advance to be made by such other Lender on the date of any Revolving Credit Borrowing or to purchase its Pro Rata Share of any Swing Line Borrowing as provided in subsection (b) of this Section 2.02.

SECTION 2.03. The Competitive Bid Advances. (a) Each Tranche A Lender severally agrees that the Borrower may make Competitive Bid Borrowings under this Section 2.03 from time to time on any Business Day during the period from the date hereof until the date occurring 30 days prior to the final Termination Date in the manner set forth below; provided that the aggregate amount of the Competitive Bid Advances made at any time shall not exceed the Unused Commitments.

(i) The Borrower may request a Competitive Bid Borrowing under this Section 2.03 by delivering to the Agent (and, in the case of a Competitive Bid Borrowing not consisting of Fixed Rate Advances or LIBO Rate Advances to be denominated in Dollars, simultaneously to the Sub-Agent), by telecopier, a notice of a Competitive Bid Borrowing (a "Notice of Competitive Bid Borrowing"), in substantially the form of Exhibit B-2 hereto, specifying therein the requested (A) date of such proposed Competitive Bid Borrowing, (B) aggregate amount of such proposed Competitive Bid Borrowing, (C) interest rate basis and day count convention to be offered by the Tranche A Lenders, (D) currency of such proposed Competitive Bid Borrowing, (E) in the case of a Competitive Bid Borrowing consisting of LIBO Rate Advances, Interest Period, or in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances, maturity date for repayment of each Fixed Rate Advance to be made as part of such Competitive Bid Borrowing (which maturity date may not be earlier than the date occurring 7 days after the date of such Competitive Bid Borrowing or later than the earlier of (I) in the case of Fixed Rate Advances, 180 days and, in the case of LIBO Rate Advances, one, two three, six or nine months, after the date of such Competitive Bid Borrowing and (II) the final Termination Date), (F) interest payment date or dates relating thereto, (G) location of the Borrower's account to which funds are to be advanced and (H) other terms (if any) to be applicable to such Competitive Bid Borrowing, not later than (1) 12:00 noon (New York City time) at least one Business Day prior to the date of the proposed Competitive Bid Borrowing, if the Borrower shall specify in the Notice of Competitive Bid Borrowing that the rates of interest to be offered by the Tranche A Lenders shall be fixed rates per annum (the Advances comprising any such Competitive Bid Borrowing being referred to herein as "Fixed Rate Advances") and that the Advances comprising such proposed Competitive Bid Borrowing shall be denominated in Dollars, (2) 10:00 A.M. (New York City time) at least four Business Days prior to the date of the proposed Competitive Bid Borrowing, if the Borrower shall specify in the Notice of Competitive Bid Borrowing that the Advances comprising such Competitive Bid Borrowing shall be LIBO Rate Advances denominated in Dollars, (3) 10:00 A.M. (London time) at least two Business Days prior to the date of the proposed Competitive Bid Borrowing, if the Borrower shall specify in the Notice of Competitive Bid Borrowing that the Advances comprising such proposed Competitive Bid Borrowing shall be Fixed Rate Advances denominated in Sterling or Euro, (4) 10:00 A.M. (London time) at least three Business Days prior to the date of the proposed Competitive Bid Borrowing, if the Borrower shall specify in the Notice of Competitive Bid Borrowing that the Advances comprising such proposed Competitive Bid Borrowing shall be Fixed Rate Advances denominated in any Foreign Currency other than Sterling or Euro and (5) 10:00 A.M. (London time) at least four Business Days prior to the date of the proposed Competitive Bid Borrowing, if the Borrower shall instead specify in the Notice of Competitive Bid Borrowing that the Advances comprising such Competitive Bid Borrowing shall

be LIBO Rate Advances denominated in any Foreign Currency. Each Notice of Competitive Bid Borrowing shall be irrevocable and binding on the Borrower. The Agent or the Sub-Agent, as the case may be, shall in turn promptly notify each Tranche A Lender of each request for a Competitive Bid Borrowing received by it from the Borrower by sending such Lender a copy of the related Notice of Competitive Bid Borrowing.

(ii) Each Tranche A Lender may, if, in its sole discretion, it elects to do so, irrevocably offer to make one or more Competitive Bid Advances to the Borrower as part of such proposed Competitive Bid Borrowing at a rate or rates of interest specified by such Lender in its sole discretion, by notifying the Agent or the Sub-Agent, as the case may be (which shall give prompt notice thereof to the Borrower), (A) before 10:30 A.M. (New York City time) on the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in Dollars, (B) before 11:00 A.M. (New York City time) three Business Days before the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of LIBO Rate Advances, denominated in Dollars, (C) before 12:00 noon (London time) on the Business Day prior to the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in Sterling or Euros, (D) before 12:00 noon (London time) on the third Business Day prior to the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in any Foreign Currency other than Sterling or Euro and (E) before 12:00 noon (London time) on the third Business Day prior to the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of LIBO Rate Advances denominated in any Foreign Currency, of the minimum amount and maximum amount of each Competitive Bid Advance which such Lender would be willing to make as part of such proposed Competitive Bid Borrowing (which amounts or the Equivalent thereof in Dollars, as the case may be, of such proposed Competitive Bid Borrowing may, subject to the proviso to the first sentence of this Section 2.03(a), exceed such Lender's Tranche A Commitment), the rate or rates of interest therefor and such Lender's Applicable Lending Office with respect to such Competitive Bid Advance; provided that if the Agent in its capacity as a Tranche A Lender shall, in its sole discretion, elect to make any such offer, it shall notify the Borrower of such offer at least 30 minutes before the time and on the date on which notice of such election is to be given to the Agent or to the Sub-Agent, as the case may be, by the other Tranche A Lenders. If any Tranche A Lender shall elect not to make such an offer, such Lender shall so notify the Agent before 11:00 A.M. (New York City time) or the Sub-Agent before 12:00 noon (London time) on the date on which notice of such election is to be given to the Agent or to the Sub-Agent, as the case may be, by the other Tranche A Lenders, and such Tranche A Lender shall not be obligated to, and shall not, make any Competitive Bid Advance as part of such Competitive Bid Borrowing; provided that the failure by any Tranche A Lender to give such notice shall not cause such Lender to be obligated to make any Competitive Bid Advance as part of such proposed Competitive Bid Borrowing.

(iii) The Borrower shall, in turn, (A) before 11:30 A.M. (New York City time) on the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in Dollars, (B) before 12:00 noon (New York City time) three Business Days before the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of LIBO Rate Advances denominated in Dollars, (C) before 3:00 P.M. (London time) on the Business Day prior to the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in Sterling or Euro, (D) before 3:00 P.M. (London time) on the third Business Day prior to the date of such proposed Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of Fixed Rate Advances denominated in any Foreign Currency other than Sterling or Euro and (E) before 3:00 P.M. (London time) on the third Business Day prior to the date of such Competitive Bid Borrowing, in the case of a Competitive Bid Borrowing consisting of LIBO Rate Advances denominated in any Foreign Currency, either:

(x) cancel such Competitive Bid Borrowing by giving the Agent notice to that effect, or

(y) accept one or more of the offers made by any Tranche A Lender or Lenders pursuant to paragraph (ii) above, in its sole discretion, by giving notice to the Agent of the amount of each Competitive Bid Advance (which amount shall be equal to or greater than the minimum amount, and equal to or less than the maximum amount, notified to the Borrower by the Agent on behalf of such Lender for such Competitive Bid Advance pursuant to paragraph (ii) above) to be made by each Tranche A Lender as part of such Competitive Bid Borrowing, and reject any remaining offers made by Tranche A Lenders pursuant to paragraph (ii) above by giving the Agent notice to that effect. The Borrower shall accept the offers made by any Tranche A Lender or Lenders to make Competitive Bid Advances in order of the lowest to the highest rates of interest offered by such Lenders. If two or more Tranche A Lenders have offered the same interest rate, the amount to be borrowed at such interest rate will be allocated among such Lenders in proportion to the amount that each such Lender offered at such interest rate.

(iv) If the Borrower notifies the Agent that such Competitive Bid Borrowing is cancelled pursuant to paragraph (iii)(x) above, the Agent shall give prompt notice thereof to the Tranche A Lenders and such Competitive Bid Borrowing shall not be made.

(v) If the Borrower accepts one or more of the offers made by any Tranche A Lender or Lenders pursuant to paragraph (iii)(y) above, the Agent or the Sub-Agent, as the case may be, shall in turn promptly notify (A) each Tranche A Lender that has made an offer as described in paragraph (ii) above, of the date and aggregate amount of such Competitive Bid Borrowing and whether or not any offer or offers made by such Lender pursuant to paragraph (ii) above have been accepted by the Borrower, (B) each Tranche A Lender that is to make a Competitive Bid Advance as part of such Competitive Bid Borrowing, of the amount of each Competitive Bid Advance to be made by such Lender as part of such Competitive Bid Borrowing, and (C) each Tranche A Lender that is to make a Competitive Bid Advance as part of such Competitive Bid Borrowing, upon receipt, that the Agent or the Sub-Agent, as the case may be, has received forms of documents appearing to fulfill the applicable conditions set forth in Article III. Each Tranche A Lender that is to make a Competitive Bid Advance as part of such Competitive Bid Borrowing shall, before 1:00 P.M. (New York City time), in the case of Competitive Bid Advances to be denominated in Dollars or 11:00 A.M. (London time), in the case of Competitive Bid Advances to be denominated in any Foreign Currency, on the date of such Competitive Bid Borrowing specified in the notice received from the Agent or the Sub-Agent, as the case may be, pursuant to clause (A) of the preceding sentence or any later time when such Lender shall have received notice from the Agent or the Sub-Agent, as the case may be pursuant to clause (C) of the preceding sentence, make available for the account of its Applicable Lending Office to the Agent (x) in the case of a Competitive Bid Borrowing denominated in Dollars, at its address referred to in Section 8.02, in same day funds, such Lender's portion of such Competitive Bid Borrowing in Dollars and (y) in the case of a Competitive Bid Borrowing in a Foreign Currency, at the Payment Office for such Foreign Currency as shall have been notified by the Agent to the Tranche A Lenders prior thereto, in same day funds, such Lender's portion of such Competitive Bid Borrowing in such Foreign Currency. Upon fulfillment of the applicable conditions set forth in Article III and after receipt by the Agent of such funds, the Agent will make such funds available to the Borrower at the location specified by the Borrower in its Notice of Competitive Bid Borrowing. Promptly after each Competitive Bid Borrowing the Agent will notify each Tranche A Lender of the amount and tenor of the Competitive Bid Borrowing.

(vi) If the Borrower notifies the Agent that it accepts one or more of the offers made by any Tranche A Lender or Lenders pursuant to paragraph (iii)(y) above, such notice of acceptance shall be irrevocable and binding on the Borrower. The Borrower shall indemnify each Tranche A Lender against any loss, cost or expense incurred by such Lender as a result of any failure to fulfill on or before the date specified in the related Notice of Competitive Bid Borrowing for such Competitive Bid Borrowing the applicable conditions set forth in Article III, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund the Competitive Bid Advance to be made by such Lender as

part of such Competitive Bid Borrowing when such Competitive Bid Advance, as a result of such failure, is not made on such date.

(b) Each Competitive Bid Borrowing shall be in an aggregate amount of \$5,000,000 (or the Equivalent thereof in any Foreign Currency, determined as of the time of the applicable Notice of Competitive Bid Borrowing) or an integral multiple of \$1,000,000 (or the Equivalent thereof in any Foreign Currency, determined as of the time of the applicable Notice of Competitive Bid Borrowing) in excess thereof and, following the making of each Competitive Bid Borrowing, the Borrower shall be in compliance with the limitation set forth in the proviso to the first sentence of subsection (a) above.

(c) Within the limits and on the conditions set forth in this Section 2.03, the Borrower may from time to time borrow under this Section 2.03, repay or prepay pursuant to subsection (d) below, and reborrow under this Section 2.03, provided that a Competitive Bid Borrowing shall not be made within three Business Days of the date of any other Competitive Bid Borrowing.

(d) The Borrower shall repay to the Agent for the account of each Tranche A Lender that has made a Competitive Bid Advance, on the maturity date of each Competitive Bid Advance (such maturity date being that specified by the Borrower for repayment of such Competitive Bid Advance in the related Notice of Competitive Bid Borrowing delivered pursuant to subsection (a)(i) above and provided in the Competitive Bid Note evidencing such Competitive Bid Advance), the then unpaid principal amount of such Competitive Bid Advance. The Borrower shall have no right to prepay any principal amount of any Competitive Bid Advance unless, and then only on the terms, specified by the Borrower for such Competitive Bid Advance in the related Notice of Competitive Bid Borrowing delivered pursuant to subsection (a)(i) above and set forth in the Competitive Bid Note evidencing such Competitive Bid Advance.

(e) The Borrower shall pay interest on the unpaid principal amount of each Competitive Bid Advance from the date of such Competitive Bid Advance to the date the principal amount of such Competitive Bid Advance is repaid in full, at the rate of interest for such Competitive Bid Advance specified by the Tranche A Lender making such Competitive Bid Advance in its notice with respect thereto delivered pursuant to subsection (a)(ii) above, payable on the interest payment date or dates specified by the Borrower for such Competitive Bid Advance in the related Notice of Competitive Bid Borrowing delivered pursuant to subsection (a)(i) above, as provided in the Competitive Bid Note evidencing such Competitive Bid Advance. Upon the occurrence and during the continuance of an Event of Default under Section 6.01(a), the Borrower shall pay interest on the amount of unpaid principal of and interest on each Competitive Bid Advance owing to a Tranche A Lender, payable in arrears on the date or dates interest is payable thereon, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Competitive Bid Advance under the terms of the Competitive Bid Note evidencing such Competitive Bid Advance unless otherwise agreed in such Competitive Bid Note.

(f) The indebtedness of the Borrower resulting from each Competitive Bid Advance made to the Borrower as part of a Competitive Bid Borrowing shall be evidenced by a separate Competitive Bid Note of the Borrower payable to the order of the Tranche A Lender making such Competitive Bid Advance.

SECTION 2.04. Issuance of and Drawings and Reimbursement Under Letters of Credit. (a) Request for Issuance. (i) Each Letter of Credit shall be issued upon notice, given not later than 11:00 A.M. (New York City time) on the third Business Day prior to the date of the proposed issuance of such Letter of Credit, by the Borrower to any Issuing Bank, and such Issuing Bank shall give the Agent, prompt notice thereof by telecopier. Each such notice of issuance of a Letter of Credit (a "Notice of Issuance") shall be by telecopier, confirmed immediately in writing, specifying therein the requested (A) date of such issuance (which shall be a Business Day), (B) Available Amount and currency (which shall be a Committed Currency) of such Letter of Credit, (C) expiration date of such Letter of Credit, (D) name and address of the beneficiary of such Letter of Credit and (E) form of such Letter of Credit, and shall be accompanied by such application and agreement for letter of credit as such Issuing Bank may reasonably specify to the Borrower for use in connection with such requested Letter of Credit (a "Letter of Credit Agreement"). If the requested form (but not the terms) of such Letter of Credit is acceptable to such Issuing Bank in its sole discretion, such Issuing Bank will, unless such Issuing Bank has received written notice from any Lender, the Agent or the Borrower, at least one Business Day prior to the requested date of

issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article III shall not be satisfied, upon fulfillment of the applicable conditions set forth in Article III, make such Letter of Credit available to the Borrower at its office referred to in Section 8.02 or as otherwise agreed with the Borrower in connection with such issuance. In the event and to the extent that the provisions of any Letter of Credit Agreement shall conflict with this Agreement, the provisions of this Agreement shall govern.

(b) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Tranche A Lenders, such Issuing Bank hereby grants to each Tranche A Lender, and each Tranche A Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Pro Rata Share of the aggregate amount available to be drawn under such Letter of Credit. The Borrower hereby agrees to each such participation. In consideration and in furtherance of the foregoing, each Tranche A Lender hereby absolutely and unconditionally agrees to pay to the Agent, for the account of such Issuing Bank, such Lender's Pro Rata Share of each drawing made under a Letter of Credit funded by such Issuing Bank and not reimbursed by the Borrower on the date made, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Tranche A Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Tranche A Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Tranche A Lender further acknowledges and agrees that its participation in each Letter of Credit will be automatically adjusted to reflect such Lender's Pro Rata Share of the Available Amount of such Letter of Credit at each time such Lender's Tranche A Commitment is amended pursuant to Section 2.19, pursuant to an assignment in accordance with Section 8.07 or otherwise pursuant to this Agreement.

(c) Drawing and Reimbursement. The payment by an Issuing Bank of a draft drawn under any Letter of Credit shall constitute for all purposes of this Agreement the making by any such Issuing Bank of a Tranche A Advance, which, in the case of a Letter of Credit denominated in Dollars, shall be a Base Rate Advance, in the amount of such draft or, in the case of a Letter of Credit denominated in a Committed Currency, shall be a Base Rate Advance in the Equivalent in Dollars on the date such draft is paid. Upon written demand by such Issuing Bank, with a copy of such demand to the Agent, each Tranche A Lender shall pay to the Agent such Lender's Pro Rata Share of such outstanding Tranche A Advance, by making available for the account of its Applicable Lending Office to the Agent for the account of such Issuing Bank, by deposit to the Agent's Account, in same day funds, an amount equal to the portion of the outstanding principal amount of such Tranche A Advance to be funded by such Lender. Promptly after receipt thereof, the Agent shall transfer such funds to such Issuing Bank. Each Tranche A Lender agrees to fund its Pro Rata Share of an outstanding Tranche A Advance on (i) the Business Day on which demand therefor is made by such Issuing Bank, provided that notice of such demand is given not later than 11:00 A.M. (New York City time) on such Business Day, or (ii) the first Business Day next succeeding such demand if notice of such demand is given after such time. If and to the extent that any Tranche A Lender shall not have so made the amount of such Tranche A Advance available to the Agent, such Lender agrees to pay to the Agent forthwith on demand such amount together with interest thereon, for each day from the date of demand by any such Issuing Bank until the date such amount is paid to the Agent, at the Federal Funds Rate for its account or the account of such Issuing Bank, as applicable. If such Tranche A Lender shall pay to the Agent such amount for the account of any such Issuing Bank on any Business Day, such amount so paid in respect of principal shall constitute a Tranche A Advance made by such Lender on such Business Day for purposes of this Agreement, and the outstanding principal amount of the Tranche A Advance made by such Issuing Bank shall be reduced by such amount on such Business Day.

(d) Letter of Credit Reports. Each Issuing Bank shall furnish (A) to the Agent on the first Business Day of each week a written report summarizing issuance and expiration dates of Letters of Credit issued during the previous week and drawings during such week under all Letters of Credit, (B) to each Tranche A Lender on the date of each issuance of a Letter of Credit or a drawing thereunder, notice of such issuance or drawing, (C) to the Agent and each Tranche A Lender on the first Business Day of each calendar quarter a written report setting forth the average daily aggregate Available Amount during the preceding calendar quarter of all Letters of Credit and (D) to the Borrower on the first Business Day of each fiscal quarter a written report summarizing the issuance and expiration dates of Letters of Credit issued during the previous fiscal quarter, drawings during such fiscal quarter under all Letters of Credit.

(e) Failure to Make Revolving Credit Advances. The failure of any Tranche A Lender to make the Revolving Credit Advance to be made by it on the date specified in Section 2.04(c) shall not relieve any other Tranche A Lender of its obligation hereunder to make its Revolving Credit Advance on such date, but no Tranche A Lender shall be responsible for the failure of any other Tranche A Lender to make the Revolving Credit Advance to be made by such other Tranche A Lender on such date.

SECTION 2.05. Fees. (a) Facility Fee. The Borrower agrees to pay to the Agent for the account of each Lender a facility fee on the aggregate amount of such Lender's Revolving Credit Commitment(s) from the Effective Date in the case of each Initial Lender and from the effective date specified in the Assumption Agreement or the Assignment and Acceptance pursuant to which it became a Lender in the case of each other Lender until the Termination Date applicable to such Lender at a rate per annum equal to the Applicable Percentage in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December, commencing June 30, 2007, and on the final Termination Date.

(b) Letter of Credit Fees. The Borrower shall pay to the Agent for the account of each Tranche A Lender a commission on such Lender's Pro Rata Share of the average daily aggregate Available Amount of all Letters of Credit outstanding from time to time at a rate per annum equal to the Applicable Margin for Eurocurrency Rate Advances in effect from time to time plus the Applicable Utilization Fee, if any, payable in arrears quarterly on the fifth Business Day of January, April, July and October, commencing in July, 2007, and on the final Termination Date.

(c) Agent's Fees. The Borrower shall pay to the Agent for its own account such fees as may from time to time be agreed between the Borrower and the Agent.

SECTION 2.06. Optional Termination or Reduction of the Commitments. The Borrower shall have the right, upon at least three Business Days' notice to the Agent, to terminate in whole or permanently reduce ratably in part the respective Unused Commitments, unused Tranche B Commitments or Letter of Credit Commitments of the Lenders, provided that (x) each partial reduction shall be in the aggregate amount of \$1,000,000 or an integral multiple of \$100,000 in excess thereof and (y) each partial reduction of the Unused Commitments shall automatically reduce the Letter of Credit Commitment to the extent that, after giving effect to such reduction of the Unused Commitments, the Letter of Credit Commitment exceeds the Tranche A Commitments.

SECTION 2.07. Repayment of Revolving Credit Advances. (a) The Borrower shall repay to the Agent for the ratable account of each Lender on the Termination Date applicable to such Lender the aggregate principal amount of the Revolving Credit Advances made by such Lender and then outstanding.

(b) The obligations of the Borrower under this Agreement, any Letter of Credit Agreement and any other agreement or instrument relating to any Letter of Credit shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, such Letter of Credit Agreement and such other agreement or instrument under all circumstances, including, without limitation, the following circumstances (it being understood that any such payment by the Borrower is without prejudice to, and does not constitute a waiver of, any rights the Borrower might have or might acquire under Section 8.14 or otherwise as a result of the payment by any Lender of any draft or the reimbursement by the Borrower thereof):

(i) any lack of validity or enforceability of any Loan Document, any Letter of Credit Agreement, any Letter of Credit or any other agreement or instrument relating thereto (all of the foregoing being, collectively, the "L/C Related Documents");

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the obligations of the Borrower in respect of any L/C Related Document or any other amendment or waiver of or any consent to departure from all or any of the L/C Related Documents;

(iii) the existence of any claim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for which any such beneficiary or any such transferee may be acting), any Issuing Bank, any Agent, any Lender or any other Person, whether in connection with the transactions contemplated by the L/C Related Documents or any unrelated transaction;

(iv) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by any Issuing Bank under a Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit;

(vi) any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the obligations of the Borrower in respect of the L/C Related Documents; or

(vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including, without limitation, any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or a guarantor.

(c) Swing Line Advances. The Borrower shall repay to the Agent for the ratable account of the Swing Line Banks and each other Tranche A Lender which has made a Swing Line Advance the outstanding principal amount of each Swing Line Advance made by each of them on the earlier of the maturity date specified in the applicable Notice of Swing Line Borrowing (which maturity shall be no later than ten days after the requested date of such Borrowing) and the final Termination Date.

SECTION 2.08. Interest on Revolving Credit Advances and Swing Line Advances. (a) Scheduled Interest. The Borrower shall pay interest on the unpaid principal amount of each Revolving Credit Advance and each Swing Line Advance owing to each Lender from the date of such Advance until such principal amount shall be paid in full, at the following rates per annum:

(i) Base Rate Advances. During such periods as such Revolving Credit Advance is a Base Rate Advance, a rate per annum equal at all times to the sum of (x) the Base Rate in effect from time to time plus (y) the Applicable Margin in effect from time to time plus (z) the Applicable Utilization Fee, if any, in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December during such periods and on the date such Base Rate Advance shall be Converted or paid in full.

(ii) Eurocurrency Rate Advances. During such periods as such Revolving Credit Advance is a Eurocurrency Rate Advance, a rate per annum equal at all times during each Interest Period for such Revolving Credit Advance to the sum of (x) the Eurocurrency Rate for such Interest Period for such Revolving Credit Advance plus (y) the Applicable Margin in effect from time to time plus (z) the Applicable Utilization Fee, if any, in effect from time to time, payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period and on the date such Eurocurrency Rate Advance shall be Converted or paid in full.

(iii) Swing Line Advances. A rate per annum equal at all times to the Swing Line Rate in effect from time to time, in each case payable in arrears on the date such Swing Line Advance shall be paid in full.

(b) Default Interest. Upon the occurrence and during the continuance of an Event of Default under Section 6.01(a), the Agent may, and upon the request of the Required Lenders shall, require the Borrower to pay interest ("Default Interest") on (i) the unpaid principal amount of each Revolving Credit Advance and each Swing Line Advance owing to each Lender, payable in arrears on the dates referred to in clause (a) above, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Revolving

Credit Advance pursuant to clause (a) above and (ii) to the fullest extent permitted by law, the amount of any interest, fee or other amount payable hereunder that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on Base Rate Advances pursuant to clause (a)(i) above; provided, however, that following acceleration of the Advances pursuant to Section 6.01, Default Interest shall accrue and be payable hereunder whether or not previously required by the Agent.

SECTION 2.09. Interest Rate Determination. (a) Each Reference Bank agrees to furnish to the Agent timely information for the purpose of determining each Eurocurrency Rate and each LIBO Rate. If any one or more of the Reference Banks shall not furnish such timely information to the Agent for the purpose of determining any such interest rate, the Agent shall determine such interest rate on the basis of timely information furnished by the remaining Reference Banks. The Agent shall give prompt notice to the Borrower and the Lenders of the applicable interest rate determined by the Agent for purposes of Section 2.08(a)(i) or (ii), and the rate, if any, furnished by each Reference Bank for the purpose of determining the interest rate under Section 2.08(a)(ii).

(b) If, with respect to any Eurocurrency Rate Advances, the Required Lenders notify the Agent that (i) they are unable to obtain matching deposits in the London inter-bank market at or about 11:00 A.M. (London time) on the second Business Day before the making of a Borrowing in sufficient amounts to fund their respective Revolving Credit Advances as a part of such Borrowing during its Interest Period or (ii) the Eurocurrency Rate for any Interest Period for such Advances will not adequately reflect the cost to such Required Lenders of making, funding or maintaining their respective Eurocurrency Rate Advances for such Interest Period, the Agent shall forthwith so notify the Borrower and the Lenders, whereupon (A) the Borrower will, on the last day of the then existing Interest Period therefor, (1) if such Eurocurrency Rate Advances are denominated in Dollars, either (x) prepay such Advances or (y) Convert such Advances into Base Rate Advances and (2) if such Eurocurrency Rate Advances are denominated in any Committed Currency, either (x) prepay such Advances or (y) exchange such Advances into an Equivalent amount of Dollars and Convert such Advances into Base Rate Advances and (B) the obligation of the Lenders to make, or to Convert Revolving Credit Advances into, Eurocurrency Rate Advances shall be suspended until the Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist; provided that, if the circumstances set forth in clause (ii) above are applicable, the Borrower may elect, by notice to the Agent and the Lenders, to continue such Advances in such Committed Currency for Interest Periods of not longer than one month, which Advances shall thereafter bear interest at a rate per annum equal to the Applicable Margin plus, for each Lender, the cost to such Lender (expressed as a rate per annum) of funding its Eurocurrency Rate Advances by whatever means it reasonably determines to be appropriate. Each Lender shall certify its cost of funds for each Interest Period to the Agent and the Borrower as soon as practicable (but in any event not later than ten Business Days after the first day of such Interest Period).

(c) If the Borrower shall fail to select the duration of any Interest Period for any Eurocurrency Rate Advances in accordance with the provisions contained in the definition of "Interest Period" in Section 1.01, the Agent will forthwith so notify the Borrower and the Lenders and such Advances will automatically, on the last day of the then existing Interest Period therefor, (i) if such Eurocurrency Rate Advances are denominated in Dollars, Convert into Base Rate Advances and (ii) if such Eurocurrency Rate Advances are denominated in a Committed Currency, be exchanged for an Equivalent amount of Dollars and Convert into Base Rate Advances.

(d) On the date on which the aggregate unpaid principal amount of Eurocurrency Rate Advances comprising any Borrowing shall be reduced, by payment or prepayment or otherwise, to less than the Revolving Credit Borrowing Minimum, such Advances shall automatically (i) if such Eurocurrency Rate Advances are denominated in Dollars, Convert into Base Rate Advances and (ii) if such Eurocurrency Rate Advances are denominated in a Committed Currency, be exchanged for an Equivalent amount of Dollars and Convert into Base Rate Advances.

(e) Upon the occurrence and during the continuance of any Event of Default under Section 6.01(a), (i) each Eurocurrency Rate Advance will automatically, on the last day of the then existing Interest Period therefor, (A) if such Eurocurrency Rate Advances are denominated in Dollars, be Converted into Base Rate Advances and (B) if such Eurocurrency Rate Advances are denominated in any Committed Currency, be exchanged for an Equivalent amount of Dollars and be Converted into Base Rate Advances and (ii) the obligation of the Lenders to make, or to Convert Advances into, Eurocurrency Rate Advances shall be suspended; provided that Borrower may elect, by notice to the Agent and the Lenders within one Business Day of such Event of Default, to continue such Advances in such Committed Currency, whereupon the Agent may require that each Interest Period relating to such Eurocurrency Rate Advances shall bear interest at the Overnight Eurocurrency Rate for a period of three Business Days and thereafter, each such Interest Period shall have a duration of not longer than one month. "Overnight Eurocurrency Rate" means the rate per annum applicable to an overnight period beginning on one Business Day and ending on the next Business Day equal to the sum of 1%, the Applicable Interest Rate Margin and the average, rounded upward to the nearest whole multiple of 1/16 of 1%, if such average is not such a multiple, of the respective rates per annum quoted by each Reference Bank to the Agent on request as the rate at which it is offering overnight deposits in the relevant currency in amounts comparable to such Reference Bank's Eurocurrency Rate Advances.

(f) If Reuters Screen LIBOR01 Page is unavailable and fewer than two Reference Banks furnish timely information to the Agent for determining the Eurocurrency Rate or LIBO Rate for any Eurocurrency Rate Advances or LIBO Rate Advances, as the case may be,

(i) the Agent shall forthwith notify the Borrower and the Lenders that the interest rate cannot be determined for such Eurocurrency Rate Advances or LIBO Rate Advances, as the case may be,

(ii) with respect to Eurocurrency Rate Advances, each such Advance will automatically, on the last day of the then existing Interest Period therefor, (A) if such Eurocurrency Rate Advance is denominated in Dollars, Convert into a Base Rate Advance and (B) if such Eurocurrency Rate Advance is denominated in any Committed Currency, be prepaid by the Borrower or be automatically exchanged for an Equivalent amount of Dollars and be Converted into a Base Rate Advance (or if such Advance is then a Base Rate Advance, will continue as a Base Rate Advance), and

(iii) the obligation of the Lenders to make Eurocurrency Rate Advances or LIBO Rate Advances or to Convert Revolving Credit Advances into Eurocurrency Rate Advances shall be suspended until the Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

SECTION 2.10. Optional Conversion of Revolving Credit Advances. The Borrower may on any Business Day, upon notice given to the Agent not later than 12:00 noon (New York City time) on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections 2.09 and 2.13, Convert all Revolving Credit Advances denominated in Dollars of one Type comprising the same Borrowing into Revolving Credit Advances of the other Type; provided, however, that any Conversion of Eurocurrency Rate Advances into Base Rate Advances shall be made only on the last day of an Interest Period for such Eurocurrency Rate Advances, any Conversion of Base Rate Advances into Eurocurrency Rate Advances shall be in an amount not less than the minimum amount specified in Section 2.02(b) and no Conversion of any Revolving Credit Advances shall result in more separate Revolving Credit Borrowings than permitted under Section 2.02(b). Each such notice of a Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the Revolving Credit Advances to be Converted, and (iii) if such Conversion is into Eurocurrency Rate Advances, the duration of the initial Interest Period for each such Advance. Each notice of Conversion shall be irrevocable and binding on the Borrower.

SECTION 2.11. Prepayments of Revolving Credit Advances and Swing Line Advances. (a) Optional. The Borrower may, upon notice at least three Business Days' prior to the date of such prepayment, in the case of Eurocurrency Rate Advances, and not later than 12:00 noon (New York City time) on the date of such prepayment, in the case of Base Rate Advances, to the Agent stating the proposed date and aggregate principal amount of the prepayment, and if such notice is given the Borrower shall, prepay the outstanding principal amount of the Revolving Credit Advances comprising part of the same Revolving Credit Borrowing in whole or ratably in part, together with accrued interest to the date of such prepayment on the principal amount prepaid; provided,

however, that (x) each partial prepayment shall be in an aggregate principal amount of not less than the Revolving Credit Borrowing Minimum or a Revolving Credit Borrowing Multiple in excess thereof and (y) in the event of any such prepayment of a Eurocurrency Rate Advance, the Borrower shall be obligated to reimburse the Lenders in respect thereof pursuant to Section 8.04(c). The Borrower may, upon notice not later than 12:00 noon (New York City time) on the date of such prepayment, to the Agent stating the proposed date and aggregate principal amount of the prepayment, and if such notice is given the Borrower shall, prepay the outstanding principal amount of the Swing Line Advances comprising part of the same Swing Line Borrowing in whole or ratably in part, together with accrued interest to the date of such prepayment on the principal amount prepaid.

(b) Mandatory. (i) If, on any date, the Agent notifies the Borrower that, on any interest payment date, the Equivalent in Dollars (determined on the third Business Day prior to such interest payment date) of the aggregate principal amount of all Tranche A Advances or all Tranche B Advances then outstanding exceeds 105% of the aggregate Tranche A Commitments or the Tranche B Commitments, as the case may be, on such date, the Borrower shall, as soon as practicable and in any event within two Business Days after receipt of such notice, subject to the proviso to this sentence set forth below, prepay the outstanding principal amount of any Tranche A Advances or Tranche B Advances in an aggregate amount sufficient to reduce such amount to an amount not to exceed 100% of the aggregate Tranche A Commitments or the Tranche B Commitments, as the case may be, on such date together with any interest accrued to the date of such prepayment on the aggregate principal amount of the Tranche A Advances or Tranche B Advances prepaid; provided that if the date of such required prepayment is not the last day of an Interest Period for a Eurocurrency Rate Advance, such required prepayment shall be deferred until the last day of the Interest Period of the outstanding Eurocurrency Rate Advances. The Agent shall give prompt notice of any prepayment required under this Section 2.11(b) to the Borrower and the Lenders, and shall provide prompt notice to the Borrower of any such notice of required prepayment received by it from any Lender.

(ii) Each prepayment made pursuant to this Section 2.11(b) shall be made together with any interest accrued to the date of such prepayment on the principal amounts prepaid and, in the case of any prepayment of a Eurocurrency Rate Advance or a LIBO Rate Advance on a date other than the last day of an Interest Period or at its maturity, any additional amounts which the Borrower shall be obligated to reimburse to the Lenders in respect thereof pursuant to Section 8.04(c). The Agent shall give prompt notice of any prepayment required under this Section 2.11(b) to the Borrower and the Lenders.

SECTION 2.12. Increased Costs. (a) If, due to either (i) the introduction of or any change in or in the interpretation of any law or regulation after the date hereof or (ii) the compliance with any guideline or request from any central bank or other governmental authority made after the date hereof including, without limitation, any agency of the European Union or similar monetary or multinational authority (whether or not having the force of law), there shall be any increase in the cost to any Lender of agreeing to make or making, funding or maintaining Eurocurrency Rate Advances or LIBO Rate Advances or of agreeing to issue or of issuing or maintaining or participating in Letters of Credit (excluding for purposes of this Section 2.12 any such increased costs resulting from (i) Taxes or Other Taxes (as to which Section 2.15 shall govern) and (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or by the foreign jurisdiction or state under the laws of which such Lender is organized or has its Applicable Lending Office or any political subdivision thereof), then the Borrower shall from time to time, upon demand by such Lender (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender additional amounts sufficient to compensate such Lender for such increased cost. A certificate in reasonable detail as to the amount of such increased cost, submitted to the Borrower and the Agent by such Lender, shall be conclusive and binding for all purposes, absent manifest error.

(b) If any Lender determines that compliance with any law or regulation or any guideline or request from any central bank or other governmental authority (whether or not having the force of law) effected after the date hereof affects or would affect the amount of capital required or expected to be maintained by such Lender or any corporation controlling such Lender and that the amount of such capital is increased by or based upon the existence of such Lender's commitment to lend or to issue or participate in Letters of Credit hereunder and other commitments of this type, then, upon demand by such Lender (with a copy of such demand to the Agent), the Borrower shall pay to the Agent for the account of such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender or such corporation in the light of such circumstances, to the extent that such Lender reasonably determines such increase in capital to be allocable to the existence of such Lender's commitment to lend hereunder. A certificate in reasonable detail as to such amounts submitted to the Borrower and the Agent by such Lender shall be conclusive and binding for all purposes, absent manifest error.

(c) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than six months prior to the date that such Lender notifies the Borrower of the change giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the change giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.13. Illegality. Notwithstanding any other provision of this Agreement, if any Lender shall notify the Agent that the introduction of or any change in or in the interpretation of any law or regulation makes it unlawful, or any central bank or other governmental authority asserts that it is unlawful, for any Lender or its Eurocurrency Lending Office to perform its obligations hereunder to make Eurocurrency Rate Advances in Dollars or any Committed Currency or LIBO Rate Advances in Dollars or any Foreign Currency or to fund or maintain Eurocurrency Rate Advances in Dollars or any Committed Currency or LIBO Rate Advances in Dollars or any Foreign Currency hereunder, (a) each Eurocurrency Rate Advance or LIBO Rate Advance denominated in such currency, as the case may be, will automatically, upon such demand, (i) if such Eurocurrency Rate Advance or LIBO Rate Advance is denominated in Dollars, be Converted into a Base Rate Advance or an Advance that bears interest at the rate set forth in Section 2.08(a)(i), as the case may be, and (ii) if such Eurocurrency Rate Advance or LIBO Rate Advance is denominated in any Foreign Currency, be exchanged into an Equivalent amount of Dollars and be Converted into a Base Rate Advance and (b) the obligation of the Lenders to make Eurocurrency Rate Advances or LIBO Rate Advances in such currency or to Convert Revolving Credit Advances into Eurocurrency Rate Advances shall be suspended until the Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

SECTION 2.14. Payments and Computations. (a) The Borrower shall make each payment hereunder (except with respect to principal of, interest on, and other amounts relating to, Advances denominated in a Foreign Currency), irrespective of any right of counterclaim or set-off, not later than 12:00 noon (New York City time) on the day when due in Dollars to the Agent at the applicable Agent's Account in same day funds. The Borrower shall make each payment hereunder with respect to principal of, interest on, and other amounts relating to, Advances denominated in a Foreign Currency, irrespective of any right of counterclaim or set-off, not later than 12:00 noon (at the Payment Office for such Foreign Currency) on the day when due in such Foreign Currency to the Agent, by deposit of such funds to the applicable Agent's Account in same day funds. The Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest or fees of Letter of Credit commissions ratably (other than amounts payable pursuant to Section 2.03, 2.12, 2.15 or 8.04(c)) to the Lenders for the account of their respective Applicable Lending Offices, and like funds relating to the payment of any other amount payable to any Lender to such Lender for the account of its Applicable Lending Office, in each case to be applied in accordance with the terms of this Agreement. Upon any Assuming Lender becoming a Lender hereunder as a result of a Commitment Increase pursuant to Section 2.19 or an extension of the Termination Date pursuant to Section 2.20, and upon the Agent's receipt of such Lender's Assumption Agreement and recording of the information contained therein in the Register, from and after the applicable Increase Date or Extension Date, as the case may be, the Agent shall make all payments hereunder and under any Notes issued in connection therewith in respect of the interest assumed thereby to the Assuming Lender. Upon its acceptance of an Assignment and Acceptance and recording of the information contained therein in the Register pursuant to Section 8.07(c), from and after the effective date specified in such Assignment and Acceptance, the Agent shall make all payments hereunder and under the Notes in respect of the interest assigned thereby to the Lender assignee thereunder, and the parties to such Assignment and Acceptance shall make all appropriate adjustments in such payments for periods prior to such effective date directly between themselves.

(b) The Borrower hereby authorizes each Lender, if and to the extent payment owed to such Lender is not made when due hereunder or under the Note held by such Lender, to charge from time to time against any or all of the Borrower's accounts with such Lender any amount so due.

(c) All computations of interest based on the Base Rate shall be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, all computations of interest based on the Eurocurrency Rate or the Federal Funds Rate and of fees and Letter of Credit commissions shall be made by the Agent on the basis of a year of 360 days and computations in respect of Competitive Bid Advances shall be made by the Agent as specified in the applicable Notice of Competitive Bid Borrowing (or, in each case of Advances denominated in Foreign Currencies where market practice differs, in accordance with market practice), in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest, fees or commissions are payable. Each determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(d) Whenever any payment hereunder or under the Notes shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or facility fee, as the case may be; provided, however, that, if such extension would cause payment of interest on or principal of Eurocurrency Rate Advances or LIBO Rate Advances to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(e) Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Agent may assume that the Borrower has made such payment in full to the Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent the Borrower shall not have so made such payment in full to the Agent, each Lender shall repay to the Agent forthwith on demand such amount distributed to such Lender together with interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Agent, at (i) the Federal Funds Rate in the case of Advances denominated in Dollars or (ii) the cost of funds incurred by the Agent in respect of such amount in the case of Advances denominated in Foreign Currencies.

(f) To the extent that the Agent receives funds for application to the amounts owing by any Loan Party under or in respect of this Agreement or any other Loan Document in currencies other than the currency or currencies required to enable the Agent to distribute funds to the Lenders in accordance with the terms of this Section 2.14, the Agent shall be entitled to convert or exchange such funds into Dollars or into a Foreign Currency or from Dollars to a Foreign Currency or from a Foreign Currency to Dollars, as the case may be, to the extent necessary to enable the Agent to distribute such funds in accordance with the terms of this Section 2.14; provided that the Borrower and each of the Lenders hereby agree that the Agent shall not be liable or responsible for any loss, cost or expense suffered by the Borrower or such Lender as a result of any conversion or exchange of currencies affected pursuant to this Section 2.14(f) or as a result of the failure of the Agent to effect any such conversion or exchange; and provided further that the Borrower agrees to indemnify the Agent and each Lender, and hold the Agent and each Lender harmless, for any and all losses, costs and expenses incurred by the Agent or any Lender for any conversion or exchange of currencies (or the failure to convert or exchange any currencies) in accordance with this Section 2.14(f).

(g) If, as a result of any restatement of or other adjustment to the financial statements of the Borrower or for any other reason, the Borrower or the Lenders determine that (i) the Applicable Fixed Charge Ratio as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Applicable Fixed Charge Ratio would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Agent for the account of the applicable Lenders, promptly on demand by the Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Agent or any Lender), an amount equal to the excess of the amount of interest, fees and commissions that should have been paid for such period over the amount of interest, fees and commissions actually paid for such period, provided that if the proper calculation of the Applicable Fixed Charge Ratio would have resulted in lower pricing for such period in respect of interest, fees and commissions that have accrued but are not yet payable, such adjustment shall be made for such interest, fees and commissions for the benefit of the Borrower. This paragraph shall not limit the rights of the Agent or any Lender, as the case may be, under Section 2.08(b) or under Article VI. The Borrower's obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other obligations hereunder.

SECTION 2.15. Taxes. (a) Any and all payments by the Borrower to or for the account of any Lender or the Agent hereunder or under the Notes or any other documents to be delivered hereunder shall be made, in accordance with Section 2.14 or the applicable provisions of such other documents, free and clear of and without deduction for any and all present or future taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding, in the case of each Lender, the Sub-Agent and the Agent, taxes imposed on its overall net income, and franchise taxes imposed on it in lieu of net income taxes, by the jurisdiction under the laws of which such Lender, the Sub-Agent or the Agent (as the case may be) is organized or any political subdivision thereof and, in the case of each Lender, taxes imposed on its overall net income, and franchise taxes imposed on it in lieu of net income taxes, by the jurisdiction of such Lender's Applicable Lending Office or any political subdivision thereof (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities in respect of payments hereunder or under the Notes being hereinafter referred to as "Taxes"). If the Borrower shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder or under any Note or any other documents to be delivered hereunder to any Lender, the Sub-Agent or the Agent, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.15) such Lender, the Sub-Agent or the Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) In addition, the Borrower shall pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies that arise from any payment made hereunder or under the Notes any other documents to be delivered hereunder or from the execution, delivery or registration of, performing under, or otherwise with respect to, this Agreement, any other Loan Document or any other documents to be delivered hereunder or thereunder (hereinafter referred to as "Other Taxes").

(c) The Borrower shall indemnify each Lender and the Agent for and hold it harmless against the full amount of Taxes or Other Taxes (including, without limitation, taxes of any kind imposed or asserted by any jurisdiction on amounts payable under this Section 2.15) imposed on or paid by such Lender or the Agent (as the case may be) and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto. This indemnification shall be made within 30 days from the date such Lender or the Agent (as the case may be) makes written demand therefor by delivery of an invoice in reasonable detail evidencing the amounts owed.

(d) Within 30 days after the date of any payment of Taxes, the Borrower shall furnish to the Agent, at its address referred to in Section 8.02, the original or a certified copy of a receipt evidencing such payment to the extent such a receipt is issued therefor, or other written proof of payment thereof that is reasonably satisfactory to the Agent. In the case of any payment hereunder or under the Notes or any other documents to be delivered hereunder by or on behalf of the Borrower through an account or branch outside the United States or by or on behalf of the Borrower by a payor that is not a United States person, if the Borrower determines that no Taxes are payable in respect thereof, the Borrower shall furnish, or shall cause such payor to furnish, to the Agent, at such address, an opinion of counsel acceptable to the Agent stating that such payment is exempt from Taxes. For purposes of this subsection (d) and subsection (e), the terms "United States" and "United States person" shall have the meanings specified in Section 7701 of the Internal Revenue Code.

(e) Each Lender organized under the laws of a jurisdiction outside the United States, on or prior to the date of its execution and delivery of this Agreement in the case of each Initial Lender and on the date of the Assumption Agreement or the Assumption Agreement or the Assignment and Acceptance pursuant to which it becomes a Lender in the case of each other Lender, and from time to time thereafter as reasonably requested in writing by the Borrower (but only so long as such Lender remains lawfully able to do so), shall provide each of the Agent and the Borrower with two original Internal Revenue Service forms W-8BEN or W-8ECI, as appropriate, or any successor or other form prescribed by the Internal Revenue Service, certifying that such Lender is exempt from or entitled to a reduced rate of United States withholding tax on payments pursuant to this Agreement or the Notes. If the form provided by a Lender at the time such Lender first becomes a party to this Agreement indicates a United States interest withholding tax rate in excess of zero, withholding tax at such rate shall be considered excluded from Taxes unless and until such Lender provides the appropriate forms certifying that a lesser rate applies, whereupon withholding tax at such lesser rate only shall be considered excluded from Taxes for periods governed by such form; provided, however, that, if at the date of the Assignment and Acceptance pursuant to which a Lender assignee

becomes a party to this Agreement, the Lender assignor was entitled to payments under subsection (a) in respect of United States withholding tax with respect to interest paid at such date, then, to such extent, the term Taxes shall include (in addition to withholding taxes that may be imposed in the future or other amounts otherwise includable in Taxes) United States withholding tax, if any, applicable with respect to the Lender assignee on such date. If any form or document referred to in this subsection (e) requires the disclosure of information, other than information necessary to compute the tax payable and information required on the date hereof by Internal Revenue Service form W-8BEN or W-8ECI, that the Lender reasonably considers to be confidential, the Lender shall give notice thereof to the Borrower and shall not be obligated to include in such form or document such confidential information.

(f) For any period with respect to which a Lender has failed to provide the Borrower with the appropriate form, certificate or other document described in Section 2.15(e) (other than if such failure is due to a change in law, or in the interpretation or application thereof, occurring subsequent to the date on which a form, certificate or other document originally was required to be provided, or if such form, certificate or other document otherwise is not required under subsection (e) above), such Lender shall not be entitled to indemnification under Section 2.15(a) or (c) with respect to Taxes imposed by the United States by reason of such failure; provided, however, that should a Lender become subject to Taxes because of its failure to deliver a form, certificate or other document required hereunder, the Borrower shall take such steps as the Lender shall reasonably request to assist the Lender to recover such Taxes.

(g) Any Lender claiming any additional amounts payable pursuant to this Section 2.15 agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to change the jurisdiction of its Eurocurrency Lending Office if the making of such a change would avoid the need for, or reduce the amount of, any such additional amounts that may thereafter accrue and would not, in the reasonable judgment of such Lender, be otherwise disadvantageous to such Lender.

SECTION 2.16. Sharing of Payments, Etc. If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the Revolving Credit Advances owing to it (other than (i) as payment of an Advance made by an Issuing Bank pursuant to the first sentence of Section 2.04(c), (ii) as a payment of a Swing Line Advance made by a Swing Line Bank that has not been participated to the other Lenders pursuant to Section 2.02(b), (iii) pursuant to Section 2.12, 2.15 or 8.04(c) or (iv) as payment to a Non-Consenting Lender on the Termination Date applicable to it in accordance with Section 2.07) in excess of its ratable share of payments on account of the Revolving Credit Advances obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders such participations in the Revolving Credit Advances owing to them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and such Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's ratable share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.16 may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

SECTION 2.17. Evidence of Debt. (a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Revolving Credit Advance owing to such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder in respect of Revolving Credit Advances. The Borrower agrees that upon notice by any Lender to the Borrower (with a copy of such notice to the Agent) to the effect that a Revolving Credit Note is required or appropriate in order for such Lender to evidence (whether for purposes of pledge, enforcement or otherwise) the Revolving Credit Advances owing to, or to be made by, such Lender, the Borrower shall promptly execute and deliver to such Lender a Revolving Credit Note payable to the order of such Lender in a principal amount up to the Revolving Credit Commitment(s) of such Lender.

(b) The Register maintained by the Agent pursuant to Section 8.07(d) shall include a control account, and a subsidiary account for each Lender, in which accounts (taken together) shall be recorded (i) the date and amount of each Borrowing made hereunder, the Type of Advances comprising such Borrowing and, if appropriate, the Interest Period applicable thereto, (ii) the terms of each Assumption Agreement and each Assignment and Acceptance delivered to and accepted by it, (iii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iv) the amount of any sum received by the Agent from the Borrower hereunder and each Lender's share thereof.

(c) Entries made in good faith by the Agent in the Register pursuant to subsection (b) above, and by each Lender in its account or accounts pursuant to subsection (a) above, shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement, absent manifest error; provided, however, that the failure of the Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement.

SECTION 2.18. Use of Proceeds. The proceeds of the Advances and issuances of Letters of Credit shall be available (and the Borrower agrees that it shall use such proceeds) solely for general corporate purposes of the Borrower and its Subsidiaries.

SECTION 2.19. Increase in the Aggregate Commitments. (a) The Borrower may, at any time but in any event not more than once in any calendar year prior to the final Termination Date, by notice to the Agent, request that the aggregate amount of the Tranche A Commitment be increased by an amount of \$25,000,000 or an integral multiple thereof (each a "Commitment Increase") to be effective as of a date that is at least 90 days prior to the scheduled final Termination Date then in effect (the "Increase Date") as specified in the related notice to the Agent; provided, however that (i) in no event shall the aggregate amount of the Tranche A Commitments at any time exceed \$1,150,000,000 and (ii) on the date of any request by the Borrower for a Commitment Increase and on the related Increase Date (A) the Public Debt Rating shall be BBB- or better from S&P and Baa3 or better from Moody's and (B) the applicable conditions set forth in Article III shall be satisfied.

(b) The Agent shall promptly notify the Lenders of a request by the Borrower for a Commitment Increase, which notice shall include (i) the proposed amount of such requested Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Commitment Increase must commit to an increase in the amount of their respective Tranche A Commitments (the "Commitment Date"). Each Lender that is willing to participate in such requested Commitment Increase (each an "Increasing Lender") shall, in its sole discretion, give written notice to the Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Tranche A Commitment. If the Lenders notify the Agent that they are willing to increase the amount of their respective Tranche A Commitments by an aggregate amount that exceeds the amount of the requested Commitment Increase, the requested Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrower and the Agent. No Lender shall have any obligation to participate in any requested Commitment Increase, and the election of any Lender to participate in a requested Commitment Increase shall not obligate any other Lender to so participate.

(c) Promptly following each Commitment Date, the Agent shall notify the Borrower as to the amount, if any, by which the Lenders are willing to participate in the requested Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Commitment Increase on any such Commitment Date is less than the requested Commitment Increase, then the Borrower may extend offers to one or more Eligible Assignees to participate in any portion of the requested Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Commitment of each such Eligible Assignee shall be in an amount of \$5,000,000 or an integral multiple thereof.

(d) On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Commitment Increase in accordance with Section 2.19(b) (each such Eligible Assignee and each Eligible Assignee that agrees to an extension of the Termination Date in accordance with Section 2.20, an “Assuming Lender”) shall become a Lender party to this Agreement as of such Increase Date and the Tranche A Commitment of each Increasing Lender for such requested Commitment Increase shall be so increased by such amount (or by the amount allocated to such Lender pursuant to the last sentence of Section 2.19(b)) as of such Increase Date; provided, however, that the Agent shall have received on or before such Increase Date the following, each dated such date:

(i) (A) certified copies of resolutions of the Board of Directors of the Borrower or the Executive Committee of such Board approving the Commitment Increase and the corresponding modifications to this Agreement and (B) an opinion of counsel for the Borrower (which may be in-house counsel), in substantially the form of Exhibit E hereto;

(ii) an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrower and the Agent (each an “Assumption Agreement”), duly executed by such Eligible Assignee, the Agent and the Borrower; and

(iii) confirmation from each Increasing Lender of the increase in the amount of its Commitment in a writing satisfactory to the Borrower and the Agent.

On each Increase Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this Section 2.19(d), the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrower, on or before 1:00 P.M. (New York City time), by telecopier, of the occurrence of the Commitment Increase to be effected on such Increase Date and shall record in the Register the relevant information with respect to each Increasing Lender and each Assuming Lender on such date.

SECTION 2.20. Extension of Termination Date. (a) At least 45 days but not more than 60 days prior to the first and/or second anniversary of the Effective Date, the Borrower, by written notice to the Agent, may request an extension of the Termination Date in effect at such time by one year from its then scheduled expiration. The Agent shall promptly notify each Lender of such request, and each Lender shall in turn, in its sole discretion, not later than 20 days prior to such anniversary date, notify the Borrower and the Agent in writing as to whether such Lender will consent to such extension. If any Lender shall fail to notify the Agent and the Borrower in writing of its consent to any such request for extension of the Termination Date at least 20 days prior to the applicable anniversary date, such Lender shall be deemed to be a Non-Consenting Lender with respect to such request. The Agent shall notify the Borrower not later than 15 days prior to the applicable anniversary date of the decision of the Lenders regarding the Borrower’s request for an extension of the Termination Date.

(b) If all the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.20, the Termination Date in effect at such time shall, effective as at the applicable anniversary date (the “Extension Date”), be extended for one year; provided that on each Extension Date the applicable conditions set forth in Article III shall be satisfied or waived by all the Lenders. If less than all of the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.20, the Termination Date in effect at such time shall, effective as at the applicable Extension Date and subject to subsection (d) of this Section 2.20, be extended as to those Lenders that so consented (each a “Consenting Lender”) but shall not be extended as to any other Lender (each a “Non-Consenting Lender”). To the extent that the Termination Date is not extended as to any Lender pursuant to this Section 2.20 and the Commitment of such Lender is not assumed in accordance with subsection (c) of this Section 2.20 on or prior to the applicable Extension Date, the Commitment of such Non-Consenting Lender shall automatically terminate in whole on such unextended Termination Date without any further notice or other action by the Borrower, such Lender or any other Person; provided that such Non-Consenting Lender’s rights under Sections 2.12, 2.15 and 8.04, and its obligations under Section 7.05, shall survive the Termination Date for such Lender as to matters occurring prior to such date. It is understood and agreed that no Lender shall have any obligation whatsoever to agree to any request made by the Borrower for any requested extension of the Termination Date.

(c) If less than all of the Lenders consent to any such request pursuant to subsection (a) of this Section 2.20, the Agent shall promptly so notify the Consenting Lenders, and each Consenting Lender may, in its sole discretion, give written notice to the Agent not later than 10 days prior to the Extension Date of the amount of the Non-Consenting Lenders’ Commitments for which it is willing to accept an assignment. If the Consenting Lenders notify the Agent that they are willing to accept assignments of Commitments in an aggregate amount that exceeds the amount of the Commitments of the Non-Consenting Lenders, such Commitments shall be allocated among the Consenting Lenders willing to accept such assignments in such amounts as are agreed between the Borrower and the Agent. If after giving effect to the assignments of Commitments described above there remains any Commitments of Non-Consenting Lenders, the Borrower may arrange for one or more Consenting Lenders or

other Eligible Assignees as Assuming Lenders to assume, effective as of the Extension Date, any Non-Consenting Lender's Commitment and all of the obligations of such Non-Consenting Lender under this Agreement thereafter arising, without recourse to or warranty by, or expense to, such Non-Consenting Lender; provided, however, that the amount of the Commitment of any such Assuming Lender as a result of such substitution shall in no event be less than \$5,000,000 unless the amount of the Commitment of such Non-Consenting Lender is less than \$5,000,000, in which case such Assuming Lender shall assume all of such lesser amount; and provided further that:

(i) any such Consenting Lender or Assuming Lender shall have paid to such Non-Consenting Lender (A) the aggregate principal amount of, and any interest accrued and unpaid to the effective date of the assignment on, the outstanding Advances, if any, of such Non-Consenting Lender plus (B) any accrued but unpaid fees and commissions owing to such Non-Consenting Lender as of the effective date of such assignment;

(ii) all additional costs reimbursements, expense reimbursements and indemnities payable to such Non-Consenting Lender, and all other accrued and unpaid amounts owing to such Non-Consenting Lender hereunder, as of the effective date of such assignment shall have been paid to such Non-Consenting Lender; and

(iii) with respect to any such Assuming Lender, the applicable processing and recordation fee required under Section 8.07(a) for such assignment shall have been paid;

provided further that such Non-Consenting Lender's rights under Sections 2.12, 2.15 and 8.04, and its obligations under Section 7.05, shall survive such substitution as to matters occurring prior to the date of substitution. At least three Business Days prior to any Extension Date, (A) each such Assuming Lender, if any, shall have delivered to the Borrower and the Agent an Assumption Agreement, duly executed by such Assuming Lender, such Non-Consenting Lender, the Borrower and the Agent, (B) any such Consenting Lender shall have delivered confirmation in writing satisfactory to the Borrower and the Agent as to the increase in the amount of its Commitment and (C) each Non-Consenting Lender being replaced pursuant to this Section 2.20 shall have delivered to the Agent any Note or Notes held by such Non-Consenting Lender. Upon the payment or prepayment of all amounts referred to in clauses (i), (ii) and (iii) of the immediately preceding sentence, each such Consenting Lender or Assuming Lender, as of the Extension Date, will be substituted for such Non-Consenting Lender under this Agreement and shall be a Lender for all purposes of this Agreement, without any further acknowledgment by or the consent of the other Lenders, and the obligations of each such Non-Consenting Lender hereunder shall, by the provisions hereof, be released and discharged.

(d) If (after giving effect to any assignments or assumptions pursuant to subsection (c) of this Section 2.20) Lenders having Commitments equal to at least 50% of the Commitments in effect immediately prior to the Extension Date consent in writing to a requested extension (whether by execution or delivery of an Assumption Agreement or otherwise) not later than one Business Day prior to such Extension Date, the Agent shall so notify the Borrower, and, subject to the satisfaction of the applicable conditions in Article III, the Termination Date then in effect shall be extended for the additional one-year period as described in subsection (a) of this Section 2.20, and all references in this Agreement, and in the Notes, if any, to the "Termination Date" shall, with respect to each Consenting Lender and each Assuming Lender for such Extension Date, refer to the Termination Date as so extended. Promptly following each Extension Date, the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) of the extension of the scheduled Termination Date in effect immediately prior thereto and shall thereupon record in the Register the relevant information with respect to each such Consenting Lender and each such Assuming Lender.

ARTICLE III

CONDITIONS TO EFFECTIVENESS AND LENDING

SECTION 3.01. Conditions Precedent to Effectiveness of Sections 2.01 and 2.03. Sections 2.01 and 2.03 of this Agreement shall become effective on and as of the first date (the "Effective Date") on which the following conditions precedent have been satisfied:

(a) There shall have occurred no Material Adverse Change since December 30, 2006.

(b) There shall exist no action, suit, investigation, litigation or proceeding affecting the Borrower or any of its Subsidiaries pending or threatened before any court, governmental agency or arbitrator that (i) could be reasonably likely to have a Material Adverse Effect other than the matters described on Schedule 3.01(b) hereto (the "Disclosed Litigation") or (ii) purports to affect the legality, validity or enforceability of any Loan Document or the consummation of the transactions contemplated hereby, and there shall have been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of the Disclosed Litigation from that described on Schedule 3.01(b) hereto.

(c) Nothing shall have come to the attention of the Lenders during the course of their due diligence investigation to lead them to believe that the Information Memorandum and all other Confidential Information provided to the Lenders prior to the date hereof was or has become misleading, incorrect or incomplete in any material respect; without limiting the generality of the foregoing, the Lenders shall have been given such access to the management, records, books of account, contracts and properties of the Borrower and its Subsidiaries as they shall have requested.

(d) All governmental and third party consents and approvals necessary in connection with the transactions contemplated hereby shall have been obtained (without the imposition of any conditions that are not acceptable to the Lenders) and shall remain in effect, and no law or regulation shall be applicable in the reasonable judgment of the Lenders that restrains, prevents or imposes materially adverse conditions upon the transactions contemplated hereby.

(e) The Borrower shall have notified the Agent in writing as to the proposed Effective Date.

(f) The Borrower shall have paid all accrued fees and expenses of the Agent and the Lenders (including the accrued reasonable fees and expenses of counsel to the Arrangers).

(g) On the Effective Date, the following statements shall be true and the Agent shall have received for the account of each Lender a certificate signed by a duly authorized officer of the Borrower, dated the Effective Date, stating that:

(i) The representations and warranties contained in Section 4.01 are correct on and as of the Effective Date, and

(ii) No event has occurred and is continuing that constitutes a Default.

(h) The Agent shall have received on or before the Effective Date the following, each dated such day, in form and substance satisfactory to the Agent and (except for the Revolving Credit Notes) in sufficient copies for each Lender:

(i) The Revolving Credit Notes to the order of the Lenders to the extent requested by any Lender pursuant to Section 2.17.

(ii) a guaranty in substantially the form of Exhibit D hereto (together with each other guaranty or guaranty supplement delivered pursuant to Section 5.01(j), in each case as amended, the "Guaranty"), duly executed by each Guarantor.

(iii) Certified copies of the resolutions of the Board of Directors of each Loan Party approving each Loan Document to which it is or is to be a party, and of all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to each Loan Document to which it is or is to be a party.

(iv) A certificate of the Secretary or an Assistant Secretary of each Loan Party certifying the names and true signatures of the officers of such Loan Party authorized to sign each Loan Document to which it is or is to be a party and the other documents to be delivered hereunder and thereunder.

(v) A favorable opinion David Fannin, General Counsel of the Borrower and a favorable opinion of McDermott, Will & Emery, counsel for the Loan Parties, substantially in the form of Exhibits E-1 and E-2 hereto, respectively, and as to such other matters as any Lender through the Agent may reasonably request.

(vi) A favorable opinion of Shearman & Sterling LLP, counsel for the Arrangers, in form and substance satisfactory to the Agent.

(i) The Borrower shall have terminated the commitments, and arranged, contemporaneously with the initial Borrowing under this Agreement, to have paid in full all Debt, interest, fees and other amounts outstanding, under the Five Year Credit Agreement dated as April 30, 2004, as amended, among the Borrower, the lenders parties thereto and Wachovia Bank, National Association, as agent, and each of the Lenders that is a party to each such credit facility hereby waives, upon execution of this Agreement, the three Business Days' notice required by Section 2.06 of each such Credit Agreement relating to the termination of commitments thereunder.

SECTION 3.02. Conditions Precedent to Each Revolving Credit Borrowing, Letter of Credit Issuance, Commitment Increase and Extension Date. The obligation of each Lender to make a Revolving Credit Advance and each Swing Line Bank to make Swing Line Advance (other than (x) a Swing Line Advance made by a Lender pursuant to Section 2.02(b) or (y) an Advance made by any Issuing Bank or any Lender pursuant to Section 2.04(c)) on the occasion of each Revolving Credit Borrowing, the obligation of each Issuing Bank to issue a Letter of Credit, each Commitment Increase and each extension of Commitments pursuant to Section 2.20 shall be subject to the conditions precedent that the Effective Date shall have occurred and on the date of such Revolving Credit Borrowing, Notice of Swing Line Borrowing, issuance, the applicable Increase Date or the applicable Extension Date (a) the following statements shall be true (and each of the giving of the applicable Notice of Revolving Credit Borrowing, Notice of Swing Line Borrowing, Notice of Issuance, request for Commitment Increase, request for Commitment extension and the acceptance by the Borrower of the proceeds of such Revolving Credit Borrowing, Swing Line Borrowing or Letter of Credit shall constitute a representation and warranty by the Borrower that on the date of such Borrowing or such issuance, such Increase Date or such Extension Date such statements are true):

(i) the representations and warranties contained in each Loan Document (other than, in the case of a Revolving Credit Borrowing or the issuance of a Letter of Credit, the representations set forth in the last sentence of subsection 4.01(e) hereof and in subsection 4.01(f)(i) hereof) and are correct on and as of such date, before and after giving effect to such Revolving Credit Borrowing, Swing Line Borrowing, such issuance, such Commitment Increase, such Extension Date and to the application of the proceeds therefrom, as though made on and as of such date, and

(ii) no event has occurred and is continuing, or would result from such Revolving Credit Borrowing, Swing Line Borrowing, such issuance, such Commitment Increase, such Extension Date or from the application of the proceeds therefrom, that constitutes a Default;

and (b) the Agent shall have received such other approvals, opinions or documents as any Lender through the Agent may reasonably request.

SECTION 3.03. Conditions Precedent to Each Competitive Bid Borrowing. The obligation of each Lender that is to make a Competitive Bid Advance on the occasion of a Competitive Bid Borrowing to make such Competitive Bid Advance as part of such Competitive Bid Borrowing is subject to the conditions precedent that (i) the Agent shall have received the written confirmatory Notice of Competitive Bid Borrowing with respect thereto, (ii) on or before the date of such Competitive Bid Borrowing, but prior to such Competitive Bid Borrowing, the Agent shall have received a Competitive Bid Note payable to the order of such Lender for each of the one or more Competitive Bid Advances to be made by such Lender as part of such Competitive Bid Borrowing, in a principal amount equal to the principal amount of the Competitive Bid Advance to be evidenced thereby and otherwise on such terms as were agreed to for such Competitive Bid Advance in accordance with Section 2.03, and (iii) on the date of such Competitive Bid Borrowing the following statements shall be true (and each of the giving of the applicable Notice of Competitive Bid Borrowing and the acceptance by the Borrower of the proceeds of such Competitive Bid Borrowing shall constitute a representation and warranty by the Borrower that on the date of such Competitive Bid Borrowing such statements are true):

(a) the representations and warranties contained in each Loan Document (other than the representations set forth in the last sentence of subsection 4.01(e) hereof and in subsection 4.01(f)(i) hereof) are correct on and as of the date of such Competitive Bid Borrowing, before and after giving effect to such Competitive Bid Borrowing and to the application of the proceeds therefrom, as though made on and as of such date, and

(b) no event has occurred and is continuing, or would result from such Competitive Bid Borrowing or from the application of the proceeds therefrom, that constitutes a Default.

SECTION 3.04. Determinations Under Section 3.01. For purposes of determining compliance with the conditions specified in Section 3.01, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of the Agent responsible for the transactions contemplated by this Agreement shall have received notice from such Lender prior to the date that the Borrower, by notice to the Lenders, designates as the proposed Effective Date, specifying its objection thereto. The Agent shall promptly notify the Lenders of the occurrence of the Effective Date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

SECTION 4.01. Representations and Warranties of the Borrower. The Borrower represents and warrants as follows:

(a) Each Loan Party and their Material Subsidiaries (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, (ii) is duly qualified and in good standing as a foreign corporation in each other jurisdiction in which it own or leases property or in which the conduct of its business requires it to so qualify or be licensed, except where the failure to be so qualified would not have a Material Adverse Effect and (iii) has all requisite corporate power and authority (including, without limitation, all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted as and proposed to be conducted.

(b) The execution, delivery and performance by each Loan Party of each Loan Document to which it is or is to be a party, and the consummation of the transactions contemplated hereby and thereby, are within such Loan Party's corporate powers, have been duly authorized by all necessary corporate action, and do not contravene (i) such Loan Party's charter or by-laws or (ii) law or any contractual restriction binding on or affecting any Loan Party, any of its Subsidiaries or any of its properties.

(c) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any other third party is required for the due execution, delivery and performance by any Loan Party of the Loan Documents to which it is or is to be a party.

(d) This Agreement has been, and each of the other Loan Documents when delivered hereunder will have been, duly executed and delivered by each Loan Party party thereto. This Agreement is, and each of the other Loan Documents when delivered hereunder will be, the legal, valid and binding obligation of each Loan Party party thereto enforceable against such Loan Party in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting the rights of creditors generally and subject to general principles of equity.

(e) The Consolidated balance sheet of the Borrower and its Subsidiaries as at December 30, 2006, and the related Consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the fiscal year then ended, accompanied by an opinion of Deloitte & Touche LLP, independent public accountants, copies of which have been furnished to each Lender, fairly present the Consolidated financial condition of the Borrower and its Subsidiaries as at such date and the Consolidated results of the operations of the Borrower and its Subsidiaries for the period ended on such date, all in accordance with generally accepted accounting principles consistently applied. Since December 30, 2006, there has been no Material Adverse Change.

(f) There is no pending or threatened action, suit, investigation, litigation or proceeding, including, without limitation, any Environmental Action, affecting the Borrower or any of its Subsidiaries before any court, governmental agency or arbitrator that (i) could be reasonably likely to have a Material Adverse Effect (other than the Disclosed Litigation) or (ii) purports to affect the legality, validity or enforceability of any Loan Document or the consummation of the transactions contemplated hereby, and there has been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of the Disclosed Litigation from that described on Schedule 3.01(b) hereto.

(g) Neither the Information Memorandum nor any other information, exhibit or report furnished by or on behalf of any Loan Party to the Agent or and Lender in connection with the negotiation and syndication of the Loan Documents or pursuant to the terms of the Loan Documents contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements made therein not misleading.

(h) The Borrower and each of its Material Subsidiaries has filed, has caused to be filed or has been included in all tax returns (Federal, state, local and foreign) required to be filed and has paid all taxes shown thereon to be due, together with applicable interest and penalties.

(i) The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no proceeds of any Advance will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

(j) The Borrower is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

(k) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes, and none of such property is subject to any Lien, except as permitted by Section 5.02(a).

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

(m) All intercompany loans in an outstanding principal amount of \$25,000,000 or more by the Borrower or a Guarantor to a Subsidiary of the Borrower that is not a Guarantor as of the Effective Date are described on Schedule 4.01(m) hereto.

(n) The Borrower and its Subsidiaries have experienced no strikes, labor disputes, slow downs or work stoppages due to labor disagreements which have had, or would reasonably be expected to have, a Materially Adverse Effect, and, to the best knowledge of the Borrower, there are no such strikes, disputes, slow downs or work stoppages threatened against the Borrower or any of its Subsidiaries.

(o) Each Loan Party is, individually and together with its Subsidiaries, Solvent.

ARTICLE V

COVENANTS OF THE BORROWER

SECTION 5.01. Affirmative Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder or any Letter of Credit shall be outstanding, the Borrower will:

(a) Compliance with Laws, Etc. Comply, and cause each of its Subsidiaries to comply, in all material respects, with all applicable laws, rules, regulations and orders, such compliance to include, without limitation, compliance with ERISA and Environmental Laws, except to the extent that any such non-compliance, in the aggregate, would not have a material negative impact on any Loan Party and its Subsidiaries, taken as a whole.

(b) Payment of Taxes, Etc. Pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (i) all taxes, assessments and governmental charges or levies imposed upon it or upon its property and (ii) all lawful claims that, if unpaid, might by law become a Lien upon its property; provided, however, that neither the Borrower nor any of its Subsidiaries shall be required to pay or discharge any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

(c) Maintenance of Insurance. Maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates; provided, however, that the Borrower and its Subsidiaries may self-insure to the same extent as other companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates and to the extent consistent with prudent business practice.

(d) Preservation of Corporate Existence, Etc. Preserve and maintain, and cause each of its Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory) and franchises; provided, however, that (i) the Borrower and its Subsidiaries may consummate any merger or consolidation permitted under Section 5.02(b) and (ii) neither the Borrower nor any of its Subsidiaries shall be required to preserve any right or franchise if the Board of Directors of the Borrower or such Subsidiary shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Borrower or such Subsidiary, as the case may be, and that the loss thereof is not disadvantageous in any material respect to the Borrower, such Subsidiary or the Lenders, provided, further, that the foregoing shall not restrict any Person other than a Loan Party to the extent that the failure to so comply would not be reasonably likely to have a Material Adverse Effect.

(e) Visitation Rights. At any reasonable time and from time to time during normal business hours, permit the Agent or any of the Lenders or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the

Borrower and any of its Subsidiaries, and to discuss the affairs, finances and accounts of the Borrower and any of its Subsidiaries with any of their officers or directors and with their independent certified public accountants, provided that so long as no Default shall have occurred and be continuing, the Agent and each Lender shall visit the Borrower and its Subsidiaries not more than four times in any year.

(f) Keeping of Books. Keep, and cause each of its Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower and each such Subsidiary in accordance with generally accepted accounting principles in effect from time to time.

(g) Maintenance of Properties, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted.

(h) Transactions with Affiliates. Conduct, and cause each of its Subsidiaries to conduct, all transactions otherwise permitted under this Agreement with any of their Affiliates on terms that are fair and reasonable and no less favorable to the Borrower or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate.

(i) Reporting Requirements. Furnish to the Agent:

(i) as soon as available and in any event within 45 days after the end of each of the first three quarters of each fiscal year of the Borrower, the Consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such quarter and Consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by the chief financial officer of the Borrower as having been prepared in accordance with generally accepted accounting principles and certificates of the chief financial officer, treasurer or controller of the Borrower as to compliance with the terms of this Agreement and setting forth in reasonable detail the calculations necessary to demonstrate compliance with Section 5.03, provided that in the event of any change in generally accepted accounting principles used in the preparation of such financial statements, the Borrower shall also provide, if necessary for the determination of compliance with Section 5.03, a statement of reconciliation conforming such financial statements to GAAP;

(ii) as soon as available and in any event within 90 days after the end of each fiscal year of the Borrower, a copy of the annual audit report for such year for the Borrower and its Subsidiaries, containing the Consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year and Consolidated statements of income and cash flows of the Borrower and its Subsidiaries for such fiscal year, in each case accompanied by an opinion acceptable to the Required Lenders by Deloitte & Touche LLP or other independent public accountants acceptable to the Required Lenders and certificates of the chief financial officer, treasurer or controller of the Borrower as to compliance with the terms of this Agreement and setting forth in reasonable detail the calculations necessary to demonstrate compliance with Section 5.03, provided that in the event of any change in generally accepted accounting principles used in the preparation of such financial statements, the Borrower shall also provide, if necessary for the determination of compliance with Section 5.03, a statement of reconciliation conforming such financial statements to GAAP;

(iii) as soon as possible and in any event within five days after an Executive Officer has notice or knowledge of the occurrence of each Default continuing on the date of such statement, a statement of an Executive Officer of the Borrower setting forth details of such Default and the action that the Borrower has taken and proposes to take with respect thereto;

(iv) promptly after the sending or filing thereof, notice to the Agent of all reports that the Borrower sends to any of its securityholders, and notice to the Agent of all reports and registration statements that the Borrower or any Subsidiary files with the Securities and Exchange Commission or any national securities exchange;

(v) promptly after the commencement thereof, notice of all actions and proceedings before any court, governmental agency or arbitrator affecting the Borrower or any of its Subsidiaries of the type described in Section 4.01(f); and

(vi) such other information respecting the Borrower or any of its Subsidiaries as any Lender through the Agent may from time to time reasonably request.

(j) Covenant to Guarantee Obligations. The Borrower shall, with respect to any Person that subsequent to the Effective Date, becomes a Subsidiary that is organized in a jurisdiction within the United States having total assets that accounted for or produced, or would on a pro forma basis have accounted for or produced, more than 10% of Consolidated EBITR of the Borrower during any of the three most recently completed fiscal years of the Borrower, promptly cause such Subsidiary to become a party to the Guaranty pursuant to documentation that is in form and substance satisfactory to the Agent.

(k) Ownership of Guarantors. Maintain at least its percentage of ownership existing as of the date hereof of all Guarantors, and maintain its ownership percentage in each Person which becomes a Guarantor after the date hereof, as such ownership exists at the time such Person becomes a Guarantor.

SECTION 5.02. Negative Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder or any Letter of Credit shall be outstanding, the Borrower will not:

(a) Liens, Etc. Create or suffer to exist, or permit any of its Subsidiaries to create or suffer to exist, any Lien on or with respect to any of its properties, whether now owned or hereafter acquired, or assign, or permit any of its Subsidiaries to assign, any right to receive income, other than:

(i) Permitted Liens,

(ii) purchase money Liens upon or in any real property, improvement or equipment acquired or held by the Borrower or any Subsidiary in the ordinary course of business to secure the purchase price of such property, improvement or equipment or to secure Debt incurred solely for the purpose of financing the acquisition of such property, improvement or equipment, or Liens existing on such property, improvement or equipment at the time of its acquisition (other than any such Liens created in contemplation of such acquisition that were not incurred to finance the acquisition of such property) or extensions, renewals or replacements of any of the foregoing for the same or a lesser amount, provided, however, that no such Lien shall extend to or cover any properties of any character other than the real property or equipment being acquired, and no such extension, renewal or replacement shall extend to or cover any properties not theretofore subject to the Lien being extended, renewed or replaced, provided further that the aggregate principal amount of the indebtedness secured by the Liens referred to in this clause (ii) shall not exceed \$300,000,000 at any time outstanding,

(iii) the Liens existing on the Effective Date and described on Schedule 5.02(a) hereto,

(iv) Liens on property of a Person existing at the time such Person is merged into or consolidated with the Borrower or any Subsidiary of the Borrower or becomes a Subsidiary of the Borrower; provided that such Liens were not created in contemplation of such merger, consolidation or acquisition and do not extend to any assets other than those of the Person so merged into or consolidated with the Borrower or such Subsidiary or acquired by the Borrower or such Subsidiary,

- (v) Liens relating to an accounts receivable securitization program in an amount not to exceed \$350,000,000,
- (vi) other Liens securing Debt in an aggregate principal amount not to exceed \$400,000,000 at any time outstanding, and
- (vii) the replacement, extension or renewal of any Lien permitted by clause (iii) or (iv) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Debt secured thereby.

(b) Mergers, Etc. Merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person, or permit any of its Subsidiaries to do so, except that (i) any Subsidiary of the Borrower may merge or consolidate with or into, or dispose of assets to, any other Subsidiary of the Borrower, (ii) any Subsidiary of the Borrower formed in connection with an accounts receivable securitization program solely for the purpose of selling its assets may sell all or substantially all of its assets in connection with such securitization and (iii) any Subsidiary of the Borrower may merge into or dispose of assets to the Borrower so long as the Borrower is the surviving corporation, provided, in each case, that no Default shall have occurred and be continuing at the time of such proposed transaction or would result therefrom.

(c) Accounting Changes. Make or permit, or permit any of its Subsidiaries to make or permit, any change in accounting policies or reporting practices, except as required or permitted by generally accepted accounting principles.

(d) Change in Nature of Business. Make, or permit any of its Subsidiaries to make, any material change in the nature of its business as carried on at the date hereof or related or incidental thereto.

(e) Subsidiary Debt. Permit any of its Subsidiaries to create or suffer to exist, any Debt other than:

(i) Debt owed to the Borrower or to a wholly owned Subsidiary of the Borrower,

(ii) Debt existing on the Effective Date and described on Schedule 5.02(f) hereto (the "Existing Debt"), and any Debt extending the maturity of, or refunding or refinancing, in whole or in part, the Existing Debt, provided that the principal amount of such Existing Debt shall not be increased above the principal amount thereof outstanding immediately prior to such extension, refunding or refinancing, and the direct and contingent obligors therefor shall not be changed, as a result of or in connection with such extension, refunding or refinancing,

(iii) Debt secured by Liens permitted by Section 5.02(a)(ii), (iv) or (v),

(iv) other Debt (whether secured or unsecured) to the extent such Debt would be permitted to be secured under Section 5.02(a)(vi); and

(v) endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business.

(f) Actions Under Certain Documents. Modify, amend, cancel or rescind any agreements or documents evidencing or governing Subordinated Debt.

SECTION 5.03. Financial Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder or any Letter of Credit shall be outstanding, the Borrower will:

(a) Fixed Charge Coverage Ratio. Maintain a ratio of Consolidated EBITR of the Borrower and its Subsidiaries for each period of four consecutive fiscal quarters most recently ended to the sum of (i) net interest payable on, and amortization of debt discount in respect of, all Debt during such period plus (ii) rentals payable under leases of real or personal, or mixed, property during such period plus (iii) interest and other continuing program fees (excluding initial closing fees) related to an accounts receivable securitization program payable during such period, in each case, by the Borrower and its Subsidiaries of not less than 1.70:1.00.

(b) Leverage Ratio. Maintain a ratio of Consolidated Covenant Debt to Consolidated EBITDA of the Borrower and its Subsidiaries for the period of four consecutive fiscal quarters most recently ended of not greater than 3.00:1.00.

ARTICLE VI

EVENTS OF DEFAULT

SECTION 6.01. Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) The Borrower shall fail to pay any principal of any Advance when the same becomes due and payable; or the Borrower shall fail to pay any interest on any Advance or make any other payment of fees or other amounts payable under this Agreement or any Note within three Business Days after the same becomes due and payable; or

(b) Any representation or warranty made by the Borrower herein or by the Borrower (or any of its officers) in connection with this Agreement shall prove to have been incorrect in any material respect when made; or

(c) (i) The Borrower shall fail to perform or observe any term, covenant or agreement contained in Section 5.01(d) (as to the existence of any Loan Party), (e), (h) or (i), 5.02 or 5.03, or (ii) the Borrower shall fail to perform or observe any other term, covenant or agreement contained in this Agreement on its part to be performed or observed if such failure shall remain unremedied for 30 days after written notice thereof shall have been given to the Borrower by the Agent or any Lender; or

(d) The Borrower or any of its Subsidiaries shall fail to pay any principal of or premium or interest on any Debt that is outstanding in a principal or net amount of at least \$50,000,000 in the aggregate (but excluding Debt outstanding hereunder) of the Borrower or such Subsidiary (as the case may be), when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Debt; or any other event shall occur or condition shall exist under any agreement or instrument relating to any such Debt and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or to permit the acceleration of, the maturity of such Debt; or any such Debt shall be declared to be due and payable, or required to be prepaid or redeemed (other than by a regularly scheduled required prepayment or redemption), purchased or defeased, or an offer to prepay, redeem, purchase or defease such Debt shall be required to be made, in each case prior to the stated maturity thereof; or

(e) The Borrower or any of its Subsidiaries shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Borrower or any of its Subsidiaries seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up,

reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismitted or unstayed for a period of 60 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Borrower or any of its Subsidiaries shall take any corporate action to authorize any of the actions set forth above in this subsection (e); or

(f) Judgments or orders for the payment of money in excess of \$50,000,000 in the aggregate shall be rendered against the Borrower or any of its Subsidiaries and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order or (ii) there shall be any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; provided, however, that any such judgment or order shall not be an Event of Default under this Section 6.01(f) if and for so long as (i) the amount of such judgment or order is covered by a valid and binding policy of insurance between the defendant and the insurer covering payment thereof and (ii) such insurer, which shall be rated at least "A" by A.M. Best Company, has been notified of, and has not disputed the claim made for payment of, the amount of such judgment or order; or

(g) the Borrower shall cease at any time to own, directly or indirectly, a majority of the Voting Stock of each Guarantor; or

(h) (i) Any Person or two or more Persons acting in concert shall have acquired beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934), directly or indirectly, of Voting Stock of the Borrower (or other securities convertible into such Voting Stock) representing 40% or more of the combined voting power of all Voting Stock of the Borrower; or

(i) any provision of any Loan Document after delivery thereof pursuant to Section 3.01 or 5.01(j) shall for any reason cease to be valid and binding on or enforceable against any Loan Party to it, or any such Loan Party shall so state in writing; or

(j) The Borrower or any of its ERISA Affiliates shall incur, or shall be reasonably likely to incur liability in excess of \$50,000,000 in the aggregate as a result of one or more of the following: (i) the occurrence of any ERISA Event; (ii) the partial or complete withdrawal of the Borrower or any of its ERISA Affiliates from a Multiemployer Plan; or (iii) the reorganization or termination of a Multiemployer Plan;

then, and in any such event, the Agent (i) shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, declare the obligation of each Lender to make Advances (other than Tranche A Advances by an Issuing Bank or a Lender pursuant to Section 2.04(b)) and of the Issuing Banks to issue Letters of Credit to be terminated, whereupon the same shall forthwith terminate, and (ii) shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, declare the Advances, all interest thereon and all other amounts payable under this Agreement to be forthwith due and payable, whereupon the Advances, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Federal Bankruptcy Code, (A) the obligation of each Lender to make Advances (other than Tranche A Advances by an Issuing Bank or a Lender pursuant to Section 2.04(b)) and of the Issuing Banks to issue Letters of Credit shall automatically be terminated and (B) the Advances, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower.

SECTION 6.02. Actions in Respect of the Letters of Credit upon Default. If any Event of Default shall have occurred and be continuing, the Agent may with the consent, or shall at the request, of the Required Lenders, irrespective of whether it is taking any of the actions described in Section 6.01 or otherwise, make demand upon the Borrower to, and forthwith upon such demand the Borrower will, (a) pay to the Agent on behalf of the Lender Parties in same day funds at the Agent's office designated in such demand, for deposit in the L/C Cash Collateral Account, an amount equal to the aggregate Available Amount of all Letters of Credit then outstanding or (b) make such other arrangements in respect of the outstanding Letters of Credit as shall be acceptable to the Required Lenders. If at any time the Agent determines that any funds held in the L/C Cash Collateral Account are subject to any right or claim of any Person other than the Agent and the Lender Parties or that the total amount of such funds is less than the aggregate Available Amount of all Letters of Credit, the Borrower will, forthwith upon demand by the Agent, pay to the Agent, as additional funds to be deposited and held in the L/C Cash Collateral Account, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, then held in the L/C Cash Collateral Account that the Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit, to the extent funds are on deposit in the L/C Cash Collateral Account, such funds shall be applied to reimburse the Issuing Banks to the extent permitted by applicable law.

ARTICLE VII

THE AGENT

SECTION 7.01. Authorization and Action. Each Lender (in its capacities as a Lender and Issuing Bank (as applicable)) hereby appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers and discretion under this Agreement as are delegated to the Agent by the terms hereof, together with such powers and discretion as are reasonably incidental thereto. As to any matters not expressly provided for by this Agreement (including, without limitation, enforcement or collection of the Notes), the Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders, and such instructions shall be binding upon all Lenders and all holders of Notes; provided, however, that the Agent shall not be required to take any action that exposes the Agent to personal liability or that is contrary to this Agreement or applicable law. The Agent shall be fully justified in failing or refusing to take any action under this Agreement and the other Loan Documents unless it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action except for its own gross negligence or willful misconduct. The Agent agrees to give to each Lender prompt notice of each notice given to it by the Borrower pursuant to the terms of this Agreement, provided that the Agent shall have no liability for the failure or delay in giving such notices. The Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agent or attorneys-in-fact selected by the Agent in the absence of gross negligence or willful misconduct.

SECTION 7.02. Agent's Reliance, Etc. Neither the Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them under or in connection with this Agreement, except for its or their own gross negligence or willful misconduct. Without limitation of the generality of the foregoing, the Agent: (i) may treat the Lender that made any Advance as the holder of the Debt resulting therefrom until the Agent receives and accepts an Assumption Agreement entered into by an Assuming Lender as provided in Section 2.19 or 2.20, as the case may be, or an Assignment and Acceptance entered into by such Lender, as assignor, and an Eligible Assignee, as assignee, as provided in Section 8.07; (ii) may consult with legal counsel (including counsel for the Borrower), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (iii) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations (whether written or oral) made in or in connection with this Agreement; (iv) shall not have any duty to ascertain or to inquire as to the performance, observance or satisfaction of any of the terms, covenants or conditions of this Agreement on the part of the Borrower or the existence at any time of any Default or to inspect the property (including the books and records) of the Borrower; (v) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of, or the perfection or priority of any lien or security interest created or purported to be created

under or in connection with, this Agreement or any other instrument or document furnished pursuant hereto; and (vi) shall incur no liability under or in respect of this Agreement by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopier) believed by it to be genuine and signed or sent by the proper party or parties. The Agent shall be entitled to rely, and shall be fully protected in relying in good faith, upon any note, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telecopy or teletype message, statement order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including without limitation counsel to the Borrower), independent accountants and other experts selected by the Agent.

SECTION 7.03. Wachovia and Affiliates. With respect to its Commitment, the Advances made by it and the Note issued to it, Wachovia shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Agent; and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated, include Wachovia in its individual capacity. Wachovia and its Affiliates may accept deposits from, lend money to, act as trustee under indentures of, accept investment banking engagements from and generally engage in any kind of business with, the Borrower, any of its Subsidiaries and any Person who may do business with or own securities of the Borrower or any such Subsidiary, all as if Wachovia were not the Agent and without any duty to account therefor to the Lenders. The Agent shall have no duty to disclose information obtained or received by it or any of its Affiliates relating to the Borrower or its Subsidiaries to the extent such information was obtained or received in any capacity other than as Agent.

SECTION 7.04. Lender Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender and based on the financial statements referred to in Section 4.01 and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement.

SECTION 7.05. Indemnification. (a) The Lenders agree to indemnify the Agent (to the extent not reimbursed by the Borrower), ratably according to the respective principal amounts of the Revolving Credit Advances then owed to each of them (or if no Revolving Credit Advances are at the time outstanding, ratably according to the respective amounts of their Revolving Credit Commitments), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Agreement or any action taken or omitted by the Agent under this Agreement (collectively, the "Indemnified Costs"), provided that no Lender shall be liable for any portion of the Indemnified Costs resulting from the Agent's gross negligence or willful misconduct. Without limitation of the foregoing, each Lender agrees to reimburse the Agent promptly upon demand for its ratable share of any out-of-pocket expenses (including reasonable counsel fees) incurred by the Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, to the extent that the Agent is not reimbursed for such expenses by the Borrower. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Costs, this Section 7.05 applies whether any such investigation, litigation or proceeding is brought by the Agent, any Lender or a third party.

(b) Each Lender severally agrees to indemnify the Issuing Banks (to the extent not promptly reimbursed by the Borrower) from and against such Lender's Pro Rata Share of any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against any such Issuing Bank in any way relating to or arising out of this Agreement or any action taken or omitted by such Issuing Bank hereunder or in connection herewith; provided, however, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Issuing Bank's gross negligence or willful misconduct as found in a final, non-appealable judgment by a court of competent jurisdiction. Without limitation of the foregoing, each Lender agrees to reimburse any such Issuing Bank promptly upon demand for its Pro Rata Share of any costs and expenses (including, without limitation, fees and expenses of counsel) payable by the Borrower under Section 8.04, to the extent that such Issuing Bank is not promptly reimbursed for such costs and expenses by the Borrower.

(c) The failure of any Lender to reimburse the Agent or any such Issuing Bank, as the case may be, promptly upon demand for its ratable share of any amount required to be paid by the Lenders to such Agent or such Issuing Bank, as the case may be, as provided herein shall not relieve any other Lender of its obligation hereunder to reimburse such Agent or Issuing Bank, as the case may be, for its ratable share of such amount, but no Lender shall be responsible for the failure of any other Lender to reimburse the Agent or any such Issuing Bank, as the case may be, for such other Lender's ratable share of such amount. Without prejudice to the survival of any other agreement of any Lender hereunder, the agreement and obligations of each Lender contained in this Section 7.05 shall survive the payment in full of principal, interest and all other amounts payable hereunder and under the Notes.

SECTION 7.06. Successor Agent. The Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower and may be removed at any time with or without cause by the Required Lenders. Upon any such resignation or removal, the Required Lenders shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Agent's giving of notice of resignation or the Required Lenders' removal of the retiring Agent, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent, which shall be a commercial bank organized under the laws of the United States of America or of any State thereof and having a combined capital and surplus of at least \$500,000,000. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under this Agreement. After any retiring Agent's resignation or removal hereunder as Agent, the provisions of this Article VII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

SECTION 7.07. Sub-Agent. The Sub-Agent has been designated under this Agreement to carry out duties of the Agent. The Sub-Agent shall be subject to each of the obligations in this Agreement to be performed by the Sub-Agent, and each of the Borrower and the Lenders agrees that the Sub-Agent shall be entitled to exercise each of the rights and shall be entitled to each of the benefits of the Agent under this Agreement as relate to the performance of its obligations hereunder.

SECTION 7.08. Other Agents. Each Lender hereby acknowledges that no syndication agent, documentation agent or any other Lender designated as any "Agent" (other than the Agent) on the signature pages hereof has any liability hereunder other than in its capacity as a Lender.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.01. Amendments, Etc. No amendment or waiver of any provision of this Agreement or the Revolving Credit Notes, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless in writing and signed by the Required Lenders and each of the Lenders affected thereby, do any of the following: (a) waive any of the conditions specified in Section 3.01, (b) increase the Commitments of the Lenders other than as provided in Section 2.19, (c) reduce the principal of, or interest on, the Revolving Credit Advances or any fees or other amounts payable hereunder, (d) postpone any date fixed for any payment of principal of, or interest on, the Advances (other than Competitive Bid Advances) or any fees or other amounts payable hereunder other than as provided in Section 2.20, (e) change the percentage of the Revolving Credit Commitments, the aggregate Available Amount of outstanding Letters of Credit or of the aggregate unpaid principal amount of the Revolving Credit Advances that shall be required for the Lenders or any of them to take any action hereunder, (f) reduce or limit the obligations of any Guarantor under Section 1 of the Guaranty or release such Guarantor or otherwise limit such Guarantor's liability with respect to the obligations

owing to the Agent and the Lenders (other than to the extent permitted under the Guaranty) or (g) amend this Section 8.01; and provided further that (x) no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Lenders required above to take such action, affect the rights or duties of the Agent under this Agreement or any Note, (y) no amendment, waiver or consent shall, unless in writing and signed by each Swing Line Bank, in addition to the Lenders required above to take such action, affect the rights or obligations of the Swing Line Banks in their capacities as such under this Agreement, and (z) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Banks in addition to the Lenders required above to take such action, adversely affect the rights or obligations of the Issuing Banks in their capacities as such under this Agreement.

SECTION 8.02. Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including telecopier communication) and mailed, telecopied or delivered, if to the Borrower, at its address at 2200 Old Germantown Road, Delray Beach, Florida 33445, Attention: Jenny Boese; if to any Initial Lender, at its Domestic Lending Office specified opposite its name on Schedule I hereto; if to any other Lender, at its Domestic Lending Office specified in the Assumption Agreement or the Assignment and Acceptance pursuant to which it became a Lender; and if to the Agent, at its address at 201 South College Street, Charlotte, NC 28288-0680, Attention: Syndication Agency Services; or, as to the Borrower or the Agent, at such other address as shall be designated by such party in a written notice to the other parties and, as to each other party, at such other address as shall be designated by such party in a written notice to the Borrower and the Agent. All such notices and communications shall, when mailed or telecopied, be effective when deposited in the mails or telecopied, respectively, except that notices and communications to the Agent pursuant to Article II, III or VII shall not be effective until received by the Agent. Delivery by telecopier of an executed counterpart of any amendment or waiver of any provision of this Agreement or the Notes or of any Exhibit hereto to be executed and delivered hereunder shall be effective as delivery of a manually executed counterpart thereof.

SECTION 8.03. No Waiver; Remedies. No failure on the part of any Lender or the Agent to exercise, and no delay in exercising, any right hereunder or under any Note shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 8.04. Costs and Expenses. (a) The Borrower agrees to pay on demand all reasonable out-of-pocket costs and expenses of the Agent in connection with the preparation, execution, delivery, administration, modification and amendment of this Agreement, the Notes and the other documents to be delivered hereunder, including, without limitation, (A) all due diligence, syndication (including printing, distribution and bank meetings), transportation, computer, duplication, appraisal, consultant, and audit expenses and (B) the reasonable fees and expenses of counsel for the Agent with respect thereto and with respect to advising the Agent as to its rights and responsibilities under this Agreement. The Borrower further agrees to pay on demand all costs and expenses of the Agent and the Lenders, if any (including, without limitation, reasonable counsel fees and expenses), in connection with the enforcement (whether through negotiations, legal proceedings or otherwise) of this Agreement, the Notes and the other documents to be delivered hereunder, including, without limitation, reasonable fees and expenses of counsel for the Agent and each Lender in connection with the enforcement of rights under this Section 8.04(a).

(b) The Borrower agrees to indemnify and hold harmless the Agent and each Lender and each of their Affiliates and their officers, directors, employees, agents and advisors (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and expenses of counsel) incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith) (i) the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Advances or (ii) the actual or alleged presence of Hazardous Materials on any property of the Borrower or any of its Subsidiaries or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, except to the extent such claim, damage, loss, liability or expense resulted from such Indemnified Party's gross negligence or willful misconduct. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 8.04(b) applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, equityholders or creditors or an Indemnified Party or any other Person, whether or not any Indemnified Party is otherwise a party thereto and whether or not the transactions contemplated

hereby are consummated. The Borrower also agrees not to assert any claim for special, indirect, consequential or punitive damages against the Agent, any Lender, any of their Affiliates, or any of their respective directors, officers, employees, attorneys and agents, on any theory of liability, arising out of or otherwise relating to the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Advances.

(c) If any payment of principal of, or Conversion of, any Eurocurrency Rate Advance or LIBO Rate Advance is made by the Borrower to or for the account of a Lender (i) other than on the last day of the Interest Period for such Advance, as a result of a payment or Conversion pursuant to Section 2.09, 2.11 or 2.13, acceleration of the maturity of the Notes pursuant to Section 6.01 or for any other reason, or by an Eligible Assignee to a Lender other than on the last day of the Interest Period for such Advance upon an assignment of rights and obligations under this Agreement pursuant to Section 8.07 as a result of a demand by the Borrower pursuant to Section 8.07(a) or (ii) as a result of a payment or Conversion pursuant to Section 2.09, 2.11 or 2.13, the Borrower shall, upon demand by such Lender (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that it may reasonably incur as a result of such payment or Conversion, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Advance. If the amount of the Committed Currency purchased by any Lender in the case of a Conversion or exchange of Advances in the case of Section 2.09 or 2.13 exceeds the sum required to satisfy such Lender's liability in respect of such Advances, such Lender agrees to remit to the Company such excess.

(d) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in Sections 2.12, 2.15 and 8.04 shall survive the payment in full of principal, interest and all other amounts payable hereunder and under the Notes.

SECTION 8.05. Right of Set-off. Upon (i) the occurrence and during the continuance of any Event of Default and (ii) the making of the request or the granting of the consent specified by Section 6.01 to authorize the Agent to declare the Notes due and payable pursuant to the provisions of Section 6.01, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender or such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement and the Note held by such Lender, whether or not such Lender shall have made any demand under this Agreement or such Note and although such obligations may be unmatured. Each Lender agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The amount of any set-off under this Section 8.05 shall be denominated in Dollars, and any amounts owing to the applicable Lender in any Committed Currency shall be in an amount equal to the amount of Dollars that such Lender shall determine by reference to the spot exchange rate determined by such Lender to be available (or such other reasonable method of determining a rate of exchange as the Lender may deem applicable), such determination of such amount of Dollars to be conclusive and binding in the absence of manifest error. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender and its Affiliates may have.

SECTION 8.06. Binding Effect. This Agreement shall become effective (other than Sections 2.01 and 2.03, which shall only become effective upon satisfaction of the conditions precedent set forth in Section 3.01) when it shall have been executed by the Borrower and the Agent and when the Agent shall have been notified by each Initial Lender that such Initial Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, the Agent and each Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

SECTION 8.07. Assignments and Participations. (a) Each Lender may and, if demanded by the Borrower (following a demand by such Lender pursuant to Section 2.12 or 2.15 or an assertion by such Lender under Section 2.13) upon at least five Business Days' notice to such Lender and the Agent, will assign to one or more Persons all or a portion of its rights and obligations under this Agreement (including, without limitation, all or

a portion of its Revolving Credit Commitment, the Revolving Credit Advances owing to it and the Revolving Credit Note or Notes held by it); provided, however, that (i) each such assignment shall be of a constant, and not a varying, percentage of all rights and obligations under and in respect of one or more of the Tranche A Facility, the Tranche B Facility or the Letter of Credit Facility, (ii) except in the case of an assignment to a Person that, immediately prior to such assignment, was a Lender or an assignment of all of a Lender's rights and obligations under this Agreement, the amount of the Commitment of the assigning Lender being assigned pursuant to each such assignment (determined as of the date of the Assignment and Acceptance with respect to such assignment) shall in no event be less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof unless the Borrower and the Agent otherwise agree, (iii) each such assignment shall be to an Eligible Assignee, (iv) each such assignment made as a result of a demand by the Borrower pursuant to this Section 8.07(a) shall be arranged by the Borrower after consultation with the Agent and shall be either an assignment of all of the rights and obligations of the assigning Lender under this Agreement or an assignment of a portion of such rights and obligations made concurrently with another such assignment or other such assignments that together cover all of the rights and obligations of the assigning Lender under this Agreement, (v) no Lender shall be obligated to make any such assignment as a result of a demand by the Borrower pursuant to this Section 8.07(a) unless and until such Lender shall have received one or more payments from either the Borrower or one or more Eligible Assignees in an aggregate amount at least equal to the aggregate outstanding principal amount of the Advances owing to such Lender, together with accrued interest thereon to the date of payment of such principal amount and all other amounts payable to such Lender under this Agreement, and (vi) the parties to each such assignment shall execute and deliver to the Agent, for its acceptance and recording in the Register, an Assignment and Acceptance, together with any Revolving Credit Note subject to such assignment and a processing and recordation fee of \$3,500 payable by the parties to each such assignment, provided, however, that in the case of each assignment made as a result of a demand by the Borrower, such recordation fee shall be payable by the Borrower except that no such recordation fee shall be payable in the case of an assignment made at the request of the Borrower to an Eligible Assignee that is an existing Lender, and (vii) any Lender may, without the approval of the Borrower and the Agent, assign all or a portion of its rights to any of its Affiliates. Upon such execution, delivery, acceptance and recording, from and after the effective date specified in each Assignment and Acceptance, (x) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, have the rights and obligations of a Lender hereunder and (y) the Lender assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (other than its rights under Section 2.12, 2.15 and 8.04 to the extent any claim thereunder relates to an event arising prior such assignment) and be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto).

(b) By executing and delivering an Assignment and Acceptance, the Lender assignor thereunder and the assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of, or the perfection or priority of any lien or security interest created or purported to be created under or in connection with, this Agreement or any other instrument or document furnished pursuant hereto; (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or the performance or observance by the Borrower of any of its obligations under this Agreement or any other instrument or document furnished pursuant hereto; (iii) such assignee confirms that it has received a copy of this Agreement, together with copies of the financial statements referred to in Section 4.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (iv) such assignee will, independently and without reliance upon the Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (v) such assignee confirms that it is an Eligible Assignee; (vi) such assignee appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers and discretion under this Agreement as are delegated to the Agent by the terms hereof, together with such powers and discretion as are reasonably incidental thereto; and (vii) such assignee agrees that it will perform in accordance with their terms all of the obligations that by the terms of this Agreement are required to be performed by it as a Lender or as an Issuing Bank, as the case may be.

(c) Upon its receipt of an Assignment and Acceptance executed by an assigning Lender and an assignee representing that it is an Eligible Assignee, together with any Revolving Credit Note or Notes subject to such assignment, the Agent shall, if such Assignment and Acceptance has been completed and is in substantially the form of Exhibit C hereto, (i) accept such Assignment and Acceptance, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Borrower.

(d) The Agent shall maintain at its address referred to in Section 8.02 a copy of each Assumption Agreement and each Assignment and Acceptance delivered to and accepted by it and a register for the recordation of the names and addresses of the Lenders and the Commitments of, and principal amount of the Advances owing to, each Lender from time to time (the “Register”). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower, the Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(e) Each Lender may sell participations to one or more banks or other entities (other than the Borrower or any of its Affiliates) in or to all or a portion of its rights and obligations under this Agreement (including, without limitation, all or a portion of its Tranche A Commitment or Tranche B Commitment, the Advances owing to it and any Note or Notes held by it); provided, however, that (i) such Lender’s obligations under this Agreement (including, without limitation, its Commitments to the Borrower hereunder) shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) such Lender shall remain the holder of any such Note for all purposes of this Agreement, (iv) the Borrower, the Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement and (v) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of this Agreement or any Note, or any consent to any departure by the Borrower therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, the Notes or any fees or other amounts payable hereunder, in each case to the extent subject to such participation, or postpone any date fixed for any payment of principal of, or interest on, the Notes or any fees or other amounts payable hereunder, in each case to the extent subject to such participation.

(f) Any Lender may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 8.07, disclose to the assignee or participant or proposed assignee or participant, any information relating to the Borrower furnished to such Lender by or on behalf of the Borrower; provided that, prior to any such disclosure, the assignee or participant or proposed assignee or participant shall agree to preserve the confidentiality of any Confidential Information relating to the Borrower received by it from such Lender.

(g) The Issuing Banks may assign to an Eligible Assignee its rights and obligations or any portion of the undrawn Letter of Credit Commitment of such Issuing Bank at any time; provided, however, that (i) the amount of the Letter of Credit Commitment of the assigning Issuing Bank being assigned pursuant to each such assignment (determined as of the date of the Assignment and Acceptance with respect to such assignment) shall in no event be less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof, and (ii) the parties to each such assignment shall execute and deliver to the Agent, for its acceptance and recording in the Register, an Assignment and Acceptance, together with a processing and recordation fee of \$3,500.

(h) Notwithstanding any other provision set forth in this Agreement, any Lender may at any time create a security interest in all or any portion of its rights under this Agreement (including, without limitation, the Advances owing to it and any Note or Notes held by it) in favor of any Federal Reserve Bank in accordance with Regulation A of the Board of Governors of the Federal Reserve System.

SECTION 8.08. Confidentiality. Neither the Agent nor any Lender shall disclose any Confidential Information to any other Person without the consent of the Borrower, other than (a) to the Agent’s or such Lender’s Affiliates and their officers, directors, employees, agents and advisors and, as contemplated by Section 8.07(f), to actual or prospective assignees and participants, and to any actual or prospective counterparty (or its advisors) to any securitization, swap or derivative transaction relating to the Borrower, any of its Subsidiaries, and the Borrower’s obligations under this Agreement, that are informed of the confidential nature of the

Confidential Information and who agree to be bound by the terms and conditions of this Section 8.08, (b) as required by any law, rule or regulation or judicial process, provided that, to the extent permitted by law, a request is made for confidential treatment of such information, (c) as requested or required by any state, federal or foreign authority or examiner regulating banks or banking and (d) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder.

SECTION 8.09. Governing Law. This Agreement and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 8.10. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 8.11. Judgment. (a) If for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in Dollars into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Agent could purchase Dollars with such other currency at the Sub-Agent's principal office in London at 11:00 A.M. (London time) on the Business Day preceding that on which final judgment is given.

(b) If for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in a Foreign Currency into Dollars, the parties agree to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Agent could purchase such Foreign Currency with Dollars at the Sub-Agent's principal office in London at 11:00 A.M. (London time) on the Business Day preceding that on which final judgment is given.

(c) The obligation of the Borrower in respect of any sum due from it in any currency (the "Primary Currency") to any Lender or the Agent hereunder shall, notwithstanding any judgment in any other currency, be discharged only to the extent that on the Business Day following receipt by such Lender or the Agent (as the case may be), of any sum adjudged to be so due in such other currency, such Lender or the Agent (as the case may be) may in accordance with normal banking procedures purchase the applicable Primary Currency with such other currency; if the amount of the applicable Primary Currency so purchased is less than such sum due to such Lender or the Agent (as the case may be) in the applicable Primary Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Agent (as the case may be) against such loss, and if the amount of the applicable Primary Currency so purchased exceeds such sum due to any Lender or the Agent (as the case may be) in the applicable Primary Currency, such Lender or the Agent (as the case may be) agrees to remit to the Borrower such excess.

SECTION 8.12. Jurisdiction, Etc. (a) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the Notes, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the extent permitted by law, in such federal court. The Borrower hereby agrees that service of process in any such action or proceeding brought in the any such New York State court or in such federal court may be made upon CT Corporation System at its offices at 1633 Broadway, New York, New York 10019 (the "Process Agent") and the Borrower hereby irrevocably appoints the Process Agent its authorized agent to accept such service of process, and agrees that the failure of the Process Agent to give any notice of any such service shall not impair or affect the validity of such service or of any judgment rendered in any action or proceeding based thereon. The Borrower hereby further irrevocably consents to the service of process in any action or proceeding in such courts by the mailing thereof by any parties hereto by registered or certified mail, postage prepaid, to the Borrower at its address specified pursuant to Section 8.02. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or the Notes in the courts of any jurisdiction.

(b) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the Notes in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

SECTION 8.13. Substitution of Currency. If a change in any Foreign Currency occurs pursuant to any applicable law, rule or regulation of any governmental, monetary or multi-national authority, this Agreement (including, without limitation, the definitions of Eurocurrency Rate and LIBO Rate) will be amended to the extent determined by the Agent (acting reasonably and in consultation with the Borrower) to be necessary to reflect the change in currency and to put the Lenders and the Borrower in the same position, so far as possible, that they would have been in if no change in such Foreign Currency had occurred.

SECTION 8.14. No Liability of the Issuing Banks. The Borrower assumes all risks of the acts or omissions of any beneficiary or transferee of any Letter of Credit with respect to its use of such Letter of Credit. Neither an Issuing Bank nor any of its officers or directors shall be liable or responsible for: (a) the use that may be made of any Letter of Credit or any acts or omissions of any beneficiary or transferee in connection therewith; (b) the validity, sufficiency or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (c) payment by such Issuing Bank against presentation of documents that do not comply with the terms of a Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit; or (d) any other circumstances whatsoever in making or failing to make payment under any Letter of Credit, except that the Borrower shall have a claim against such Issuing Bank, and such Issuing Bank shall be liable to the Borrower, to the extent of any direct, but not consequential, damages suffered by the Borrower that the Borrower proves were caused by (i) such Issuing Bank's willful misconduct or gross negligence in determining whether documents presented under any Letter of Credit comply with the terms of the Letter of Credit or (ii) such Issuing Bank's willful failure to make lawful payment under a Letter of Credit after the presentation to it of a draft and certificates strictly complying with the terms and conditions of the Letter of Credit. In furtherance and not in limitation of the foregoing, such Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

SECTION 8.15. Patriot Act. Each Lender hereby notifies the Borrower and each Guarantor that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each borrower, guarantor or grantor (the "Credit Parties"), which information includes the name and address of each Credit Party and other information that will allow such Lender to identify such Credit Party in accordance with the Act.

SECTION 8.16. Waiver of Jury Trial. Each of the Borrower, the Agent, the Sub-Agent and the Lenders hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the Notes or the actions of the Agent or any Lender in the negotiation, administration, performance or enforcement thereof.

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

OFFICE DEPOT, INC.

By: /s/ Patricia McKay
Name: Patricia McKay
Title: Chief Financial Officer

By: /s/ Jennifer Boese
Name: Jennifer Boese
Title: Vice President and Treasurer

WACHOVIA BANK, NATIONAL ASSOCIATION, as
Agent

By: _____
Title:

Initial Lenders

Letter of Credit Commitment

\$300,000,000

WACHOVIA BANK, NATIONAL ASSOCIATION

By: _____
Title:

\$50,000,000

SUNTRUST BANK

By: _____
Title:

\$350,000,000 Total of the Letter of Credit Commitments

Swing Line Commitment

\$75,000,000

WACHOVIA BANK, NATIONAL ASSOCIATION

By: _____
Title:

\$75,000,000

CITICORP USA, INC.

By: _____
Title:

\$150,000,000 Total of the Swing Line Commitments

Tranche A Commitment

\$90,000,000

CITICORP USA, INC.

By: _____
Title:

\$90,000,000

WACHOVIA BANK, NATIONAL ASSOCIATION

By: _____
Title:

\$90,000,000

BNP PARIBAS

By: _____
Title:

By: _____
Title:

\$70,000,000

BANK OF AMERICA, N.A.

By: _____
Title:

\$70,000,000

JPMORGAN CHASE BANK, N.A.

By: _____
Title:

\$50,000,000

FIFTH THIRD BANK

By: _____
Title:

\$50,000,000

FORTIS CAPITAL CORP.

By: _____
Title:

By: _____
Title:

\$50,000,000

THE ROYAL BANK OF SCOTLAND PLC

By: _____
Title:

\$50,000,000

SUNTRUST BANK

By: _____
Title:

\$50,000,000

UBS LOAN FINANCE LLC

By: _____
Title:

By: _____
Title:

\$50,000,000

THE BANK OF NOVA SCOTIA

By: _____
Title:

\$50,000,000

MORGAN STANLEY BANK

By: _____
Title:

\$50,000,000

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: _____
Title:

By: _____
Title:

\$50,000,000

WILLIAM STREET COMMITMENT CORPORATION
(recourse only to assets of William Street
Commitment Corporation)

By: _____
Title:

\$40,000,000

U.S. BANK, NATIONAL ASSOCIATION

By: _____
Title:

\$900,000,000 Total of the Tranche A Commitments

Tranche B Commitment

\$40,000,000

SUMITOMO MITSUI BANKING CORPORATION

By: _____
Title:

\$35,000,000

UNION BANK OF CALIFORNIA, N.A.

By: _____
Title:

\$25,000,000

MIZUHO CORPORATE BANK, LTD.

By: _____
Title:

\$100,000,000 Total of the Tranche B Commitments

SCHEDULE I
OFFICE DEPOT, INC.
FIVE YEAR CREDIT AGREEMENT
APPLICABLE LENDING OFFICES

Name of Initial Lender	Domestic Lending Office	Eurocurrency Lending Office
Bank of America, N.A.	1850 Gateway Boulevard Concord, CA 94520 Attn: Gardelyn Jayme T: 925 675-7184 F: 888 969-9232	1850 Gateway Boulevard Concord, CA 94520 Attn: Gardelyn Jayme T: 925 675-7184 F: 888 969-9232
The Bank of Nova Scotia	New York Corporate Loans One Liberty Plaza, Floors 24-26 New York, NY 10006 Attn: Tamara Mohan Tel: (212) 225-5705 Fax: (212) 225-5709	New York Corporate Loans One Liberty Plaza, Floors 24-26 New York, NY 10006 Attn: Tamara Mohan Tel: (212) 225-5705 Fax: (212) 225-5709
BNP Paribas	1200 Smith, Suite 3100 Houston, TX 77379 Attn: Mike Shryock T: 713 982-1105 F: 713 659-5228	1200 Smith, Suite 3100 Houston, TX 77379 Attn: Mike Shryock T: 713 982-1105 F: 713 659-5228
Citibank, N.A.	2 Penns Way New Castle, DE 19720 Attn: Laura Braach T: 302 894-6058 F: 302 894-6120	2 Penns Way New Castle, DE 19720 Attn: Laura Braach T: 302 894-6058 F: 302 894-6120
Fifth Third Bank	38 Fountain Square Mail Drop 109054 Cincinnati, OH 45263 Attn: Sylvana Schafenberger T: 513 744-7018 F: 513 744-5947	38 Fountain Square Mail Drop 109054 Cincinnati, OH 45263 Attn: Sylvana Schafenberger T: 513 744-7018 F: 513 744-5947
Fortis Capital Corp.	301 Tresser Boulevard Stamford, CT 06901 Attn: Henk Raison T: 203 705-5711 F: 203 705-5899	301 Tresser Boulevard Stamford, CT 06901 Attn: Henk Raison T: 203 705-5711 F: 203 705-5899
JPMorgan Chase Bank, N.A.		
Mizuho Corporate Bank, Ltd.	1251 Avenue of the Americas New York, NY 10020 Attn: Katsuya Noto T: 212 282-4298 F: 212 282-4250	1251 Avenue of the Americas New York, NY 10020 Attn: Katsuya Noto T: 212 282-4298 F: 212 282-4250
Morgan Stanley Bank	2500 Lake Park Blvd. Suite 300 C West Valley City, Utah 84120 Attn: Erma Dell'Aquila / Edward Henley T: 718 754-7286 / 7285 F: 718 754-7249 / 7250	2500 Lake Park Blvd. Suite 300 C West Valley City, Utah 84120 Attn: Erma Dell'Aquila / Edward Henley T: 718 754-7286 / 7285 F: 718 754-7249 / 7250

Name of Initial Lender	Domestic Lending Office	Eurocurrency Lending Office
The Royal Bank of Scotland plc	101 Park Avenue New York, NY 10178 Attn: Juanita Baird T: 212 401-1420 F: 212 401-1336	101 Park Avenue New York, NY 10178 Attn: Juanita Baird T: 212 401-1420 F: 212 401-1336
Sumitomo Mitsui Banking Corporation	277 Park Avenue New York, NY 10172 Attn: Courtney Whitlock T: 212 224-4335 F: 212 224-5197	277 Park Avenue New York, NY 10172 Attn: Courtney Whitlock T: 212 224-4335 F: 212 224-5197
Suntrust Bank	200 S. Orange Avenue, MC 1106 Orlando, FL 32801 Attn: Debbie Joerger T: 407 237-4393 F: 407 237-5342	200 S. Orange Avenue, MC 1106 Orlando, FL 32801 Attn: Debbie Joerger T: 407 237-4393 F: 407 237-5342
UBS Loan Finance LLC	677 Washington Boulevard Stamford, CT 06901 Attn: Frank Luzzi T: 203 719-6391 F: 203 719-3888	677 Washington Boulevard Stamford, CT 06901 Attn: Frank Luzzi T: 203 719-6391 F: 203 719-3888
Union Bank of California, N.A.	1980 Salem Street Monterey Park, CA 91755 Attn: Ruby Gonzales T: 323 720-7055 F: 323 724-6198	1980 Salem Street Monterey Park, CA 91755 Attn: Ruby Gonzales T: 323 720-7055 F: 323 724-6198
U.S. Bank, National Association	US Bank Tower 425 Walnut Street, 8th Floor Cincinnati, OH 45202 Attn: Frances W. Josephic T: 513 762-8973 F: 513 632-4894	US Bank Tower 425 Walnut Street, 8th Floor Cincinnati, OH 45202 Attn: Frances W. Josephic T: 513 762-8973 F: 513 632-4894
Wachovia Bank, National Association	201 South College Street Charlotte, NC 28288 Attn: Jessie Kirkendoll T: 704 715-1353 F: 704 383-0288	201 South College Street Charlotte, NC 28288 Attn: Jessie Kirkendoll T: 704 715-1353 F: 704 383-0288
Wells Fargo Bank, N.A.	201 Third Street A0187-081 San Francisco, CA 94103 Attn: Maria Belle Garcia T: 415 477-5471 F: 415 979-0675	201 Third Street A0187-081 San Francisco, CA 94103 Attn: Maria Belle Garcia T: 415 477-5471 F: 415 979-0675
William Street Commitment Corporation	85 Broad Street New York, NY 10004 Attn: Carolyn Roth T: 212 357-8150 F: 212 346-8964	85 Broad Street New York, NY 10004 Attn: Carolyn Roth T: 212 357-8150 F: 212 346-8964

None

Schedule 4.01(m)

Intercompany Loans

<u>Lender</u>	<u>Borrower</u>	<u>Principal Amount</u>
U.S.	Dutch	EUR 388 million
U.S.	Japan	JPY 11.4 billion
Dutch	Japan	JPY 2.5 billion

Schedule 5.02(a)

Liens

EMC, Inc. (\$600,000).

Certain computer equipment obtained through EMC Corporation.

IBM Credit Corporation (\$2.9 million)

IBM Computer information processing equipment and related goods obtained through IBM Credit Corporation.

Schedule 5.02 (e)

Subsidiary Debt

1. Local overdraft facility up to an amount not in excess of Yen 2.5 billion (approximately \$20.6M at the current Yen:Dollar exchange rate of 121.48).
 2. Local credit line for standby L/Cs and bank guarantees of Euro 5 million for the benefit of an Italian subsidiary.
 3. Office Depot Israel — ILS 97,862,042 (USD 24,453,283 at current exchange rates)
-

U.S.\$ _____

Dated: _____, 200_

FOR VALUE RECEIVED, the undersigned, OFFICE DEPOT, INC., a Delaware corporation (the "Borrower"), HEREBY PROMISES TO PAY to the order of _____ (the "Lender") for the account of its Applicable Lending Office on the Termination Date applicable to such Lender (each as defined in the Credit Agreement referred to below) the principal sum of U.S.\$[amount of the Lender's Revolving Credit Commitments in figures] or, if less, the aggregate principal amount of the Revolving Credit Advances made by the Lender to the Borrower pursuant to the Five Year Credit Agreement dated as of May 25, 2007 among the Borrower, the Lender and certain other lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for the Lender and such other lenders (as amended or modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined) outstanding on such Termination Date.

The Borrower promises to pay interest on the unpaid principal amount of each Revolving Credit Advance from the date of such Revolving Credit Advance until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Credit Agreement.

Both principal and interest in respect of each Revolving Credit Advance (i) in Dollars are payable in lawful money of the United States of America to the Agent at its account maintained at 201 South College Street, Charlotte, NC 28222, in same day funds and (ii) in any Committed Currency are payable in such currency at the applicable Payment Office in same day funds. Each Revolving Credit Advance owing to the Lender by the Borrower pursuant to the Credit Agreement, and all payments made on account of principal thereof, shall be recorded by the Lender and, prior to any transfer hereof, endorsed on the grid attached hereto which is part of this Promissory Note.

This Promissory Note is one of the Revolving Credit Notes referred to in, and is entitled to the benefits of, the Credit Agreement. The Credit Agreement, among other things, (i) provides for the making of Revolving Credit Advances by the Lender to the Borrower from time to time in an aggregate amount not to exceed at any time outstanding the U.S. dollar amount first above mentioned, the indebtedness of the Borrower resulting from each such Revolving Credit Advance being evidenced by this Promissory Note, (ii) contains provisions for determining the Dollar Equivalent of Revolving Credit Advances denominated in Committed Currencies and (iii) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events and also for prepayments on account of principal hereof prior to the maturity hereof upon the terms and conditions therein specified.

OFFICE DEPOT, INC.

By: _____
Title:

ADVANCES AND PAYMENTS OF PRINCIPAL

Date	Amount of Advance	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

EXHIBIT A-2 — FORM OF
COMPETITIVE BID
PROMISSORY NOTE

U.S.\$ _____

Dated: _____, 200_

FOR VALUE RECEIVED, the undersigned, OFFICE DEPOT, INC., a Delaware corporation (the "Borrower"), HEREBY PROMISES TO PAY to the order of _____ (the "Lender") for the account of its Applicable Lending Office (as defined in the Five Year Credit Agreement dated as of May 25, 2007 among the Borrower, the Lender and certain other lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for the Lender and such other lenders (as amended or modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined)), on _____, 200_, the principal amount of [U.S.\$ _____] [for a Competitive Bid Advance in a Foreign Currency, list currency and amount of such Advance].

The Borrower promises to pay interest on the unpaid principal amount hereof from the date hereof until such principal amount is paid in full, at the interest rate and payable on the interest payment date or dates provided below:

Interest Rate: _____% per annum (calculated on the basis of a year of ___ days for the actual number of days elapsed).

Both principal and interest are payable in lawful money of _____ to Wachovia, as agent, for the account of the Lender at the office of Wachovia, at _____ in same day funds.

This Promissory Note is one of the Competitive Bid Notes referred to in, and is entitled to the benefits of, the Credit Agreement. The Credit Agreement, among other things, contains provisions for acceleration of the maturity hereof upon the happening of certain stated events.

The Borrower hereby waives presentment, demand, protest and notice of any kind. No failure to exercise, and no delay in exercising, any rights hereunder on the part of the holder hereof shall operate as a waiver of such rights.

This Promissory Note shall be governed by, and construed in accordance with, the laws of the State of New York.

OFFICE DEPOT, INC.

By: _____
Title:

Wachovia Bank, National Association., as Agent
for the Lenders parties
to the Credit Agreement
referred to below
201 South College Street
Charlotte, NC 28288

[Date]

Attention: Syndication Agency Services

Ladies and Gentlemen:

The undersigned, OFFICE DEPOT, INC., refers to the Five Year Credit Agreement, dated as of May 25, 2007 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, certain Lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for said Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.02 of the Credit Agreement that the undersigned hereby requests a Revolving Credit Borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such Revolving Credit Borrowing (the "Proposed Revolving Credit Borrowing") as required by Section 2.02(a) of the Credit Agreement:

(i) The Business Day of the Proposed Revolving Credit Borrowing is _____, 200_.

(ii) The Type of Advances comprising the Proposed Revolving Credit Borrowing is [Base Rate Advances] [Eurocurrency Rate Advances].

(iii) The Proposed Revolving Credit Borrowing shall consist of [Tranche A Advances] [Tranche B Advances].

(iv) The aggregate amount of the Proposed Revolving Credit Borrowing is \$ _____][list currency and amount of Revolving Credit Borrowing].

[(v) The initial Interest Period for each Eurocurrency Rate Advance made as part of the Proposed Revolving Credit Borrowing is _____ month[s].]

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Revolving Credit Borrowing:

(A) the representations and warranties contained in each Loan Document (other than the representations set forth in the last sentence of subsection 4.01(e) and in subsection 4.01(f)(i) of the Credit Agreement) are correct, before and after giving effect to the Proposed Revolving Credit Borrowing and to the application of the proceeds therefrom, as though made on and as of such date; and

(B) no event has occurred and is continuing, or would result from such Proposed Revolving Credit Borrowing or from the application of the proceeds therefrom, that constitutes a Default.

Very truly yours,

OFFICE DEPOT, INC.

By: _____
Title:

Wachovia Bank, National Association., as Agent
for the Lenders parties
to the Credit Agreement
referred to below
201 South College Street
Charlotte, NC 28288

[Date]

Attention: Syndication Agency Services

Ladies and Gentlemen:

The undersigned, OFFICE DEPOT, INC., refers to the Five Year Credit Agreement, dated as of May 25, 2007 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, certain Lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for said Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.03 of the Credit Agreement that the undersigned hereby requests a Competitive Bid Borrowing under the Credit Agreement, and in that connection sets forth the terms on which such Competitive Bid Borrowing (the "Proposed Competitive Bid Borrowing") is requested to be made:

- (A) Date of Competitive Bid Borrowing _____
- (B) Amount of Competitive Bid Borrowing _____
- (C) [Maturity Date] [Interest Period] _____
- (D) Interest Rate Basis _____
- (E) Day Count Convention _____
- (F) Interest Payment Date(s) _____
- (G) Currency _____
- (H) _____

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Competitive Bid Borrowing:

(a) the representations and warranties contained in each Loan Document (other than the representations set forth in the last sentence of subsection 4.01(e) and in subsection 4.01(f)(i) of the Credit Agreement) are correct, before and after giving effect to the Proposed Competitive Bid Borrowing and to the application of the proceeds therefrom, as though made on and as of such date;

(b) no event has occurred and is continuing, or would result from the Proposed Competitive Bid Borrowing or from the application of the proceeds therefrom, that constitutes a Default; and

(c) the aggregate amount of the Proposed Competitive Bid Borrowing and all other Borrowings to be made on the same day under the Credit Agreement is within the aggregate amount of the Unused Commitments of the Lenders.

The undersigned hereby confirms that the Proposed Competitive Bid Borrowing is to be made available to it in accordance with Section 2.03(a)(v) of the Credit Agreement.

Very truly yours,

OFFICE DEPOT, INC.

By: _____
Title:



[Name of Swing Line Bank]

Wachovia Bank, National Association., as Agent
for the Lenders parties
to the Credit Agreement
referred to below
201 South College Street
Charlotte, NC 28288

[Date]

Attention: Syndication Agency Services

Ladies and Gentlemen:

The undersigned, OFFICE DEPOT, INC., refers to the Five Year Credit Agreement, dated as of May 25, 2007 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, certain Lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for said Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.02 of the Credit Agreement that the undersigned hereby requests a Swing Line Borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such Swing Line Borrowing (the "Proposed Swing Line Borrowing") as required by Section 2.02(b) of the Credit Agreement:

(i) The Business Day of the Proposed Swing Line Borrowing is _____, 200__.

(ii) The aggregate amount of the Proposed Swing Line Borrowing is \$____.

(iii) The maturity of the Proposed Swing Line Borrowing is _____, 200__. [insert a date no later than the tenth day after the requested date of the Proposed Swing Line Borrowing].

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Swing Line Borrowing:

(A) the representations and warranties contained in each Loan Document (other than the representations set forth in the last sentence of subsection 4.01(e) and in subsection 4.01(f)(i) of the Credit Agreement) are correct, before and after giving effect to the Proposed Swing Line Borrowing and to the application of the proceeds therefrom, as though made on and as of such date; and

(B) no event has occurred and is continuing, or would result from such Proposed Swing Line Borrowing or from the application of the proceeds therefrom, that constitutes a Default.

Very truly yours,

OFFICE DEPOT, INC.

By: _____
Title:

EXHIBIT C — FORM OF
ASSIGNMENT AND ACCEPTANCE

Reference is made to the Five Year Credit Agreement dated as of May 25, 2007 (as amended or modified from time to time, the “Credit Agreement”) among OFFICE DEPOT, INC., a Delaware corporation (the “Borrower”), the Lenders (as defined in the Credit Agreement), Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as administrative agent for the Lenders (the “Agent”). Terms defined in the Credit Agreement are used herein with the same meaning.

The “Assignor” and the “Assignee” referred to on Schedule I hereto agree as follows:

1. The Assignor hereby sells and assigns to the Assignee, without recourse, and the Assignee hereby purchases and assumes from the Assignor, an interest in and to the Assignor’s rights and obligations under the Credit Agreement as of the date hereof (other than in respect of Competitive Bid Advances and Competitive Bid Notes) equal to the percentage interest specified on Schedule 1 hereto of all outstanding rights and obligations under the Credit Agreement (other than in respect of Competitive Bid Advances and Competitive Bid Notes) together with participations in Letters of Credit held by the Assignor on the date hereof. After giving effect to such sale and assignment, the Assignee’s Commitment and the amount of the Revolving Credit Advances owing to the Assignee will be as set forth on Schedule 1 hereto.

2. The Assignor (i) represents and warrants that it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of, or the perfection or priority of any lien or security interest created or purported to be created under or in connection with the Credit Agreement or any other instrument or document furnished pursuant thereto; (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or the performance or observance by the Borrower of any of its obligations under the Credit Agreement or any other instrument or document furnished pursuant thereto; and (iv) attaches the Revolving Credit Note[, if any,] held by the Assignor [and requests that the Agent exchange such Revolving Credit Note for a new Revolving Credit Note payable to the order of [the Assignee in an amount equal to the Revolving Credit Commitment assumed by the Assignee pursuant hereto or new Revolving Credit Notes payable to the order of the Assignee in an amount equal to the Revolving Credit Commitment assumed by the Assignee pursuant hereto and] the Assignor in an amount equal to the Revolving Credit Commitment retained by the Assignor under the Credit Agreement[, respectively,] as specified on Schedule 1 hereto].

3. The Assignee (i) confirms that it has received a copy of the Credit Agreement, together with copies of the financial statements referred to in Section 4.01 thereof and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance; (ii) agrees that it will, independently and without reliance upon the Agent, the Assignor or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (iii) confirms that it is an Eligible Assignee; (iv) appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement as are delegated to the Agent by the terms thereof, together with such powers and discretion as are reasonably incidental thereto; (v) agrees that it will perform in accordance with their terms all of the obligations that by the terms of the Credit Agreement are required to be performed by it as a Lender; and (vi) attaches any U.S. Internal Revenue Service forms required under Section 2.15 of the Credit Agreement.

4. Following the execution of this Assignment and Acceptance, it will be delivered to the Agent for acceptance and recording by the Agent. The effective date for this Assignment and Acceptance (the “Effective Date”) shall be the date of acceptance hereof by the Agent, unless otherwise specified on Schedule 1 hereto.

5. Upon such acceptance and recording by the Agent, as of the Effective Date, (i) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations of a Lender thereunder and (ii) the Assignor shall, to the extent provided in this Assignment and Acceptance, relinquish its rights and be released from its obligations under the Credit Agreement.

6. Upon such acceptance and recording by the Agent, from and after the Effective Date, the Agent shall make all payments under the Credit Agreement and the Revolving Credit Notes in respect of the interest assigned hereby (including, without limitation, all payments of principal, interest and facility fees with respect thereto) to the Assignee. The Assignor and Assignee shall make all appropriate adjustments in payments under the Credit Agreement and the Revolving Credit Notes for periods prior to the Effective Date directly between themselves.

7. This Assignment and Acceptance shall be governed by, and construed in accordance with, the laws of the State of New York.

8. This Assignment and Acceptance may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of Schedule 1 to this Assignment and Acceptance by telecopier shall be effective as delivery of a manually executed counterpart of this Assignment and Acceptance.

IN WITNESS WHEREOF, the Assignor and the Assignee have caused Schedule 1 to this Assignment and Acceptance to be executed by their officers thereunto duly authorized as of the date specified thereon.

Schedule 1
to
Assignment and Acceptance

Percentage interest assigned:	__%
Assignee's Tranche A Commitment:	\$ __
Aggregate outstanding principal amount of Tranche A Advances assigned:	\$ __
Assignee's Tranche B Commitment:	\$ __
Aggregate outstanding principal amount of Tranche B Advances assigned:	\$ __
Principal amount of Revolving Credit Note payable to Assignee:	\$ __
Principal amount of Revolving Credit Note payable to Assignor:	\$ __
Effective Date*: _____, 200__	

[NAME OF ASSIGNOR], as Assignor

By: _____
Title:

Dated: _____, 200__

[NAME OF ASSIGNEE], as Assignee

By: _____
Title:

Dated: _____, 200__

Domestic Lending Office:
[Address]

Eurocurrency Lending Office:
[Address]

* This date should be no earlier than five Business Days after the delivery of this Assignment and Acceptance to the Agent.

Accepted [and Approved]** this
__ day of _____, 200_

WACHOVIA BANK, NATIONAL
ASSOCIATION, as Agent

By: _____
Title:

[Approved this __ day
of _____, 200_

OFFICE DEPOT, INC.

By: _____]*
Title:

** Required if the Assignee is an Eligible Assignee solely by reason of clause (iii) of the definition of "Eligible Assignee".

* Required if the Assignee is an Eligible Assignee solely by reason of clause (iii) of the definition of "Eligible Assignee".

[Effective Date]

To each of the Lenders parties
to the Five Year Credit Agreement dated
as of May 25, 2007
among Office Depot, Inc.,
said Lenders and Wachovia Bank, National Association,
as Agent for said Lenders, and
to Wachovia Bank, National Association, as Agent

Office Depot, Inc.

Ladies and Gentlemen:

This opinion is furnished to you pursuant to Section 3.01(h)(v) of the Five Year Credit Agreement, dated as of May 25, 2007 (the "Credit Agreement"), among Office Depot, Inc. (the "Borrower"), the Lenders parties thereto, Citicorp USA, Inc. and BNP Paribas, as syndication agents, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as documentation agents, Citigroup Global Markets Inc., Wachovia Capital Markets, LLC and BNP Paribas Securities Corp., as joint lead arrangers, Citigroup Global Markets Inc., as sole bookrunner, and Wachovia Bank, National Association, as Agent for said Lenders. Terms defined in the Credit Agreement are used herein as therein defined.

We have acted as counsel for the Borrower and the other Loan Parties in connection with the preparation, execution and delivery of the Credit Agreement.

In that connection, we have examined:

- (1) The Credit Agreement.
- (2) The documents furnished by the Loan Parties pursuant to Article III of the Credit Agreement.
- (3) The [Articles] [Certificate] of Incorporation and all amendments thereto (the "Charter") of each Loan Party.
- (4) The by-laws and all amendments thereto (the "By-laws") of each Loan Party.
- (5) A certificate of the Secretary of State of Delaware, dated _____, 2007, attesting to the continued corporate existence and good standing of the Borrower in that State.

We have also examined the originals, or copies certified to our satisfaction, of the documents listed in a certificate of the chief financial officer of the Borrower, dated the date hereof (the "Certificate"), certifying that the documents listed in such certificate are all of the indentures, loan or credit agreements, leases, guarantees, mortgages, security agreements, bonds, notes and other agreements or instruments, and all of the orders, writs, judgments, awards, injunctions and decrees, that affect or purport to affect the Borrower's right to borrow money or any Loan Party's

obligations under the Loan Documents. In addition, we have examined the originals, or copies certified to our satisfaction, of such other corporate records of the Loan Parties, certificates of public officials and of officers of the Loan Parties, and agreements, instruments and other documents, as we have deemed necessary as a basis for the opinions expressed below. As to questions of fact material to such opinions, we have, when relevant facts were not independently established by us, relied upon certificates of the Borrower or its officers or of public officials. We have assumed the due execution and delivery, pursuant to due authorization, of the Credit Agreement by the Initial Lenders and the Agent.

Our opinions expressed below are limited to the law of the State of New York, the General Corporation Law of the State of Delaware and the Federal law of the United States.

Based upon the foregoing and upon such investigation as we have deemed necessary, we are of the following opinion:

1. Each Loan Party is a duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.
2. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party, and the consummation of the transactions contemplated thereby, are within such Loan Party's corporate powers, have been duly authorized by all necessary corporate action, and do not contravene (i) the Charter or the By-laws of such Loan Party or (ii) any law, rule or regulation applicable to such Loan Party (including, without limitation, Regulation X of the Board of Governors of the Federal Reserve System) or (iii) any contractual or legal restriction contained in any document listed in the Certificate or, to the best of our knowledge, contained in any other similar document. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto.
3. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any other third party is required for the due execution, delivery and performance by any Loan Party of the Loan Documents to which it is a party.
4. The Credit Agreement is, and after giving effect to the initial Borrowing, the Notes will be, legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms. The Guaranty is the legal, valid and binding obligation of each Guarantor enforceable against such Guarantor in accordance with its terms.
5. To the best of our knowledge, there are no pending or overtly threatened actions or proceedings against the Borrower or any of its Subsidiaries before any court, governmental agency or arbitrator that purport to affect the legality, validity, binding effect or enforceability of the Credit Agreement or any of the Notes or the consummation of the transactions contemplated thereby or[, except as described in Exhibit 3.01(d) to the Credit Agreement,] that are likely to have a materially adverse effect upon the financial condition or operations of the Borrower or any of its Subsidiaries.

The opinions set forth above are subject to the following qualifications:

- (a) Our opinion in paragraph 4 above as to enforceability is subject to the effect of any applicable bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar law affecting creditors' rights generally.
- (b) Our opinion in paragraph 4 above as to enforceability is subject to the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether considered in a proceeding in equity or at law).
- (c) We express no opinion as to (i) Section 2.14 of the Credit Agreement insofar as it provides that any Lender purchasing a participation from another Lender pursuant thereto may exercise set-off or similar rights with respect to such participation and (ii) the effect of the law of any jurisdiction other than the State of New York wherein any Lender may be located or wherein enforcement of the Loan Documents may be sought that limits the rates of interest legally chargeable or collectible.

Very truly yours,

Rule 13a-14(a)/15d-14(a) Certification

I, Steve Odland, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Office Depot, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 26, 2007

/s/ Steve Odland

Steve Odland
Chief Executive Officer and Chairman, Board
of Directors

Rule 13a-14(a)/15d-14(a) Certification

I, Patricia McKay, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Office Depot, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's independent registered public accounting firm and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 26, 2007

/s/ Patricia McKay
Patricia McKay
Executive Vice President and Chief Financial
Officer

Office Depot, Inc.

**Certification of CEO and CFO Pursuant to
18 U.S.C. Section 1350, as Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report on Form 10-Q of Office Depot, Inc. (the "Company") for the quarterly period ended June 30, 2007 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Steve Odland, as Chief Executive Officer of the Company, and Patricia McKay, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to each officer's knowledge:

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

/s/ Steve Odland

Name: Steve Odland
Title: Chief Executive Officer
Date: July 26, 2007

/s/ Patricia McKay

Name: Patricia McKay
Title: Chief Financial Officer
Date: July 26, 2007

A signed original of this written statement required by Section 1350 of Title 18 of the United States Code has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished as an exhibit to the Report pursuant to Item 601(b)(32) of Regulation S-K and Section 1350 of Title 18 of the United States Code and, accordingly, is not being filed with the Securities and Exchange Commission as part of the Report and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report, irrespective of any general incorporation language contained in such filing).