

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
 2. BUREAU: FUS :
 3. SECTION(S) : :
 5. APPROVED BY: : 4. PUBLIC MEETING DATE:
 DIRECTOR: : 00/00/00
 SUPERVISOR: :
 6. PERSON IN CHARGE: : 7. DATE FILED: 10/12/06
 8. DOCKET NO: A-310812 F2000 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: SUNESYS, LLC

RESPONDENT/APPLICANT: SUNESYS, INC.

COMP/APP COUNTY:

UTILITY CODE: 310812

ALLEGATION OR SUBJECT

JOINT APPLICATION OF SUNESYS, INC AND SUNESYS, LLC, FOR APPROVAL OF AN INDIRECT PRO FORMA CORPORATE RESTRUCTURING AND TRANSFER OF ASSETS AND OPERATING AUTHORITY WHEREBY SUNESYS, INC WILL MERGE WITH AND INTO ITS NEWLY FORMED SISTER COMPANY, SUNESYS, LLC; SUNESYS, LLC WILL ACQUIRE THE TELECOMMUNICATIONS-RELATED ASSETS OF SUNESYS, INC; SUNESYS, INC, WILL ABANDON ITS CERTIFICATE AS A TELECOMMUNICATIONS PROVIDER IN PA, DOCKETED AT A-310812F2000, AND SUNESYS, LLC WILL BEGIN PROVIDING TELECOMMUNICATIONS SERVICES IN PA, DOCKETED AT A-311427.

DOCUMENT
FOLDER

DOCKETED
OCT 26 2006

Direct Dial: 267.927.2029
E-mail: pbradshaw@suncsys.com

RECEIVED
OCT 12 2006
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

October 12, 2006

BY OVERNIGHT DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

A-310812F2000

Re: Joint Application of Sunesys, Inc. and Sunesys, LLC
for Approval of an Internal Pro Forma Corporate Restructuring
and Transfer of Assets and Operating Authority

Dear Secretary McNulty:

Transmitted herewith on behalf of Sunesys, Inc. and Sunesys, LLC are an original and three (3) paper copies of their Joint Application for Approval of an Internal Pro Forma Corporate Restructuring and Transfer of Assets and Operating Authority.

Also enclosed is a check in the amount of \$350.00 to cover the requisite filing fees.

Please note that an additional copy of this transmittal letter is enclosed, along with a self-addressed stamped envelope. Please date-stamp the additional copy of the transmittal letter and return the date-stamped copy to the above address as proof of filing with the Commission.

Should any questions arise with respect to this matter, please communicate directly with this office.

Very truly yours,

Paul Bradshaw

DOCUMENT
FOLDER

Enclosures

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Sunesys, Inc. and)
Sunesys, LLC for Approval of an Internal)
Pro Forma Corporate Restructuring and)
Transfer of Assets and Operating Authority)

Docket No. A-310812F2000

JOINT APPLICATION

By this Application ("Application"), and pursuant to Section 1102(a)(3) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 1102(a)(3) and the Policy Statement on stock transfers at 52 Pa. Code § 69.901, approval is hereby requested from the Pennsylvania Public Utility Commission ("Commission") for an internal *pro forma* corporate restructuring involving (i) the merger of Sunesys, Inc. with and into its newly formed sister company, Sunesys, LLC; (ii) the acquisition by Sunesys, LLC of the telecommunications-related assets of Sunesys, Inc.; and (iii) the transfer to Sunesys, LLC, to the extent necessary or required, of the Operating Authority currently held by Sunesys, Inc.¹ As explained herein, the transaction is expected to be completed as of 11:59 pm on December 31, 2006. Accordingly, the Parties respectfully request that this Application be granted expeditiously in order to permit them to timely complete this transaction.

In support of this Application, the Parties state as follows.

**DOCUMENT
FOLDER**

**DOCKETED
OCT 26 2006**

I. DESCRIPTION OF THE PARTIES

A. Sunesys, Inc.

Sunesys, Inc. is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 202 Titus Avenue, Warrington, Pennsylvania 18976. Sunesys, Inc. is certified in Pennsylvania by the Commission as a Competitive Access Provider (CAP) pursuant to an Order entered September 20, 1999 in

¹ Sunesys, Inc. and Sunesys, LLC will be referred to collectively herein as the "Parties".

Docket No. A-310812 (referred to herein as the “Operating Authority”) and Sunesys, Inc. currently provides dedicated point-to-point telecommunications transmission services to commercial, governmental and non-profit customers in New Jersey, Pennsylvania and Maryland.² Sunesys, Inc. does not provide service to residential customers. Further information regarding the technical, managerial, and financial qualifications of Sunesys, Inc. has been submitted previously to the Commission, is therefore a matter of public record, and is incorporated herein by reference. No material change in the capability of Sunesys, Inc. to provide service under its authorization has occurred since the grant of the above-referenced Operating Authority. Sunesys, Inc. holds 100% of the equity interests in its wholly-owned subsidiary, Sunesys of Virginia, Inc., and Sunesys, Inc. is the sole member of its wholly-owned subsidiary Sunesys of Massachusetts, LLC.

Sunesys, Inc. is a wholly owned subsidiary of InfraSource Incorporated (“InfraSource”), a Delaware corporation with its principal place of business located at 100 West Sixth Street, Suite 300, Media, Pennsylvania 19063. InfraSource is one of the largest specialty contractors serving utility transmission and distribution infrastructure in the United States with annual revenues for the year ended December 31, 2005 in excess of \$865 million.

InfraSource is a wholly owned subsidiary of InfraSource Services, Inc. (“IFS”), a Delaware corporation with its principal place of business located at 100 West Sixth Street Suite 300 Media, Pennsylvania 19063. IFS’s common stock is listed on the New York Stock Exchange (“NYSE”). InfraSource and IFS do not provide public utility services in the State of Delaware and are not certificated by the Commission.

² Sunesys, Inc. is also authorized to provide telecommunications services in Delaware, the District of Columbia, New York, North Carolina, Ohio, Illinois, Georgia, and California. Its wholly-owned subsidiary, Sunesys of Virginia, Inc. is authorized to provide telecommunications services in Virginia.

B. Sunesys, LLC

Sunesys, LLC is a single-member Delaware Limited Liability Company formed to facilitate the transaction described herein. Attached hereto at Exhibit A is the Certificate of Formation for Sunesys, LLC.³ The sole member of Sunesys, LLC is its immediate parent InfraSource. Currently, Sunesys, LLC has no assets, employees or customers in Delaware.

II. DESIGNATED CONTACTS

The designated contact for questions concerning this filing are:

Paul Bradshaw
Senior Counsel, Assistant Secretary
Sunesys, Inc./Sunesys, LLC
202 Titus Avenue
Warrington, PA 18976
Ph: 267.927.2029
Fax: 267.927.2090
Paul.Bradshaw@infrasourceinc.com

Copies of any correspondence should also be sent to the following:

Jeffrey E. Rummel, Esquire
Arent Fox PLLC
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 715-8479 – phone
(202) 857-6395 – fax
rummelj@arentfox.com

Deborah C. Lofton
Senior Vice President, General Counsel & Secretary
Sunesys, Inc.
c/o InfraSource Services, Inc.
100 West Sixth Street
Suite 300
Media, Pennsylvania 19063
(610) 480-8050 - phone
(610) 480-8097 - fax
debbie.lofton@infrasourceinc.com

³ The appropriate filings are being made to have Sunesys, LLC qualified to transact business in Pennsylvania as an out-of-state entity. Upon receipt of confirmation of such authority, such documentation will be submitted as a supplement to the instant filing.

III. DESCRIPTION OF THE INTERNAL PRO FORMA CORPORATE RESTRUCTURING

For business reasons, the Parties propose to undertake a *pro forma* internal corporate restructuring that will merge Sunesys, Inc. with and into its newly formed sister company, Sunesys, LLC.⁴ As a result of the merger, Sunesys, Inc. will cease to exist; Sunesys, LLC will survive the merger; the assets of Sunesys, Inc., including the telecommunications-related assets of Sunesys, Inc., will be acquired by Sunesys, LLC; and the Operating Authority originally granted to Sunesys, Inc. will be transferred to, or assumed by, Sunesys, LLC, as appropriate. There will be no changes in the ultimate control of the operating entity or any other change in the ownership structure as described above.⁵ Because there will be no change in the ultimate ownership or control of the operating entity, the transaction is *pro forma* in nature.

IV. PUBLIC INTEREST SHOWING

The Parties respectfully submit that the proposed transaction is in the public interest and should be approved by the Commission. The transaction will be transparent to the public. After completion of the transaction, the same services will be offered by Sunesys, LLC as are currently offered by Sunesys, Inc., and at the same rates, terms and conditions. In other words, there will be no disruption, impairment, or other change in the ability of the operating entity to provide service to customers, the facilities used to provide such services, or the rates, terms and conditions of such service. To the extent necessary, Sunesys, LLC will file tariffs to incorporate the rates, terms, and conditions currently offered by Sunesys, Inc., or file any required tariff

⁴ It is noted that the transaction described herein is one of a number of pro forma transactions involving InfraSource subsidiary companies whereby such subsidiary corporations will be subject to “conversions” to LLC entities pursuant to similar merger transactions. It is the Parties’ understanding that the transaction described herein involving Sunesys, Inc. and Sunesys, LLC is the only such transaction falling under the jurisdiction of this Commission.

⁵ Organizational charts reflecting the corporate ownership structure relevant to the Parties both before and after closing of the transaction, are attached hereto as Exhibit B.

name changes to reflect Sunesys, LLC as the operating entity. As such, the transaction will have no adverse impact on any customers/vendors with whom the operating entity has, or will have, dealings. In addition, there will be no changes in the ultimate control of the operating entity or any other change in the ownership structure, as described above.

The following additional factors further demonstrate that approval of the transaction is in the public interest:

- Sunesys, LLC will retain the same senior management team currently in place for Sunesys, Inc., namely: Lawrence Coleman, President and CEO; William Coleman, Senior Vice President – Operations; Alan Katz; Senior Vice President - Special Projects; Terence R. Montgomery, Senior Vice President & Treasurer; Walt Tustin, Director of Network Services. Brief biographical sketches for this management team are attached hereto at Exhibit C.
- Corporate management and officers will be unchanged as a result of the restructuring. As explained above, the sole member of Sunesys, LLC is its immediate parent InfraSource. The sole Director of InfraSource is David R. Helwig. Mr. Helwig is currently the sole Director and Chairman for Sunesys, Inc. Similarly, the principal corporate officers for Sunesys, Inc. will remain the principal officers for Sunesys, LLC. See Exhibit D.
- There will be no changes in the ability of the certified entity to meet its financial commitments. Specifically, Sunesys, LLC will acquire all of the assets of Sunesys, Inc. and retain the same financial capabilities, financing opportunities and resources currently available to Sunesys, Inc. Sunesys, LLC will not acquire as a result of the merger any additional liabilities beyond those currently held by Sunesys, Inc. or acquire as a result of the merger any other financial obstacles to implementing the authorized services.⁶
- The proposed transaction will not have an adverse effect on non-management employees of Sunesys and no staff reductions are presently contemplated. In addition, the contact points for the Pennsylvania Emergency Management Agency ("PEMA") and Commission inquiries will remain the same after completion of the transaction. Finally, the proposed transaction will have no impact on Sunesys' ability to fulfill its obligations to its employees with respect to their pension benefits.

⁶ See Exhibit E, IFS' Securities and Exchange Commission Form 10-Q, for the period ended June 30, 2006, and Exhibit F for IFS' most recent 10-K, filed March 1, 2006. Financial data related to Sunesys is incorporated as a portion of the "Telecommunications Services" data reported in these filings, and financial data related to the Borrower is incorporated as a portion of the "Infrastructure Construction Services" data reported in these filings.

- All existing customer service numbers/operations, contacts and procedures of Sunesys, Inc. will remain in place for Sunesys, LLC after the merger, including procedures relating to billing and repair complaints. Similarly, the address and telephone number of the new LLC entity would remain the same for Sunesys, LLC, as currently exists for Sunesys, Inc. Further, the transaction will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
- The Parties will comply with any applicable state or federal customer notification requirements relevant to this transaction.
- The pro forma reorganization described herein will result in significant administrative and tax savings that will enhance the ability of Sunesys to offer competitive services on an expanded geographic basis, and permit the development of an expanded menu of product offerings available to customers in this and other jurisdictions. As such, future end user customers will enjoy long-term benefits such as high-quality services at reasonable rates and increased reliability of the supply of telecommunications services. The public interest is best served by assuring the presence of numerous telecommunications competitors in the State, and as such it is important to provide such competitors with the flexibility to arrange their corporate structure in the manner they deem most appropriate to carry on their business so long as there is no adverse impact on the public – which is the case with respect to this pro forma transaction. To deny such flexibility would discourage new competitors from entering the state and would encourage existing competitors in this state to seek a more favorable regulatory environment elsewhere, neither of which would enhance the public interest. The public is further benefited by increasing incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve their quality of service. In short, the proposed transaction will directly benefit customers here and elsewhere by enhancing the future provision of innovative, high quality telecommunications services to the public and thereby promoting competition in the telecommunications market.

V. REQUEST FOR EXPEDITED CONSIDERATION

As explained above, this transaction is expected to be completed as of 11:59 pm on December 31, 2006. This Application is one of a number of applications/notifications to be submitted to state regulatory bodies with respect to merger of Sunesys, Inc. with and into Sunesys, LLC. In addition, as referenced above, this merger is but one of a number of additional transactions involving various other InfraSource subsidiary entities that are not regulated by this Commission. Accordingly, it is critical that the Parties obtain expedited approval of the instant

Application to permit a timely completion and coordination of all aspects of this internal pro forma restructuring.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, the Parties jointly request that the Commission expeditiously grant this Application and issue an Order approving (i) the merger, effective as of 11:59 pm on December 31, 2006, of Sunesys, Inc. with and into its Sunesys, LLC; (ii) the acquisition by Sunesys, LLC of the assets (including the telecommunications-related assets) of Sunesys, Inc.; and (iii) the transfer to Sunesys, LLC, to the extent necessary or required, of the Operating Authority currently held by Sunesys, Inc.

Respectfully submitted,

SUNESYS, INC.

SUNESYS, LLC

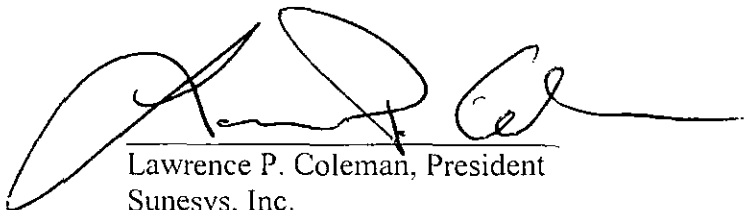


Paul Bradshaw
Senior Counsel, Assistant Secretary
Sunesys, Inc./Sunesys, LLC
202 Titus Avenue
Warrington, PA 18976
Ph: 267.927.2029
Fax: 267.927.2090
Paul.Bradshaw@infrasourceinc.com

Dated: October 10, 2006

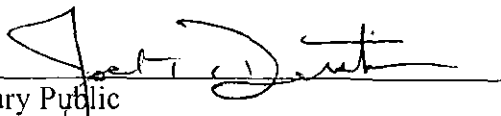
VERIFICATION

I, Lawrence P. Coleman, hereby state that I am President of Sunesys, Inc. and Sunesys, LLC and am authorized to make this verification on their behalf; and that the facts above set forth are true and correct to the best of my knowledge, information and belief; and that Sunesys, Inc. and Sunesys, LLC would expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



Lawrence P. Coleman, President
Sunesys, Inc.
Sunesys, LLC

Sworn and subscribed before me this 9th day of October, 2006.


Notary Public

My Commission expires: 2/11/10

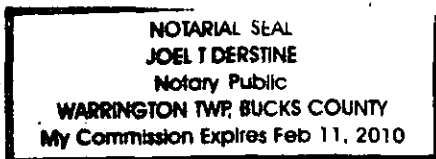


EXHIBIT A

Certificate of Formation for Sunesys, LLC

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "SUNESYS, LLC", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF SEPTEMBER, A.D. 2006, AT 4:06 O'CLOCK P.M.



4221518 8100

060858581

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5049250

DATE: 09-18-06

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:06 PM 09/18/2006
FILED 04:06 PM 09/18/2006
SRV 060858581 - 4221518 FILE

CERTIFICATE OF FORMATION

OF

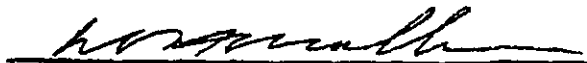
Sunesys, LLC

1. The name of the limited liability company is Sunesys, LLC

2. The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

3. The latest date on which the limited liability company is to dissolve is perpetual.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Formation Sunesys, LLC of this 18th day of September, 2006.



William H. Muller,
Authorized Person




100 West Sixth Street, Suite 300
Media, PA 19063
Tel. 610-480-8000
Fax 610-480-8095
www.infraourceinc.com

September 18, 2006

TO WHOM IT MAY CONCERN:

Sunesys, Inc. consents to the use of "Sunesys", in
Sunesys, LLC

Sincerely,

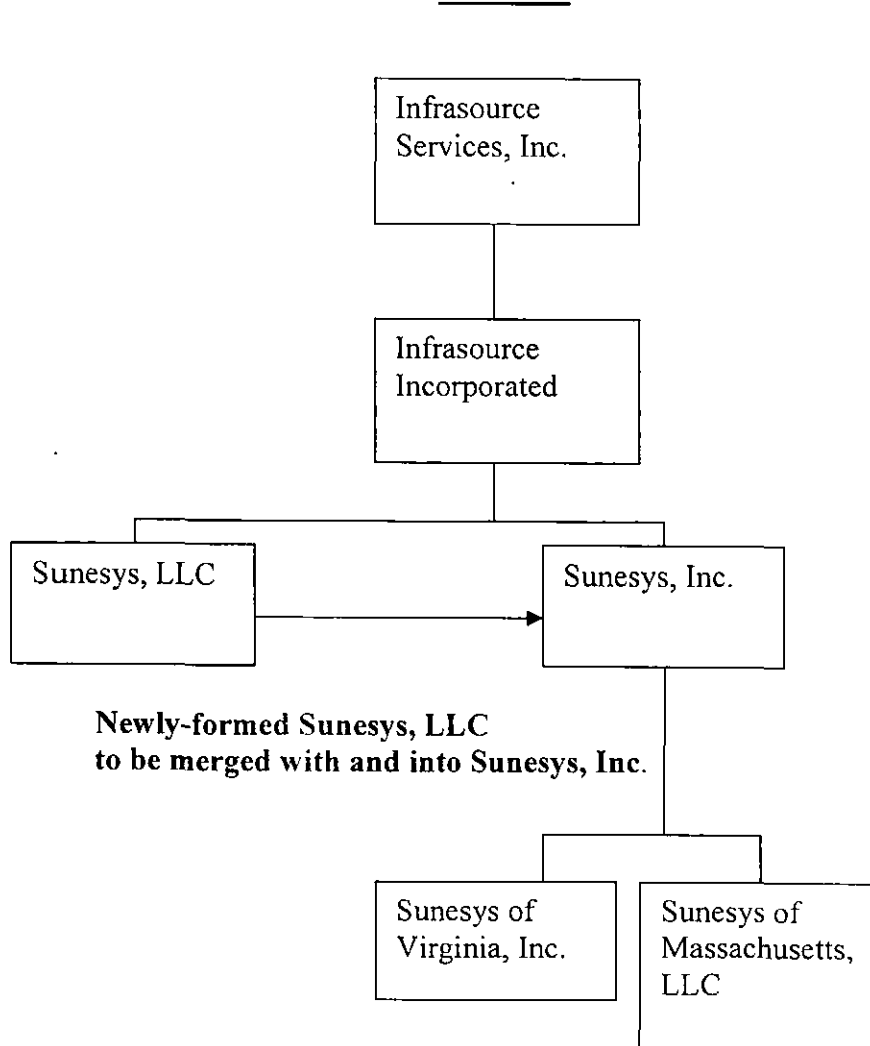


William H. Muller
Assistant Secretary

Exhibit B

Organizational Charts Reflecting the Impact of the Merger on the Corporate Ownership Structure Relevant to Sunesys, Inc. and Sunesys, LLC Before and After the Completion of the Transaction

BEFORE



AFTER

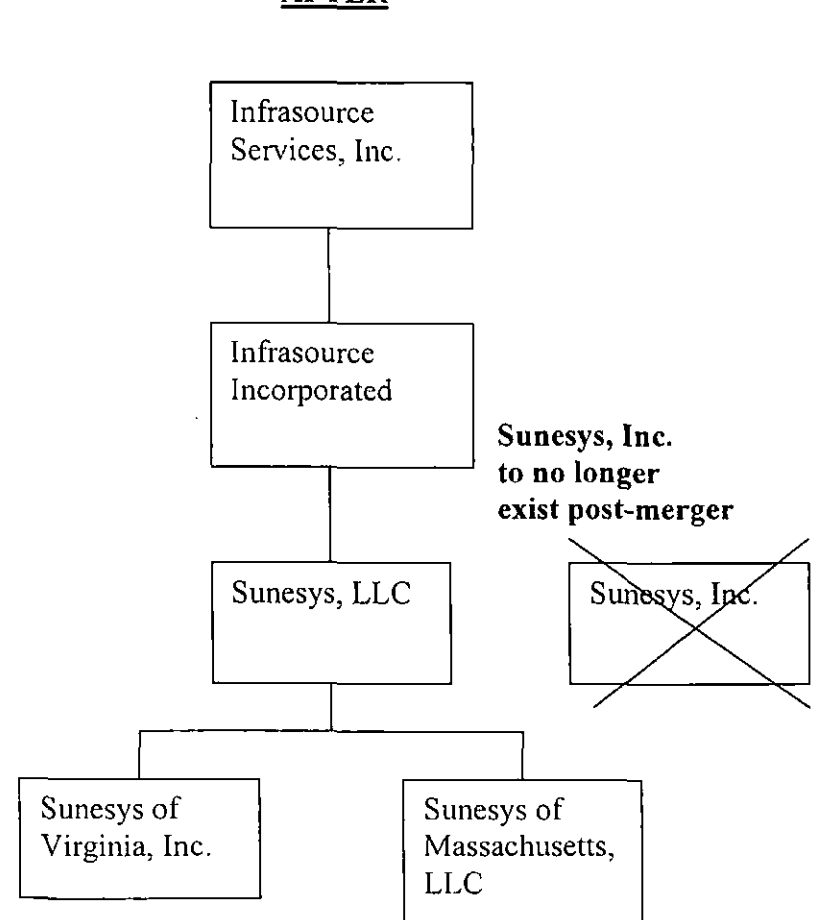


EXHIBIT C

Senior Management Team

Managerial and Technical Capability

Sunesys' senior management team brings nearly 100 combined years of telecommunications experience in successfully developing, growing and operating telecommunications businesses. Summaries of each individual's relevant experience are set forth below:

Lawrence P. Coleman, RCDD - President and CEO

Mr. Coleman has twenty (20) years experience in utility & telecommunication operations. From 1980 through 1987 he was employed with Atlantic Electric (now known as Connectiv). Projects in which he was involved at Atlantic Electric included construction and maintenance upgrades at various company production, transmission and distribution facilities. Since 1987 Mr. Coleman has been with Sunesys managing the telecommunications engineering and technical services sections of the company. Today, Mr. Coleman is the President and CEO of the company. Mr. Coleman graduated from Drexel University in 1980 with a BS in Civil Engineering. He presently holds an E.I.T. Certificate in Pennsylvania and is a licensed private pilot. He is a Registered Communications Distribution Designer (RCDD) and a LAN Specialist as certified by BICSI.

William P. Coleman, RCDD, Senior Vice President - Operations

Mr. Coleman has over twenty-three (23) years experience in utility contracting and construction. He has managed field operations, maintenance and administrative functions in various capacities. As Chief Operations Officer, he is responsible for the profitable operation of the company. Upon graduation from Delaware Valley College in 1981 with a BS degree in Accounting and Business Administration he and Jack Coleman joined forces in establishing Sunesys. Bill is a BICSI member, a Registered Communication Distribution Designer (RCDD), and a Registered BICSI Installer. He is fully experienced in day-to-day project administration and presently oversees the operations and financial departments of the company.

Alan Katz, Senior Vice President - Construction

Mr. Katz has over twenty (20) years experience in inside and outside plant engineering and construction. After graduating from LaSalle University with a Degree in Computer Science in 1981, Mr. Katz joined Engineering Associates performing Outside Plant engineering services for Bell of Pennsylvania. In 1980 he began working with EA Design, Ltd., designing inside and outside cabling plant for clients such as TCI, UltraCom, Bell of PA, and Diamond State Telephone among others. In 1990 Mr. Katz formed his own business, Urban Design, continuing outside and inside plant engineering. In 1996 Mr. Katz began work with Sunesys, Inc. as a project engineer. He is fully SIECOR trained and certified in all aspects of fiber design, placing, and termination.

Walt Tustin, Director of Network Services

Mr. Tustin has over ten (10) years of technical experience in field operations. Beginning his career as a field technician, he is qualified in the media management of both phone and data systems. Mr. Tustin is trained in all fiber elements, including design, splicing, and termination for WAN's and LAN's. He holds current certifications from Fujikura, Siecor, Aurora, Berktek and 3Com in both multimode and singlemode fiber technologies and networking equipment. Mr.

Tustin currently manages the physical WAN and LAN systems Sunesys, Inc. has in place. Mr. Tustin earned a degree in Mechanical Engineering Technologies and is a certified BICSI Trainer.

Finally, in addition to its senior management team, Sunesys, Inc. has approximately 95 other employees who average in excess of 10 years experience in various areas of the telecommunications industry.

EXHIBIT D

List of Officers

Principal Corporate Officers

Lawrence P. Coleman 202 Titus Avenue Warrington, PA 18976	President
William P. Coleman 202 Titus Avenue Warrington, PA 18976	Senior Vice President - Operations
Alan Katz 202 Titus Avenue Warrington, PA 18976	Senior Vice President
Terence R. Montgomery 202 Titus Avenue Warrington, PA 18976	Senior Vice President & Treasurer
John P. Clark 202 Titus Avenue Warrington, PA 18976	Vice President-Finance
Deborah Lofton 202 Titus Avenue Warrington, PA 18976	Senior Vice President & Secretary
William H. Muller 202 Titus Avenue Warrington, PA 18976	Assistant Secretary
Paul T. Bradshaw 202 Titus Avenue Warrington, PA 18976	Assistant Secretary



FORM 10-Q

INFRASOURCE SERVICES INC - IFS

Filed: August 03, 2006 (period: June 30, 2006)

Quarterly report which provides a continuing view of a company's financial position

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PART I

FINANCIAL INFORMATION

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EX-10.3 (Material contracts)

EX-31.1

EX-31.2

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

Form 10-Q

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended June 30, 2006
- 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 001-32164

INFRA SOURCE SERVICES, INC.

(Exact name of registrant as specified in its charter)

Delaware
*(State or other jurisdiction of
incorporation or organization)*

03-0523754
*(I.R.S. Employer
Identification No.)*

100 West Sixth Street, Suite 300, Media, PA
(Address of principal executive offices)

19063
(Zip Code)

(610) 480-8000
(Registrant's telephone number, including area code)

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

At July 28, 2006 there were 39,996,485 shares of InfraSource Services, Inc. Common Stock, par value of \$.001, outstanding.

For the Quarter Ended June 30, 2006
FORM 10-Q
INFRA SOURCE SERVICES, INC. AND SUBSIDIARIES
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PART I—FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

INFRASOURCE SERVICES, INC. AND SUBSIDIARIES
Condensed Consolidated Balance Sheets

	December 31, 2005	June 30, 2006
	(Unaudited)	
	(In thousands, except share data)	
Current assets:		
Cash and cash equivalents	\$ 24,287	\$ 20,491
Contract receivables (less allowances for doubtful accounts of \$3,184 and \$2,420, respectively)	137,762	138,307
Costs and estimated earnings in excess of billings	84,360	92,791
Inventories	9,183	8,828
Deferred income taxes	4,732	5,671
Other current assets	7,074	6,568
Receivables due from related party	—	316
Total current assets	267,398	272,972
Property and equipment (less accumulated depreciation of \$55,919 and \$68,097, respectively)	144,200	148,667
Goodwill	138,054	138,787
Intangible assets (less accumulated amortization of \$19,861 and \$20,355, respectively)	1,884	1,390
Deferred charges and other assets, net	10,501	6,728
Total assets	\$ 562,037	\$ 568,544
Current liabilities:		
Current portion of long-term debt	\$ 889	\$ 51
Other liabilities—related parties	11,299	11,227
Accounts payable	44,939	47,482
Accrued compensation and benefits	20,454	22,798
Other current and accrued liabilities	20,515	20,338
Accrued insurance reserves	30,550	35,329
Billings in excess of costs and estimated earnings	15,012	18,456
Deferred revenues	6,590	6,569
Total current liabilities	150,248	152,250
Long-term debt, net of current portion	83,019	75,023
Deferred revenues	17,826	17,414
Other long-term liabilities—related party	420	—
Deferred income taxes	3,370	4,351
Other long-term liabilities	5,298	5,363
Total liabilities	260,181	254,401
Commitments and contingencies:		
Shareholders' equity:		
Preferred stock, \$.001 par value (authorized—12,000,000 shares; 0 shares issued and outstanding)	—	—
Common stock \$.001 par value (authorized—120,000,000 shares; issued—39,396,694 and 39,786,052 shares, respectively, and outstanding—39,366,824 and 39,756,182, respectively)	39	40
Treasury stock at cost (29,870 shares)	(137)	(137)
Additional paid-in capital	278,387	281,608
Deferred compensation	(1,641)	—
Retained earnings	24,640	32,433
Accumulated other comprehensive income	568	199
Total shareholders' equity	301,856	314,143
Total liabilities and shareholders' equity	\$ 562,037	\$ 568,544

The accompanying notes are an integral part of these condensed consolidated financial statements.

INFRA SOURCE SERVICES, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Operations

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
(Unaudited)				
(In thousands, except per share data)				
Contract revenues	\$ 231,670	\$ 258,027	\$ 412,300	\$ 475,267
Cost of revenues	212,828	221,643	373,194	409,687
Gross profit	18,842	36,384	39,106	65,580
Selling, general and administrative expenses	17,651	23,012	34,159	46,083
Merger related costs	76	—	152	—
Provision of uncollectible accounts	4	41	84	31
Amortization of intangible assets	1,698	237	3,310	1,494
Income (loss) from operations	(587)	13,094	1,401	18,972
Interest income	28	173	222	409
Interest expense	(2,246)	(1,682)	(3,703)	(3,793)
Write-off of deferred financing costs	—	(4,296)	—	(4,296)
Other income (expense), net	634	1,487	5,015	1,563
Income (loss) from continuing operations before income taxes	(2,171)	8,776	2,935	12,855
Income tax expense (benefit)	(808)	3,551	1,234	5,196
Income (loss) from continuing operations	(1,363)	5,225	1,701	7,659
Discontinued operations:				
Income (loss) from discontinued operations (net of income tax expense (benefit) of \$(52), \$67, \$(267) and \$88, respectively)	(47)	102	(369)	134
Net income (loss)	\$ (1,410)	\$ 5,327	\$ 1,332	\$ 7,793
Basic income (loss) per share:				
Income (loss) from continuing operations	\$ (0.04)	\$ 0.13	\$ 0.04	\$ 0.19
Income (loss) from discontinued operations	—	—	(0.01)	0.01
Net income (loss)	\$ (0.04)	\$ 0.13	\$ 0.03	\$ 0.20
Weighted average basic common shares outstanding	39,056	39,735	39,018	39,626
Diluted income (loss) per share:				
Income (loss) from continuing operations	\$ (0.04)	\$ 0.13	\$ 0.04	\$ 0.19
Income (loss) from discontinued operations	—	—	(0.01)	—
Net income (loss)	\$ (0.04)	\$ 0.13	\$ 0.03	\$ 0.19
Weighted average diluted common shares outstanding	39,056	40,336	39,801	40,242

The accompanying notes are an integral part of these condensed consolidated financial statements.

INFRASOURCE SERVICES, INC. AND SUBSIDIARIES
Condensed Consolidated Statements of Shareholders' Equity

	<u>Common Stock</u>		<u>Treasury Stock</u>		<u>Additional</u>	<u>Deferred</u>	<u>Accumulated Other</u>			<u>Retained</u>	<u>Total</u>
							<u>Shares</u>	<u>Amount</u>	<u>Shares</u>		
	<u>Shares</u>	<u>Amount</u>	<u>Capital</u>	<u>on Derivatives</u>	<u>Translation</u>	<u>Adjustment</u>					
(in thousands, except share amounts)											
Balance as of December 31, 2005	39,396,694	\$ 39	(29,870)	\$ (137)	\$278,387	\$ (1,641)	\$ 480	\$ 88	\$24,640	\$30,856	
Vesting of early exercised options	119,476	—	—	—	549	—	—	—	—	549	
Reclass of deferred compensation	—	—	—	—	(1,641)	1,641	—	—	—	—	
Stock options exercised and vested restricted stock	195,381	1	—	—	1,211	—	—	—	—	1,212	
Income tax benefit from options exercised	—	—	—	—	259	—	—	—	—	259	
Issuance of shares under employee stock purchase plan	74,501	—	—	—	698	—	—	—	—	698	
Stock compensation expense	—	—	—	—	1,825	—	—	—	—	1,825	
Net income	—	—	—	—	—	—	—	—	7,793	7,793	
Other comprehensive loss	—	—	—	—	—	—	(480)	111	—	(369)	
Balance as of June 30, 2006	<u>39,786,052</u>	<u>\$ 40</u>	<u>(29,870)</u>	<u>\$ (137)</u>	<u>\$281,608</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 199</u>	<u>\$32,433</u>	<u>\$314,143</u>	

The accompanying notes are an integral part of these condensed consolidated financial statements.

INFRA SOURCE SERVICES, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements

(Unaudited)

1. Organization and Basis of Presentation

InfraSource Services, Inc. ("InfraSource") was organized on May 30, 2003 as a Delaware corporation. InfraSource and its wholly owned subsidiaries are referred to herein as "the Company," "we," "us," or "our." We operate in two business segments. Our Infrastructure Construction Services ("ICS") segment provides design, engineering, procurement, construction, testing and maintenance services for utility infrastructure. Our ICS customers include electric power utilities, natural gas utilities, telecommunication customers, government entities and heavy industrial companies, such as petrochemical, processing and refining businesses. Our Telecommunication Services ("TS") segment leases point-to-point telecommunications infrastructure in select markets and provides design, procurement, construction and maintenance services for telecommunications infrastructure. Our TS customers include communication service providers, large industrial and financial services customers, school districts and other entities with high bandwidth telecommunication needs. We operate in multiple service territories throughout the United States. We do not have significant operations or assets outside the United States.

On September 24, 2003, we acquired all of the voting interests of InfraSource Incorporated and certain of its wholly owned subsidiaries, pursuant to a merger transaction (the "Merger"). On May 12, 2004, we completed our initial public offering ("IPO") of 8,500,000 shares of common stock. Our principal stockholders are OCM/GFI Power Opportunities Fund, L.P. and OCM Principal Opportunities Fund, L.P. (collectively, the "Principal Stockholders"), both Delaware limited partnerships.

On March 24, 2006, the Principal Stockholders and other stockholders completed a secondary underwritten public offering of 13,000,000 shares of our common stock at \$17.50 per share. On April 12, 2006, an additional 1,950,000 shares of our common stock were sold following the exercise, in full, of the underwriters' over-allotment option to purchase additional shares for 30 days after the prospectus date. We did not issue any primary shares; therefore, we did not receive any of the proceeds of this offering. As of the date of this filing, the Principal Stockholders own approximately 27.2% of our common stock.

On June 29, 2006, we filed a registration statement on Form S-3 for an offering by the Principal Stockholders and certain members of our management team of 10,394,520 shares of our common stock (11,953,699 shares if the underwriters exercise in full their over-allotment option). The selling stockholders have agreed to pay our expenses with respect to such offering (refer to Note 14 for additional information). The Principal Stockholders will own approximately 3.5% of our common stock after giving effect to such offering (no shares if the underwriters' over-allotment option is exercised in full).

The accompanying unaudited condensed consolidated financial statements reflect our financial position as of December 31, 2005 and June 30, 2006; our results of operations for the three and six months ended June 30, 2005 and 2006; and our cash flows for the six months ended June 30, 2005 and 2006. The accompanying condensed consolidated financial statements are unaudited and have been prepared in accordance with the rules and regulations of the U.S. Securities and Exchange Commission ("SEC"). These financial statements include all adjustments that we consider necessary for a fair presentation of financial position, results of operations and cash flows for the interim periods presented. The December 31, 2005 condensed consolidated balance sheet data were derived from audited financial statements, but do not include all disclosures required by accounting principles generally accepted in the United States of America. The results for interim periods are not necessarily indicative of results to be expected for a full year or future interim periods. These financial statements should be read in conjunction with our financial statements and related notes included in our Report on Form 10-K for the year ended December 31, 2005.

Certain amounts in the accompanying statements have been reclassified for comparative purposes.

2. Summary of Significant Accounting Policies

Share-based compensation

On January 1, 2006, we adopted Statement of Financial Accounting Standards ("SFAS") No. 123R "Share-Based Payment," which requires the measurement and recognition of compensation expense for all share-based payment awards made to employees and directors including employee stock options, restricted stock and employee stock purchases related to the Employee Stock Purchase Plan ("employee stock purchases") based on estimated fair values. SFAS No. 123R supersedes our previous accounting under Accounting Principles Board Opinion ("APB") No. 25, "Accounting for Stock Issued to Employees." In March 2005, the SEC issued Staff Accounting Bulletin ("SAB") No. 107 "Share-Based Payment," relating to SFAS No. 123R. We have applied the provisions of SAB No. 107 in our adoption of SFAS No. 123R.

Prior to the adoption of SFAS No. 123R, we accounted for share-based awards to employees and directors using the intrinsic value method in accordance with APB 25 as allowed under SFAS No. 123. Under the intrinsic value method, no share-based compensation expense had been recognized in our consolidated statements of operations, other than restricted stock awards and stock options granted to employees and directors below the fair market value of the underlying stock at the grant-date.

We adopted SFAS No. 123R using the modified prospective transition method. Our condensed consolidated financial statements as of and for the three and six months ended June 30, 2006 include the impact of SFAS No. 123R. In accordance with the modified prospective transition method, our condensed consolidated financial statements for prior periods have not been restated, and do not include, the impact of SFAS No. 123R. Share-based compensation expense recognized under SFAS No. 123R for the three and six months ended June 30, 2006 was \$1.0 million and \$1.8 million, respectively (refer to Note 9 for additional information). For the three and six months ended June 30, 2005, we recorded share-based compensation expense of \$4,000 and \$20,000, respectively, related to stock options which were granted to employees and directors below the fair market value of the underlying stock at the date of grant. Share-based compensation expense is included in selling, general and administrative expenses in our condensed consolidated statements of operations.

Our income from continuing operations before income taxes, income from continuing operations and net income for the three months ended June 30, 2006 was \$1.0 million, \$0.6 million and \$0.6 million lower, respectively, than if we had continued to account for share-based compensation under APB No. 25. Basic and diluted earnings per share for the three months ended June 30, 2006 would have been \$0.15 and \$0.14, respectively, if we had not adopted SFAS No. 123R, compared to reported basic and diluted earnings per share of \$0.13 and \$0.13, respectively.

Our income from continuing operations before income taxes, income from continuing operations and net income for the six months ended June 30, 2006 was \$1.8 million, \$1.1 million and \$1.1 million lower, respectively, than if we had continued to account for share-based compensation under APB No. 25. Basic and diluted earnings per share for the six months ended June 30, 2006 would have been \$0.22 and \$0.22, respectively, if we had not adopted SFAS No. 123R, compared to reported basic and diluted earnings per share of \$0.20 and \$0.19, respectively.

SFAS No. 123R requires companies to estimate the fair value of share-based payment awards on the grant-date using an option-pricing model. We value share-based awards using the Black-Scholes option pricing model and recognize compensation expense on a straight-line basis over the requisite service periods. Share-based compensation expense recognized during the current period is based on the value of the portion of share-based payment awards that is ultimately expected to vest. SFAS No. 123R requires forfeitures to be estimated at the time of grant in order to estimate the amount of share-based awards that will ultimately vest. The forfeiture rate is based on historical activity. Share-based compensation expense

recognized in our condensed consolidated statements of operations for the three and six months ended June 30, 2006 includes (i) compensation expense for share-based payment awards granted prior to, but not yet vested as of December 31, 2005, based on the grant-date fair value estimated in accordance with the pro forma provisions of SFAS No. 123 and (ii) compensation expense for the share-based payment awards granted subsequent to December 31, 2005, based on the grant-date fair value estimated in accordance with the provisions of SFAS No. 123R. As share-based compensation expense recognized in our condensed consolidated statements of operations for fiscal 2006 is based on awards ultimately expected to vest, it has been reduced for estimated forfeitures. Previously in our pro forma information required under SFAS No. 123 for the periods prior to fiscal 2006, we accounted for forfeitures as they occurred.

The following table illustrates the effect on net income and earnings per share for the period prior to adoption of SFAS No. 123R, as if we had applied the fair value recognition provisions of SFAS No. 123, as amended by SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure."

	Three Months Ended June 30, 2005	Six Months Ended June 30, 2005
	(in thousands)	
Net income (loss) as reported	\$ (1,410)	\$ (1,332)
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of relative tax effects	(192)	(349)
Add: Total stock-based employee compensation expense, net of related tax effects, included in the determination of net income as reported	24	20
Pro forma net income (loss)	<u>\$ (1,598)</u>	<u>\$ 1,003</u>
<i>Basic and diluted income (loss) per share</i>		
Basic net income (loss) per share—as reported	\$ (0.04)	\$ 0.03
Basic net income (loss) per share—pro forma	(0.04)	0.03
Diluted net income (loss) per share—as reported	(0.04)	0.03
Diluted net income (loss) per share—pro forma	(0.04)	0.03

Prior to the adoption of SFAS No. 123R, we presented all tax benefits of deductions resulting from the exercise of stock options as operating cash flows in our consolidated statement of cash flows. SFAS No. 123R requires the cash flow resulting from the tax deductions in excess of the compensation cost recognized for those options (excess tax benefit) to be classified as financing cash flows.

3. Recently Issued Accounting Pronouncements

In July 2006, the Financial Accounting Standards Board ("FASB") issued FASB Interpretation ("FIN") No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109," which clarifies the accounting for uncertainty in tax positions. FIN No. 48 requires that the impact of a tax position be recognized if that position is more likely than not of being sustained on audit, based on the technical merits of the position. The tax position is measured at the largest amount of benefit that is greater than 50% likely of being realized upon the ultimate settlement. The provisions of FIN No. 48 are effective for fiscal years beginning after December 15, 2006, with any cumulative effect of the change in accounting principle recorded as an adjustment to opening retained earnings. We currently do not believe FIN No. 48 will have a significant impact on our financial results.

4. Discontinued Operations

In the third quarter of 2004, we committed to a plan to sell substantially all of the assets of Utility Locate & Mapping Services, Inc. ("ULMS"). Additionally, in the second quarter of 2005, we committed to a plan to sell substantially all of the assets of Electric Services, Inc. ("ESI"). Both ULMS and ESI were part of our ICS segment. In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of

Long-Lived Assets”, the financial position, results of operations and cash flows of ULMS and ESI were reflected as discontinued operations in our accompanying condensed consolidated financial statements. On August 1, 2005 we sold certain assets of ULMS and the stock of ESI.

Statement of operations information for discontinued operations:

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
	(in thousands)			
Contract revenues	\$ 26,455	\$ 1,333	\$ 1,333	\$ 1,333
Pre-tax income (loss)	(99)	169	(636)	222

The discontinued operations activity for the six months ended June 30, 2006 relates to the resolution of an existing ULMS reserve for accounts receivable, as well as, an earn out arrangement that will continue through December 2006.

5. Costs And Estimated Earnings In Excess Of Billings and Contract Losses

Included in costs and estimated earnings in excess of billings are costs related to claims and unapproved change orders of approximately \$5.7 million and \$12.4 million at June 30, 2006 and December 31, 2005, respectively. During the six months ended June 30, 2006 we recovered claim amounts of \$5.8 million existing at December 31, 2005. Estimated revenue related to claims and in amounts up to but not exceeding costs incurred is recognized when realization is probable and amounts are estimable. Profit from claims is recorded in the period such amounts are agreed to with the customer.

Included in our results of operations for the three and six months ended June 30, 2006 is a \$5.0 million contract loss related to an electric transmission project, which assumes collection of a portion of current and projected claims, and the associated reversal of pre-tax profit of \$1.6 million recognized in prior periods. This project began in August 2005 and is expected to be substantially completed by December 2006. Consistent with our revenue recognition policy for contracts that are in a forecasted loss position, we recognized the entire expected loss on this project in the second quarter of 2006. The loss is attributable primarily to lower than expected productivity due to ineffective supervision, insufficient access to experienced labor, supplier issues and extremely hot weather.

6. Goodwill and Intangible Assets

Our goodwill and intangible assets are comprised of:

	December 31, 2005	June 30, 2006
	(in thousands)	
Goodwill	\$ 138,054	\$ 138,787
Intangible assets:		
Construction backlog	17,184	17,184
Volume agreements	4,561	4,561
Total intangible assets	21,745	21,745
Accumulated amortization:		
Construction backlog	(16,690)	(16,937)
Volume agreements	(3,171)	(3,418)
Total accumulated amortization	(19,861)	(20,355)
Intangible assets, net	\$ 1,884	\$ 1,390

The goodwill balance as of June 30, 2006 was \$128.4 million and \$10.4 million for the ICS and TS segments, respectively. The goodwill balance as of December 31, 2005 was \$128.0 million and \$10.0 million for the ICS and TS segments, respectively. The increase in goodwill during the six months ended June 30, 2006 relates to the resolution of preacquisition tax items and the settlement of the working capital adjustment for our 2005 acquisition of EHV Power Corporation ("EHV").

As a result of the adoption of SFAS No. 142, "Goodwill and Intangible Assets," goodwill is subject to an assessment for impairment using a two-step fair value-based test with the first step performed at least annually, or more frequently if events or circumstances exist that indicate that goodwill may be impaired. We complete our annual analysis of our reporting units at each fiscal year end. The first step compares the fair value of a reporting unit to its carrying amount, including goodwill. If the carrying amount of the reporting unit exceeds its fair value, the second step is then performed. The second step compares the carrying amount of the reporting unit's goodwill to the fair value of the goodwill. If the fair value of the goodwill is less than the carrying amount, an impairment loss would be recorded as a reduction to goodwill and a corresponding charge to operating expense. No provisions for goodwill impairments were recorded during the six months ended June 30, 2005 and 2006.

Expense for the amortization of intangible assets was \$1.7 million and \$0.2 million for the three months ended June 30, 2005 and 2006, respectively, and \$3.3 million and \$0.5 million for the six months ended June 30, 2005 and 2006, respectively. When fully amortized, intangible assets are removed from our balance sheet.

The estimated aggregate amortization expense of intangible assets for the next five succeeding fiscal years is:

<u>For the year ended December 31,</u>	<u>(in thousands)</u>
<u>2006 (excludes the six months ended June 30, 2006)</u>	<u>572</u>
<u>2007</u>	<u>432</u>
<u>2008</u>	<u>227</u>
<u>2009</u>	<u>159</u>
<u>2010</u>	<u>159</u>
Total	\$ 1,390

7. Debt

On June 30, 2006, we entered into a new credit agreement which provides for a secured revolving credit facility of \$225.0 million which may be used for revolving credit borrowings, swing loans, not to exceed \$10.0 million, and the issuance of standby letters of credit, not to exceed \$100.0 million. We also have the right to seek additional commitments to increase the aggregate commitments up to \$350.0 million, subject to compliance with applicable covenants. The new credit agreement replaces our previous secured credit facility, which included an \$85.0 million revolving credit commitment and \$84.0 million in term loan commitments.

The proceeds from borrowings under the new credit agreement were used to repay \$83.6 million of outstanding debt existing as of June 30, 2006 under our previous amended and restated credit facility which was terminated upon repayment. As of June 30, 2006, we have a \$75.0 million outstanding revolving credit borrowing and \$34.0 million in letters of credit outstanding. As a result of the entry into the new credit agreement and refinancing of the previous credit facilities, we recorded a charge in the second quarter of 2006 of \$4.3 million related to the write-off of deferred financing costs.

Under the new credit agreement, committed loans bear interest at either the British Bankers Association LIBOR Rate, or a rate (equal to the higher of the Federal Funds Rate plus 1/2 of 1% or the Bank of America prime rate) plus, an applicable margin of 1-2% for LIBOR Rate borrowings and 0-1%

for prime based borrowings, based on our consolidated leverage ratio. We are subject to a commitment fee of between .175–.35%, and letter of credit fees between 1–2% based on our consolidated leverage ratio. We can prepay all or a portion of any committed loans from time to time during the term of the new credit agreement and reborrow up to the aggregate commitments. The maturity date of the new credit agreement is June 30, 2012. The weighted average interest rate of our borrowing at June 30, 2006 is 8.5%.

The new credit agreement contains certain restrictive covenants, including financial covenants to maintain our consolidated interest coverage ratio at not less than 2.00:1.00 in each period of four trailing fiscal quarters; consolidated leverage ratio not greater than 3.25:1.00 in any four quarters prior to the incurrence of subordinated debt in an amount equal to or greater than \$25.0 million, and 4.00:1.00 for any four quarters from and after such incurrence; and consolidated senior leverage ratio greater than 2.50:1.00 in any four quarters from and after incurring subordinated debt or senior unsecured debt equal to or greater than \$25.0 million. There are also additional restrictions, including other indebtedness, liens, fundamental changes, disposition of property, restricted payments and investments. The new credit agreement is secured by a pledge of substantially all of our assets.

8. Computation of Per Share Earnings (Losses)

The following table is a reconciliation of the numerators and denominators of the basic and diluted income (loss) per share computation.

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
	(in thousands)			
Income (loss) from continuing operations	\$(1,363)	\$5,225	\$1,701	\$7,659
Income (loss) from discontinued operations, net of tax benefit of \$(52), \$67, \$(267) and \$88, respectively	(47)	102	(369)	134
Net income (loss) (numerator)	\$(1,410)	\$5,327	\$1,332	\$7,793
Weighted average basic common shares outstanding (denominator)	39,056	39,735	39,018	39,626
Potential common stock arising from stock options and employee stock purchase plans		601	783	616
Weighted average diluted common shares outstanding (denominator)	39,056	40,336	39,801	40,242
Basic net income (loss) per share	\$(0.04)	\$0.13	\$0.03	\$0.20
Diluted net income (loss) per share	(0.04)	0.13	0.03	0.19

Included in potential common stock arising from stock options for the six months ended June 30, 2005 and three and six months ended June 30, 2006 are early exercises of unvested stock option awards, which are excluded from the weighted average basic common shares outstanding. For the three months ended June 30, 2005 there were 1,983,335 shares, for the six months ended June 30, 2005 there were 626,560 shares and for both the three and six months ended June 30, 2006 there were 136,126 shares, under option grants excluded from the calculation of diluted earnings per share as the effect of these shares would have been anti-dilutive.

9. Stock Compensation Plans

Our stock based compensation expense includes the following:

	Three Months Ended June 30, 2006	Six Months Ended June 30, 2006
	(in thousands)	
Stock option expense	\$ 639	\$ 1,301
Restricted stock expense	115	218
Employee stock purchase plan expense	201	306
Total stock based compensation expense	<u>\$ 955</u>	<u>\$ 1,825</u>

Stock Options

Our 2003 Omnibus Stock Incentive Plan as amended effective April 29, 2004 (the "2003 Stock Plan"), was originally adopted on September 23, 2003 to allow the grant of stock options and restricted stock to designated key employees. The options currently issued under the 2003 Stock Plan include time-based options that vest over four years. All options have a maximum term of ten years. The 2003 Stock Plan was terminated upon completion of the IPO. Options previously issued under the 2003 Stock Plan remain outstanding.

Our 2004 Omnibus Stock Incentive Plan (the "2004 Stock Plan") was adopted on April 29, 2004 to allow the grant of stock options, stock appreciation rights, restricted stock, and deferred stock or performance shares to employees and directors. The options currently issued under the 2004 Stock Plan vest over a period of four years. All options have a maximum term of ten years. The aggregate number of shares reserved for issuance under the 2004 Stock Plan is 800,000 plus an amount to be added annually on the first day of our fiscal year (beginning 2005) equal to the lesser of (i) 1,000,000 shares or (ii) two percent of our outstanding shares of common stock on the last day of the immediately preceding fiscal year. As of June 30, 2006, 2.4 million shares have been reserved for issuance under the 2004 Stock Plan.

For the purpose of calculating the fair value of our stock options, we estimate expected stock price volatility based on our common stock's historical volatility. The risk-free interest rate assumption included in the calculation is based upon observed interest rates appropriate for the term of our employee stock options. The dividend yield assumption is based on our intent not to issue a dividend. We are currently using the simplified method to calculate expected holding periods as provided for under SAB No. 107.

As stock-based compensation expense recognized in the condensed consolidated statements of operations for the three and six months ended June 30, 2006 is based on awards ultimately expected to vest, it has been reduced for estimated forfeitures. SFAS No. 123R requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on historical experience. In accordance with SFAS No. 123, pro forma information for the periods prior to fiscal 2006 was based on recognizing the effect of forfeitures as they occurred.

The weighted-average grant-date fair value of options granted during the three and six months ended June 30, 2005 and the three and six months ended June 30, 2006 was \$0.8 million, \$0.8 million, \$1.0 million and \$1.2 million, respectively. The total intrinsic value of options exercised during the three and six months ended June 30, 2005 and the three and six months ended June 30, 2006, was \$0.1 million, \$0.5 million, \$0.3 million and \$1.4 million, respectively.

The fair value of each option grant was estimated on the grant-date using the Black-Scholes option pricing model with the following weighted average assumptions:

	Three months ended June 30, 2005	Six months ended June 30, 2005	Three months ended June 30, 2006	Six months ended June 30, 2006
Weighted Average Assumptions:				
Expected volatility	58%	58%	43%	44%
Dividend yield	0%	0%	0%	0%
Risk-free interest rate	3.81%	3.81%	4.99%	4.93%
Annual forfeiture rate	0%	0%	7%	7%
Expected holding period (in years)	6.00	6.00	6.25	6.25

The following table summarizes information for the options outstanding and exercisable for the year ended December 31, 2005 and three months ended June 30, 2006:

	Options	Weighted Average Exercise Price per share	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value (in thousands)
Balance, December 31, 2004	2,212,701	\$ 47.53		
Granted	701,563	11.48		
Exercised	(176,997)	5.02		
Cancelled	(331,526)	7.84		
Balance, December 31, 2005	2,405,741	\$ 8.11		
Granted	136,126	17.62		
Exercised	(153,494)	7.89		
Cancelled	(36,650)	9.05		
Balance, June 30, 2006	2,351,723	\$ 9.22		
Options fully vested and expected to vest as of June 30, 2006	2,155,528	\$ 8.99	8.1	\$ 19,884
Options exercisable as of June 30, 2006	628,396	\$ 7.95	7.6	\$ 6,445

The aggregate intrinsic value in the preceding table represents the total pre-tax intrinsic value, based on our closing stock price of \$18.21 on June 30, 2006, which would have been received by the option holders had all option holders exercised their options as of that date. The total number of in-the-money options exercisable on June 30, 2006 was 628,396.

As of June 30, 2006, there was approximately \$7.0 million of total unrecognized compensation cost related to nonvested stock options. That cost is expected to be recognized over a weighted average period of 8.4 years.

Restricted Stock

Our restricted stock vests based on the passage of time. The following table presents a summary of the status of our nonvested restricted stock as of June 30, 2006 and changes during the six months ended June 30, 2006:

	Shares	Weighted-Average Grant-Date Fair Value
Nonvested shares at December 31, 2005	167,556	\$ 13.13
Shares issued	28,601	18.01
Shares vested	(41,889)	13.13
Nonvested shares at June 30, 2006	<u>154,268</u>	\$ 14.03

As of June 30, 2006, there was approximately \$1.8 million of total unrecognized compensation cost related to nonvested restricted stock. That cost is expected to be recognized over a weighted average period of 3.0 years. The total fair value of shares vested during the six months ended June 30, 2006 was \$0.6 million.

Employee Stock Purchase Plan

In April 2004, our board of directors adopted the 2004 Employee Stock Purchase Plan for all employees meeting its eligibility criteria. Under this plan, eligible employees may purchase shares of our common stock, subject to certain limitations, at 85% of the market value. Purchases are limited to 15% of an employee's eligible compensation, up to a maximum of 2,000 shares per purchase period. The maximum aggregate number of shares reserved for issuance under the plan is 2,000,000 plus an amount to be added annually on the first day of our fiscal year (beginning 2005) equal to the lesser of (i) 600,000 shares or (ii) one percent of our outstanding shares of common stock on the last day of the immediately preceding fiscal year. As of June 30, 2006, 2.8 million shares have been reserved for issuance under the 2004 Employee Stock Purchase Plan.

10. Concentration of Credit Risk

We derive a significant portion of our revenues from a small group of customers. Our top ten customers accounted for 56% and 54%, of our consolidated revenues for the three months ended June 30, 2005 and 2006, respectively, and 48% and 47% of our consolidated revenues for the six months ended June 30, 2005 and 2006, respectively. Exelon Corporation ("Exelon") accounted for approximately 25% and 18%, of our consolidated revenues for the three months ended June 30, 2005 and 2006, respectively, and 23% and 17%, of our consolidated revenues for the six months ended June 30, 2005 and 2006, respectively.

At December 31, 2005 and June 30, 2006, accounts receivable due from Exelon, inclusive of amounts due from a prime contractor for Exelon work, represented 9% and 16%, respectively, of our total accounts receivable balance. Additionally, one other customer accounted for 10% of our accounts receivable balance at June 30, 2006.

11. Other Income (Expense), Net

Other income (expense), net consists primarily of gains (losses) on sale of property and equipment. Other income (expense), net for the six months ended June 30, 2005 includes a reversal of a \$3.8 million charge for a litigation judgment recorded in 2003.

12. Comprehensive Income (Loss)

The following table presents the components of comprehensive income (loss) for the periods presented:

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
	(in thousands)			
Net income (loss)	\$ (410)	\$ 327	\$ 332	\$ 793
Foreign currency translation adjustment	—	126	—	111
Fair value adjustments on derivatives	(144)	(480)	87	(480)
Comprehensive income	<u>\$ (1,554)</u>	<u>\$ 4,973</u>	<u>\$ 1,419</u>	<u>\$ 7,424</u>

Other comprehensive income (loss) during the three and six months ended June 30, 2005 and 2006 was comprised of changes in the fair value of interest rate cap and swap agreements designated and qualifying as cash flow hedges under the provisions of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended by SFAS Nos. 137, 138 and 149, net of reclassifications to net income. Other comprehensive income during the three and six months ended June 30, 2006 also includes a foreign currency translation adjustment related to our Canadian operations.

At June 30, 2006, upon the repayment of our old credit facility (see note 7), our interest rate swap and interest rate cap no longer qualified as cash flow hedges. Therefore we reclassified the remaining other comprehensive income of \$0.5 million related to these derivatives to interest expense on June 30, 2006.

13. Segment Information

We operate in two business segments. Our ICS segment provides design, engineering, procurement, construction, testing and maintenance services for utility infrastructure. Our ICS customers include electric power utilities, natural gas utilities, telecommunication customers, government entities and heavy industrial companies, such as petrochemical, processing and refining businesses. Our ICS services are provided by four of our operating units, all of which have been aggregated into one reportable segment due to their similar economic characteristics, customer bases, products and production and distribution methods. Our TS segment, consisting of a single operating unit, leases point-to-point telecommunications infrastructure in select markets and provides design, procurement, construction and maintenance services for telecommunications infrastructure. Our TS customers include communication service providers, large industrial and financial services customers, school districts and other entities with high bandwidth telecommunication needs. Within our TS segment, we are regulated as a public telecommunication utility in various states. We operate in multiple territories throughout the United States. We do not have significant operations or assets outside the United States. We acquired a Canadian entity in November 2005 which represents less than 2% of our revenue for the six months ended June 30, 2006 and 2% of total assets as of June 30, 2006.

Business segment performance measurements are designed to facilitate evaluation of operating unit performance and assist in allocation of resources for the reportable segments. The primary financial measures we use to evaluate our segment operations are contract revenues and income (loss) from operations as adjusted, a non-GAAP financial measure. Income (loss) from operations as adjusted excludes expenses for the amortization of intangibles related to our acquisitions and share-based compensation. Amortization and share-based compensation expenses are excluded because we believe these expenses do not reflect the core performance of our business segments operations. In the second quarter of 2006, we began excluding share-based compensation expense from our income (loss) from operations as adjusted since we do not believe this expense is indicative of the core performance of our business segments operations. We did not reclassify share-based compensation expense for the 2005

periods, since the expense was insignificant for the 2005 periods. A reconciliation of income (loss) from operations as adjusted to the nearest GAAP equivalent, income (loss) from operations is provided below.

We do not allocate corporate costs to our business segments for internal management reporting. Corporate and eliminations includes unallocated corporate costs, revenue related to administrative services we provide to one of our customers and elimination of revenues between reporting segments which are not significant. The following tables present segment information by period:

For the Three Months Ended June 30, 2005	Infrastructure Construction Services	Telecommunication Services	Corporate and Eliminations	Total
	(in thousands)			
Revenues	\$ 221,179	\$ 19,570	\$ 921	\$ 231,670
Income (loss) from operations as adjusted	586	3,859	(3,334)	1,111
Depreciation	5,908	845	350	6,803
Amortization	1,698	—	—	1,698
Total assets	394,739	80,584	81,271	556,594
Capital expenditures	3,815	2,868	762	7,445
<i>reconciliation:</i>				
Income (loss) from operations as adjusted	\$ 586	\$ 3,859	\$ (3,334)	\$ 1,111
Less: Amortization	(1,698)	—	—	(1,698)
Income (loss) from operations	(1,112)	3,859	(3,334)	(587)
Interest income	9	—	18	27
Interest expense	(1,878)	(88)	(280)	(2,246)
Other income, net	(639)	(5)	—	(644)
Income (loss) before income taxes	<u>\$ (2,342)</u>	<u>\$ 3,767</u>	<u>\$ (3,596)</u>	<u>\$ (2,171)</u>

For the Three Months Ended June 30, 2006	Infrastructure Construction Services	Telecommunication Services	Corporate and Eliminations	Total
	(in thousands)			
Revenues	\$ 244,993	\$ 9,503	\$ 13,531	\$ 258,027
Income (loss) from operations as adjusted	13,382	4,743	(3,839)	14,286
Depreciation	5,687	1,007	59	6,753
Amortization and share-based compensation	841	38	313	1,192
Total assets	398,480	90,959	79,105	568,544
Capital expenditures	3,736	5,527	101	9,364
<i>reconciliation:</i>				
Income (loss) from operations as adjusted	\$ 13,382	\$ 4,743	\$ (3,839)	\$ 14,286
Less: Amortization and share-based compensation	(841)	(38)	(313)	(1,192)
Income (loss) from operations	12,541	4,705	(4,152)	13,094
Interest income	—	—	173	173
Interest expense	(1,121)	236	(797)	(1,682)
Write-off of deferred financing costs	(3,535)	(677)	(84)	(4,296)
Other income, net	1,482	5	—	1,487
Income (loss) before income taxes	<u>\$ (9,367)</u>	<u>\$ 4,269</u>	<u>\$ (4,860)</u>	<u>\$ (8,776)</u>

For the Six Months Ended June 30, 2005	Infrastructure Construction Services	Telecommunication Services	Corporate and Eliminations	Total
	(in thousands)			
Revenues	\$ 390,535	\$ 20,084	\$ 1,681	\$ 412,300
Income (loss) from operations as adjusted	3,878	8,052	(7,219)	4,711
Depreciation	11,820	1,681	96	13,597
Amortization	3,310	—	—	3,310
Total assets	394,739	80,584	18,271	456,594
Capital expenditures	7,589	7,328	1,068	15,985
reconciliation:				
Income (loss) from operations as adjusted	\$ 3,878	\$ 8,052	\$ (7,219)	\$ 4,711
Less: Amortization	3,310	—	—	3,310
Income (loss) from operations	568	8,052	(7,219)	1,401
Interest income	196	—	126	222
Interest	(3,204)	(112)	(387)	(3,703)
Other income, net	1,233	(3)	3,785	5,015
Income (loss) before income taxes	\$ (1,307)	\$ 7,937	\$ (3,695)	\$ 2,935

For the Six Months Ended June 30, 2006	Infrastructure Construction Services	Telecommunication Services	Corporate and Eliminations	Total
	(in thousands)			
Revenues	\$ 450,500	\$ 19,576	\$ 5,191	\$ 475,267
Income (loss) from operations as adjusted	21,766	9,222	(9,697)	21,291
Depreciation	11,557	1,993	114	13,664
Amortization and share-based compensation	1,630	59	630	2,319
Total assets	398,480	90,959	79,105	568,544
Capital expenditures	9,090	9,697	134	18,921
reconciliation:				
Income (loss) from operations as adjusted	\$ 21,766	\$ 9,222	\$ (9,697)	\$ 21,291
Less: Amortization and share-based compensation	1,630	59	630	2,319
Income (loss) from operations	20,136	9,163	(10,327)	18,972
Interest income	1	—	408	409
Interest expense	(2,394)	391	(1,790)	(3,793)
Write-off of deferred financing costs	(3,535)	(677)	(84)	(4,296)
Other income, net	1,435	2	126	1,563
Income (loss) before income taxes	\$ 15,643	\$ 8,879	\$ (11,667)	\$ 12,855

The following table presents information regarding revenues by end market:

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
Electric Transmission	\$ 38,103	\$ 59,447	\$ 77,588	\$ 117,207
Electric Substation	40,360	58,102	72,996	96,851
Utility Distribution and Industrial Electric	43,141	32,259	84,921	69,602
Total Electric	121,604	149,808	235,505	283,660
Natural Gas	75,864	72,303	19,005	126,229
Telecommunications	25,408	29,742	44,789	54,054
Other	18,794	16,174	13,001	13,324
	<u>\$ 231,670</u>	<u>\$ 258,027</u>	<u>\$ 412,300</u>	<u>\$ 475,267</u>

Electric, gas and other end market revenues are entirely part of the ICS segment, while telecommunications end market revenue is included in both the ICS and TS segments. Approximately 38%, 45%, 32% and 36%, of our telecommunications end market revenues for the three and six months ended June 30, 2005 and for the three and six months ended June 30, 2006, respectively, were from the TS segment.

14. Related Party Transactions

As of June 30, 2006, we had \$0.3 million due from our Principal Stockholders included in receivables from related party on our condensed consolidated balance sheet. This amount relates to reimbursements for certain secondary offering costs.

On June 28, 2006, we entered into a Second Amendment to Registration Rights Agreement (the "Second Amendment") to allow the Principal Stockholders to request that we file with the Securities and Exchange Commission a registration statement on Form S-3 within 180 days following March 20, 2006 for an underwritten public offering (the "Offering") of shares of our common stock. In connection with the Offering, our stockholders participating in the Offering must pay their own expenses as well as their pro rata share of our expenses incurred in connection with the Offering.

In addition, on June 28, 2006, in connection with the Second Amendment, we entered into an Agreement (the "Agreement") with our Principal Stockholders and Ian Schapiro and Michael Harmon, two members of our board of directors, to set forth certain agreements of the parties following the closing of the Offering. Pursuant to the Agreement, Messrs. Schapiro and Harmon, representatives of the Principal Stockholders, agreed to work with us in good faith to determine a mutually acceptable transition plan for their board of directors and committee responsibilities. In addition, the Principal Stockholders have entered into non-disclosure agreements with us and have agreed to certain limited restrictive covenant obligations following the closing of the Offering.

As of December 31, 2005, we had \$7.1 million due to the former owners of Blair Park accrued in other liabilities—related parties on our condensed consolidated balance sheet for additional contingent purchase price consideration. Blair Park was acquired by InfraSource Incorporated in 2001. The balance was paid in the second quarter of 2006.

As of June 30, 2006, we had \$0.8 million due to the sellers of the Maslonka business, who are also employees, accrued in other liabilities—related parties on our condensed consolidated balance sheet. This balance relates to amounts due upon collection from a third party. In January 2006, we paid the sellers of the Maslonka business \$3.5 million of holdback consideration, including interest, and released the holdback shares.

We lease our InfraSource Transmission Services (“ITS”) headquarters in Mesa, Arizona and our ITS Texas field office in San Angelo, Texas from EC Source, LLC, which is wholly owned by Martin Maslonka. Our leases for these two properties will run through February 2009, subject to a five-year renewal option. Pursuant to these leases, we expect to incur total annual lease payments of \$0.2 million.

We lease office and warehouse space from Coleman Properties of which three officers of Blair Park are general partners. The lease for this space continues through October 2008. Our annual payments under this agreement are approximately \$0.1 million.

We also lease ducts in two river bores under the Delaware River from Coleman Properties. Our lease commenced on May 1, 2005 and has a term of five years, with an option to extend. Our annual lease payment is \$0.02 million for each pair of fiber installed in the conduit up to a maximum of \$0.2 million per year if additional ducts are leased.

As of June 30, 2006 we had \$0.4 million due to the EHV stockholders, who are currently our employees, accrued in other liabilities—related parties on our condensed consolidated balance sheet. This amount is a portion of the holdback consideration from our acquisition of EHV, which is payable in 2007 and not contingent on future events, with the exception of any indemnification obligations owed to us.

We lease office and warehouse facilities in Michigan which are owned by an employee and his family members. Our leases for these properties are through March 2011 and May 2007. Pursuant to these leases, we expect to incur total annual lease payments of \$0.3 million.

15. Commitments and Contingencies

On September 21, 2005, a petition, as amended, was filed against InfraSource, certain of its officers and one of its directors and various other defendants in the Harris County, Texas District Court seeking unspecified damages. The plaintiffs allege that the defendants violated their fiduciary duties and committed constructive fraud by failing to maximize shareholder value in connection with the Merger and committed other acts of misconduct following the filing of the petition. At this time, it is too early to form a definitive opinion concerning the ultimate outcome of this litigation. Management of InfraSource plans to vigorously defend against this claim.

Pursuant to our service contracts, we generally indemnify our customers for the services we provide under such contracts. Furthermore, because our services are integral to the operation and performance of the electric power transmission and distribution infrastructure, we may become subject to lawsuits or claims for any failure of the systems that we work on, even if our services are not the cause for such failures, and we could be subject to civil and criminal liabilities to the extent that our services contributed to any property damage or blackout. The outcome of these proceedings could result in significant costs and diversion of management’s attention to our business. Payments of significant amounts, even if reserved, could adversely affect our reputation and liquidity position.

From time to time, we are a party to various other lawsuits, claims, other legal proceedings and are subject, due to the nature of our business, to governmental agency oversight, audits, investigations and review. Such actions may seek, among other things, compensation for alleged personal injury, breach of contract, property damage, punitive damages, civil penalties or other losses, or injunctive or declaratory relief. Under such governmental audits and investigations, we may become subject to fines and penalties or other monetary damages. With respect to such lawsuits, claims, proceedings and governmental investigations and audits, we accrue reserves when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. We do not believe any of these proceedings currently pending, individually or in the aggregate, would be expected to have a material adverse effect on our results of operations, cash flows or financial condition.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking and Cautionary Statements

In this Quarterly Report on Form 10 Q, we have made forward-looking statements. Generally, these forward-looking statements can be identified by words like "may," "will," "should," "expect," "intend," "anticipate," "believe," "estimate," "predict," "potential," or "continue" or the negative of those words and other comparable words. These forward-looking statements generally relate to our plans, objectives and expectations for future operations and are based upon our current estimates and projections of future results or trends. Although we believe that our plans and objectives reflected in or suggested by these forward-looking statements are reasonable, we may not achieve these plans or objectives. These statements are subject to known and unknown risks, uncertainties and other factors that could cause the actual results to differ materially from those contemplated by the statements. These statements only reflect our predictions. Except as required by law, we will not update forward-looking statements even though our situation may change in the future. With respect to forward-looking statements, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995.

The factors that could affect future results and could cause those results to differ materially from those expressed in the forward-looking statements include, but are not limited to, those described under Part I, Item 1A, "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2005 and other risks outlined in our filings with the Securities and Exchange Commission ("SEC").

Introduction

The following discussion should be read in conjunction with the unaudited condensed consolidated financial statements and notes of InfraSource Services, Inc. and its wholly owned subsidiaries and Part II, Item 1A, "Risk Factors" included elsewhere in this Quarterly Report on Form 10-Q and with "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Risk Factors" and the audited financial statements and notes included in our Annual Report on Form 10-K.

Overview

We are one of the largest specialty contractors servicing electric, natural gas and telecommunications infrastructure in the United States based on market share. We operate in two business segments. Our Infrastructure Construction Services ("ICS") segment, provides design, engineering, procurement, construction, testing and maintenance services for utility infrastructure. Our ICS customers include electric power utilities, natural gas utilities, telecommunication customers, government entities and heavy industrial companies, such as petrochemical, processing and refining businesses. Our ICS services are provided by four of our operating units, all of which have been aggregated into one reportable segment due to their similar economic characteristics, customer bases, products and production and distribution methods. Our Telecommunication Services ("TS") segment, consisting of a single operating unit, leases point-to-point telecommunications infrastructure in select markets and provides design, procurement, construction and maintenance services for telecommunications infrastructure. Our TS customers include communication service providers, large industrial and financial services customers, school districts and other entities with high bandwidth telecommunication needs. Within our TS segment, we are regulated as a public telecommunication utility in various states. We operate in multiple service territories throughout the United States. We do not have significant operations or assets outside the United States. We acquired EHV Power Corporation ("EHV"), a Canadian entity, in November of 2005, which represented less than 2% of our revenue in 2006.

During the second quarter of 2006:

- Gross profit increased \$17.5 million, as compared to the second quarter of 2005, and our gross profit margin increased from 8.1% in 2005 to 14.1% in 2006. The increase in gross profit was due primarily to an increase in the volume of electric substation and electric transmission work which generally provides higher margins; the earning of performance bonuses for our strong operating performance on certain electric distribution and substation projects; the absence of certain performance-related pricing concessions we made to a large customer in 2005; the exit of certain unprofitable natural gas contracts; and an increase in volume of dark fiber lease revenue. This increase was partially offset by a decrease in the volume of utility distribution and industrial electric work. Additionally, we incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects.
- During the second quarter of 2006, we recorded a \$5.0 million contract loss related to an electric transmission project, which assumes collection of a portion of current and projected claims, and the associated reversal of pre-tax profit of \$1.6 million recognized in prior periods. This project began in August 2005 and is expected to be substantially completed by December 2006. Consistent with our revenue recognition policy for contracts that are in a forecasted loss position, we recognized the expected loss on this project in the second quarter of 2006. The loss is attributable primarily to lower than expected productivity due to ineffective supervision, insufficient access to experienced labor, supplier issues and extremely hot weather.
- On June 30, 2006, we entered into a new credit agreement which provides for a secured revolving credit facility of \$225.0 million which may be used for revolving credit borrowings, swing loans and the issuance of standby letters of credit. We also have the right to seek additional commitments to increase the aggregate commitments up to \$350.0 million, subject to compliance with applicable covenants. The new credit agreement replaces our previous secured credit facility, which included an \$85.0 million revolving credit commitment and \$84.0 million in term loan commitments. The proceeds from borrowings under the new credit agreement were used to repay \$83.6 million of outstanding debt existing as of June 30, 2006 under our previous amended and restated credit facility which was terminated upon repayment. As of June 30, 2006, we have a \$75.0 million outstanding revolving credit borrowing and \$34.0 million in letters of credit outstanding. As a result of the entry into the new credit agreement and refinancing of the previous credit facilities, we recorded a charge in the second quarter of 2006 of \$4.3 million related to the write-off of deferred financing costs.
- We recorded \$1.0 million of share-based compensation expense.

For the three and six months ended June 30, 2006, we had revenues of \$258.0 million and \$475.3 million, respectively, in comparison to \$231.7 million and \$412.3 million, respectively, for the three months and six months ended June 30, 2005. Our revenue mix by end market for the three and six months ended June 30, 2005 and 2006 is presented in the table below:

End Market

	Three Months Ended June 30, 2005	Three Months Ended June 30, 2006	Six Months Ended June 30, 2005	Six Months Ended June 30, 2006
Electric Transmission	16%	23%	19%	25%
Electric Substation	17%	23%	18%	20%
Utility Distribution and Industrial Electric	19%	12%	20%	15%
Total Electric	52%	58%	57%	60%
Natural Gas	33%	28%	29%	27%
Telecommunications	11%	12%	11%	11%
Other	14%	2%	13%	2%

Our top ten customers accounted for 56% and 54%, of our consolidated revenues for the three months ended June 30, 2005 and 2006, respectively, and 48% and 47% of our consolidated revenues for the six months ended June 30, 2005 and 2006, respectively. Exelon Corporation ("Exelon") accounted for approximately 25% and 18%, of our consolidated revenues for the three months ended June 30, 2005 and 2006, respectively, and 23% and 17%, of our consolidated revenues for the six months ended June 30, 2005 and 2006, respectively. Exelon has recently indicated its intent to curtail expenditures to a level below that sustained in recent years and they have also begun to modify contracting practices to seek alternative commercial arrangements with suppliers like us, including increased use of competitive bidding on certain projects. Approximately 38%, 45%, 32% and 36% of our telecommunications end market revenues were from the TS segment for the three and six months ended June 30, 2005 and for the three and six months ended June 30, 2006, respectively.

Backlog represents the amount of revenue that we expect to realize from work to be performed on uncompleted contracts, including new contracts for which we have received a notice to begin work. In some cases, we are awarded a contract in advance of receiving the notice to begin work and, in such event, we do not classify the work as backlog. Contracts with contingent financing arrangements or those awaiting release of particular permits are not included in backlog. Backlog includes our estimate of work to be performed under our master service agreements ("MSAs"), which often have two-to-three year terms and revenues under lease commitments. Our customers are not contractually committed to specific volumes of services under our MSAs or long-term maintenance contracts, and many of those contracts may be terminated with minimal notice.

Below is a period-over-period (second quarter 2005 as to second quarter 2006) and sequential (first quarter 2006 as to second quarter 2006) comparison of end market backlog:

	Backlog as of		Increase/ (Decrease) (\$)	Increase/ (Decrease) (%)
	June 30, 2005	June 30, 2006		
	(in millions)			
Electric Transmission	\$ 118	\$ 215	\$ 97	82%
Electric Substation	93	137	44	47%
Utility Distribution and Industrial Electric	55	88	33	60%
Total Electric	266	440	174	65%
Natural Gas	370	247	(123)	(33)%
Telecommunications	190	221	31	16%
Other	18	18	(10)	(56)%
Total	\$ 844	\$ 916	\$ 72	9%

	Backlog as of		Increase/ (Decrease) (\$)	Increase/ (Decrease) (%)
	March 31, 2006	June 30, 2006		
	(in millions)			
Electric Transmission	\$ 176	\$ 215	\$ 39	22%
Electric Substation	136	137	1	1%
Utility Distribution and Industrial Electric	73	88	15	21%
Total Electric	385	440	55	14%
Natural Gas	294	247	(47)	(16)%
Telecommunications	234	221	(13)	(6)%
Other	19	18	(1)	(5)%
Total	\$ 932	\$ 916	\$ (16)	(2)%

Below is a period-over-period (second quarter 2005 as to second quarter 2006) and sequential (first quarter 2006 as to second quarter 2006) comparison of backlog by business segment:

	Backlog as of		Increase/ Decrease (\$)	Increase/ Decrease (%)
	June 30, 2005	June 30, 2006		
	(in millions)			
ICS	\$ 740	\$ 782	\$ 42	6%
TS	104	134	30	29%
Total	\$ 844	\$ 916	\$ 72	9%

	Backlog as of		Increase/ Decrease (\$)	Increase/ Decrease (%)
	March 31, 2006	June 30, 2006		
	(in millions)			
ICS	\$ 797	\$ 782	\$ (15)	(2)%
TS	135	134	(1)	(1)%
Total	\$ 932	\$ 916	\$ (16)	(2)%

Critical Accounting Policies and Estimates

The preparation of our condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets

and liabilities known to exist at the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. We evaluate our estimates on an ongoing basis, based on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from those estimates. Refer to our Annual Report on Form 10-K for our critical accounting policies and estimates in addition to Share-Based Compensation presented below.

Share-Based Compensation

Effective January 1, 2006, we adopted SFAS No. 123R which requires the measurement and recognition of compensation expense for all share-based payment awards made to employees and directors, including stock options, restricted stock and employee stock purchases related to the employee stock purchase plan, based on estimated fair values. We have identified the accounting of our share-based payments as critical to the accounting for our business operations and the understanding of our results of operations because they involve more significant judgments and estimates used in the preparation of our condensed consolidated financial statements. Prior to the adoption of SFAS No. 123R, we accounted for share-based awards to employees and directors using the intrinsic value method in accordance with Accounting Principles Board Opinion ("APB") No. 25, "Accounting for Stock Issued to Employees" as allowed under SFAS No. 123.

SFAS No. 123R requires companies to estimate the fair value of share-based payment awards on the grant-date using an option-pricing model. We value share-based awards using the Black-Scholes option pricing model. The Black-Scholes model, by its design, is highly complex, and dependent upon key data inputs estimated by management. The primary data inputs with the greatest degree of subjective judgment are the estimated lives of the stock-based awards and the estimated volatility of our stock price. Beginning in fiscal year 2006, we calculated the estimated life of stock options granted using a "simplified" method, which is based on the average of the vesting term and the term of the option, as a result of guidance from the SEC as contained in Staff Accounting Bulletin No. 107 permitting the initial use of this method. We determined expected volatility for fiscal year 2006 using the historical method. Management selected the historical method as we have not identified a more reliable or appropriate method to predict future volatility.

As share-based compensation expense recognized during the current period is based on the value of the portion of share-based payment awards that is ultimately expected to vest, SFAS No. 123R requires forfeitures to be estimated at the time of grant in order to estimate the amount of share-based awards that will ultimately vest. The forfeiture rate is based on historical activity. The value of the portion of the award that is ultimately expected to vest is expensed on a straight-line basis over the requisite service periods in our consolidated statements of operations. Stock-based compensation expense recognized under SFAS No. 123R for the three and six months ended June 30, 2006 was \$1.0 million and \$1.8 million, respectively, related to stock options, restricted stock and the discount on employee stock purchases. For the three and six months ended June 30, 2005, we recorded share-based compensation expense of \$4,000 and \$20,000, respectively, related to stock options which were granted to employees and directors below the fair market value of the underlying stock at the date of grant. See Notes 2 and 9 to our condensed consolidated financial statements for additional information regarding the adoption of SFAS No. 123R.

If factors change and we employ different assumptions in the application of SFAS No. 123R in future periods, the compensation expense that we record under SFAS No. 123R may differ significantly.

Results of Operations

Seasonality and Cyclicity

The results of operations of our ICS segment are subject to seasonal variations. During the winter months, demand for new projects and new maintenance service arrangements is normally lower in some geographic areas due to reduced construction activity, especially for services to natural gas distribution customers. Therefore, our ICS segment typically experiences lower gross and operating margins in the first quarter. However, demand for repair and maintenance services attributable to damage caused by inclement weather may partially offset the loss of revenues from lower demand for new projects and new MSAs. During the three months ended March 31, 2006, we experienced unusually mild weather which contributed to increased volume and financial performance in our natural gas, underground telecommunications and electric transmission services.

Our working capital needs are influenced by the seasonality of our business. We generally experience a need for additional working capital during the spring and summer when we increase our level of outdoor construction in weather-affected regions of the country. Conversely, we typically convert working capital assets to cash during the winter months. Activity in our industry and the available volume of work is affected by the highly cyclical spending patterns in the telecommunications and independent power producers ("IPP") sectors. As a result, our volume of business may be adversely affected by declines in new projects in various geographic regions or industries in the United States.

Our TS segment's leasing of point-to-point telecommunications infrastructure is not significantly affected by seasonality.

Consolidated Results

Three months ended June 30, 2006 compared to the three months ended June 30, 2005

	Three Months Ended June 30, 2005	% of Revenue	Three Months Ended June 30, 2006	% of Revenue
	(in thousands)			
Contract revenues	\$ 231,670	100.0%	\$ 258,027	100.0%
Gross profit	18,842	8.1%	36,384	14.1%
Selling, general and administrative expenses	17,651	7.6%	23,012	8.9%
Merger related costs	76	0.0%	—	0.0%
Provision of uncollectible accounts	74	0.0%	41	0.0%
Amortization of intangible assets	1,698	0.7%	237	0.1%
Income (loss) from operations	(587)	0.3%	13,094	5.1%
Interest income	28	0.0%	173	0.1%
Interest expense	(2,246)	1.0%	(1,682)	0.7%
Write-off of deferred financing costs	—	0.0%	(4,296)	-1.7%
Other income, net	634	0.3%	1,487	0.6%
Income from continuing operations before income taxes	(2,171)	-0.9%	8,776	3.4%
Income tax expense (benefit)	(808)	0.3%	3,551	1.4%
Income (loss) from continuing operations	<u>\$ (1,363)</u>	<u>-0.6%</u>	<u>\$ 5,225</u>	<u>2.0%</u>

Revenues: Revenues increased \$26.4 million, or 11%, to \$258.0 million for the three months ended June 30, 2006 compared to the three months ended June 30, 2005 due primarily to the increase in electric contract awards within the past year. Electric revenues increased by \$28.2 million, or 23%, including \$21.3 million from electric transmission services and \$17.7 million from electric substation services, offset in part by a \$10.9 million decrease from utility distribution and industrial electric services. The decrease in utility distribution and industrial electric work is primarily due to fewer IPP projects. Underground natural gas revenues decreased by \$3.6 million, or 5%, due primarily to the exiting of certain unprofitable gas contracts and the decline in new housing construction in certain areas of the country. Telecommunications revenues increased by \$4.3 million, or 17%, mostly due to an increase in demand for underground telecommunications infrastructure work, including "fiber to the premises" initiatives.

Gross profit: Gross profit increased \$17.5 million, or 93%, to \$36.4 million for the three months ended June 30, 2006 compared to the three months ended June 30, 2005. Gross profit margins for the same periods increased from 8.1% in 2005 to 14.1% in 2006. The increase in gross profit was due primarily to an increase in the volume of electric substation and electric transmission work which generally provides higher margins; the earning of performance bonuses for our strong operating performance on certain electric distribution and substation projects; the absence of certain performance-related pricing concessions we made to a large customer in 2005; the exit of certain unprofitable natural gas contracts; and an increase in volume of dark fiber lease revenue. This increase was partially offset by a decrease in the volume of utility distribution and industrial electric work. Additionally, we incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects.

Selling, general and administrative expenses: Second quarter 2006 selling, general and administrative expenses were \$23.0 million, an increase of \$5.4 million, or 30%, compared to the three months ended June 30, 2005. The increase was due primarily to an increase in salaries and benefits of \$4.0 million for additional personnel hired to manage business growth and a \$1.0 million charge for share-based compensation. Selling, general and administrative expenses increased as a percentage of revenue from 7.6% for the three months ended June 30, 2005 to 8.9% for the three months ended June 30, 2006.

Amortization of intangible assets: Amortization of intangible assets decreased \$1.5 million, or 86%, to \$0.2 million during the three months ended June 30, 2006 compared to \$1.7 million for three months ended June 30, 2005. The decrease was due to a lesser amount of intangible amortization related to acquired construction backlog, due to the completion of most of the acquired contracts during 2005.

Interest expense: We incurred \$1.7 million of interest expense for the three months ended June 30, 2006, a decrease of \$0.6 million from the three months ended June 30, 2005, principally due to the reclassification of other comprehensive income related to benefits from our interest rate swap and interest rate cap in the period, which reduced interest expense. We expect that this benefit (approximately \$0.5 million) will be reversed in the second half of 2006. These derivative instruments no longer qualified as cash flow hedges under SFAS No. 133 "Accounting for Derivatives and Hedging Activities," as amended by SFAS Nos. 137, 138 and 149, due to the debt refinancing on June 30, 2006. Additionally, interest expense decreased due to the lack of line of credit borrowings in 2006 compared to the second quarter of 2005.

Write-off of deferred financing costs: In the second quarter of 2006 we refinanced our existing credit facility which resulted in a \$4.3 million charge for the write-off of deferred financing costs (See Note 7 to our condensed consolidated financial statements).

Other income (expenses), net: Other income increased by \$0.9 million for the three months ended June 30, 2006 compared to the three months ended June 30, 2005. The increase was due primarily to gains

on equipment sales. These gains occur periodically in the ordinary course of business as we sell owned equipment being replaced or retired.

Provision (benefit) for income taxes: The provision for income taxes for the three months ended June 30, 2006 was \$3.6 million, compared to the benefit of \$(0.8) million for the three months ended June 30, 2005. The increase was due to higher taxable income in the three months ended June 30, 2006.

Discontinued operations, net of tax: The loss from discontinued operations for the three months ended June 30, 2005 was less than \$0.1 and included the results of operations of ULMS and ESI. The income from discontinued operations for the three months ended June 30, 2006 relates to the resolution of an existing ULMS liability, as well as, an earn out arrangement that will continue through December 2006.

Six months ended June 30, 2006 compared to the six months ended June 30, 2005

	Six Months Ended June 30, 2005	% of Revenue	Six Months Ended June 30, 2006	% of Revenue
(in thousands)				
Contract revenues	\$412,300	100.0%	\$475,267	100.0%
Gross profit	39,106	9.5%	65,580	13.8%
Selling, general and administrative expenses	(34,159)	8.3%	(46,083)	9.7%
Merger related costs	152	0.0%	—	0.0%
Provision of uncollectible accounts	84	0.0%	31	0.0%
Amortization of intangible assets	3,310	0.8%	494	0.1%
Income from operations	1,401	0.3%	18,972	4.0%
Interest income	222	0.1%	409	0.1%
Interest expense	(3,703)	0.9%	(3,793)	0.8%
Write-off of deferred financing costs	—	0.0%	(4,296)	0.9%
Other income	2,501	0.6%	1,563	0.3%
Income from continuing operations before income taxes	2,935	0.7%	12,855	2.7%
Income tax expense	(1,234)	0.3%	(5,196)	1.1%
Income from continuing operations	<u>\$ 1,701</u>	<u>0.4%</u>	<u>\$ 7,659</u>	<u>1.6%</u>

Revenues: Revenues increased \$63.0 million, or 15%, to \$475.3 million for the six months ended June 30, 2006 compared to the six months ended June 30, 2005 due primarily to the increase in electric contract awards within the past year. Electric revenues increased by \$48.2 million, or 20%, including \$39.6 million from electric transmission services and \$23.9 million from electric substation services, offset in part by a \$15.3 million decrease from utility distribution and industrial electric services. The decrease in utility distribution and industrial electric work is primarily due to fewer IPP projects. Underground natural gas revenues increased by \$7.2 million, or 6%, due primarily to unusually mild weather in the first quarter of 2006 which enabled an increased volume of work to be performed. Telecommunications revenues increased by \$9.3 million, or 21%, mostly due to an increase in demand for underground telecommunications infrastructure work, including “fiber to the premises” initiatives.

Gross profit: Gross profit increased \$26.5 million, or 68%, to \$65.6 million for the six months ended June 30, 2006 compared to the six months ended June 30, 2005. Gross profit margins for the same periods increased from 9.5% in 2005 to 13.8% in 2006. The increase in gross profit was due primarily to an increase in the volume of electric substation and electric transmission work which generally provides higher margins; the earning of performance bonuses for our strong operating performance on certain electric distribution and substation projects; the absence of certain performance-related pricing concessions we made to a large customer in 2005; the exit of certain unprofitable natural gas contracts; and an increase in

volume of dark fiber lease revenue. This increase was partially offset by a decrease in the volume of utility distribution and industrial electric work. Additionally, we incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects.

Selling, general and administrative expenses: For the six months ended June 30, 2006, selling, general and administrative expenses were \$46.1, an increase of \$11.9 million, or 35%, compared to the six months ended June 30, 2005. The increase was due primarily to an increase in salaries and benefits of \$7.2 million for additional personnel hired to manage business growth, a \$1.8 million charge for share-based compensation and \$0.7 million incurred for the secondary offering completed in the first half of 2006. Selling, general and administrative expenses increased as a percentage of revenue from 8.3% for the six months ended June 30, 2005 to 9.7% for the six months ended June 30, 2006.

Amortization of intangible assets: Amortization of intangible assets decreased \$2.8 million, or 85%, to \$0.5 million during the six months ended June 30, 2006 compared to \$3.3 million for six months ended June 30, 2005. The decrease was due to a lesser amount of intangible amortization related to acquired construction backlog, due to the completion of most of the acquired contracts during 2005.

Write-off of deferred financing costs: In the second quarter of 2006, we refinanced our existing credit facility which resulted in a \$4.3 million charge for the write-off of deferred financing costs (See Note 7 to our condensed consolidated financial statements).

Other income, net: Other income decreased by \$3.5 million for the six months ended June 30, 2006 compared to the six months ended June 30, 2005. The decrease was due primarily to the 2005 reversal of a \$3.8 million charge related to a litigation judgment settled in our favor during the three months ended March 31, 2005, offset in part by \$0.2 million increase in gains on sale of equipment in 2006 compared to 2005.

Provision for income taxes: The provision for income taxes for the six months ended June 30, 2006 was \$5.2 million, compared to \$1.2 million for the six months ended June 30, 2005. The increase was due to higher taxable income in the six months ended June 30, 2006.

Discontinued operations, net of tax: The loss of \$(0.4) from discontinued operations for the six months ended June 30, 2005 included the results of operations of ULMS and ESI. The income from discontinued operations for the six months ended June 30, 2006 relates to the resolution of an existing ULMS liability, as well as, an earn out arrangement that will continue through December 2006.

Segment Results

We manage our operations in two segments, ICS and TS. The primary financial measures we use to evaluate our segment operations are contract revenues and income from operations as adjusted, a non-GAAP financial measure. Income (loss) from operations as adjusted excludes expenses for the amortization of intangibles related to our acquisitions and share-based compensation. Amortization and share-based compensation expenses are excluded because we believe these expenses do not reflect the core performance of our business segments operations. A reconciliation of income from operations as adjusted to the nearest GAAP equivalent, income (loss) from operations, is provided in Note 13 to our condensed consolidated financial statements, included elsewhere in this report on Form 10-Q.

Our corporate overhead expenses have not been allocated to our segments because we evaluate segment performance prior to the allocation of corporate expenses.

Three months ended June 30, 2006 compared to the three months ended June 30, 2005

	Three Months Ended	Three Months Ended	Change	
	June 30, 2005	June 30, 2006	\$	%
	(in thousands)			
Revenue:				
Infrastructure Construction Services	\$ 221,179	\$ 244,993	\$ 23,814	11%
Telecommunication Services	9,570	9,503	(67)	(1)%
Total segment revenues	230,749	254,496	23,747	10%
Corporate and eliminations	921	3,531	2,610	283%
Total revenue	\$ 231,670	\$ 258,027	\$ 26,357	11%

	Three Months Ended	Three Months Ended	Change	
	June 30, 2005	June 30, 2006	\$	%
	(in thousands)			
Income from operations as adjusted:				
Infrastructure Construction Services	\$ 586	\$ 13,382	\$ 12,796	2,184%
Telecommunication Services	3,859	4,743	884	23%
Total segment income from operations as adjusted	4,445	18,125	13,680	308%
Corporate and eliminations	(3,334)	(3,839)	(505)	15%
Total income from operations as adjusted	\$ 1,111	\$ 14,286	\$ 13,175	1,186%

ICS

Revenues: ICS revenues for the three months ended June 30, 2006 were \$245.0 million, an increase of \$23.8 million, or 11%, compared to the three months ended June 30, 2005. The increase was due primarily to the increase in electric contract awards within the past year. Electric revenues increased by \$28.2 million, or 23%, including \$21.3 million from electric transmission services and \$17.7 million from electric substation services, offset in part by a \$10.9 million decrease from utility distribution and industrial electric services. The decrease in utility distribution and industrial electric work is primarily due to fewer IPP projects. Underground natural gas revenues decreased by \$3.6 million, or 5%, due primarily to the exiting of certain unprofitable gas contracts and the decline in new housing construction in certain areas of the country. Telecommunications revenues increased by \$4.4 million, or 28%, mostly due to an increase in demand for underground telecommunications infrastructure work, including “fiber to the premises” initiatives.

Income from operations as adjusted: Income from operations as adjusted for the three months ended June 30, 2006 was \$13.4 million, an increase of \$12.8 million, or 2,184%, compared to the three months ended June 30, 2005. The increase was due primarily to a \$16.5 million increase in gross profit, partially offset by a \$4.0 million increase in selling, general and administrative expenses. The increase in gross profit was due primarily to an increase in the volume of electric substation and electric transmission work which generally provides higher margins; the earning of performance bonuses for our strong operating performance on certain electric distribution and substation projects; the absence of certain performance-related pricing concessions we made to a large customer in 2005; and the exit of certain unprofitable natural gas contracts. This increase was partially offset by a decrease in the volume of utility distribution and industrial electric work. Additionally, we incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects. Selling, general and administrative expenses increased primarily as a result of \$2.9 million for additional personnel hired to meet the business growth.

TS

Revenues: TS revenues decreased \$0.1 million, or 1%, to \$9.5 million for the three months ended June 30, 2006 compared to the three months ended June 30, 2005 due to a decrease in outside plant construction, offset in part by an increase in dark fiber leases.

Income from operations as adjusted: Income from operations as adjusted for the three months ended June 30, 2006 were \$4.7 million, an increase of \$0.9 million, or 23%, compared to the three months ended June 30, 2005. The increase was due primarily to an increase in dark fiber lease revenue which is more profitable than construction work.

Corporate

The loss from operations as adjusted for corporate and eliminations increased by \$0.5 million for the three months ended June 30, 2006 compared to the three months ended June 30, 2005 due to an increase in corporate expenses, offset in part by an increase of \$2.6 million for revenue related to administrative services we provide to one of our customers. Corporate expenses increased as a result of an increase in salaries and benefits of \$1.0 million for additional personnel hired to manage business growth.

Six months ended June 30, 2006 compared to the six months ended June 30, 2005

	Six Months Ended	Six Months Ended	Change	
	June 30, 2005	June 30, 2006	\$	%
	(in thousands)			
Revenue:				
Infrastructure Construction Services	\$ 390,535	\$ 450,500	\$ 59,965	15%
Telecommunication Services	20,084	19,576	(508)	(3)%
Total segment revenues	410,619	470,076	59,457	14%
Corporate and eliminations	1,681	5,191	3,510	209%
Total revenue	\$ 412,300	\$ 475,267	\$ 62,967	15%

	Six Months Ended	Six Months Ended	Change	
	June 30, 2005	June 30, 2006	\$	%
	(in thousands)			
Income from operations as adjusted:				
Infrastructure Construction Services	\$ 3,878	\$ 21,766	\$ 17,888	461%
Telecommunication Services	8,052	9,222	1,170	15%
Total segment income from operations as adjusted	11,930	30,988	19,058	160%
Corporate and eliminations	(7,219)	(9,697)	(2,478)	(34)%
Total income from operations as adjusted	\$ 4,711	\$ 21,291	\$ 16,580	352%

ICS

Revenues: ICS revenues for the six months ended June 30, 2006 were \$450.5 million, an increase of \$60.0 million, or 15%, compared to the six months ended June 30, 2005. The increase was due primarily to the increase in electric contract awards within the past year. Electric revenues increased by \$46.9 million, or 20%, including \$38.3 million from electric transmission services and \$23.9 million from electric substation services, offset in part by a \$15.3 million decrease from utility distribution and industrial electric services. The decrease in utility distribution and industrial electric work is primarily due to fewer IPP projects. Underground natural gas revenues increased by \$7.2 million, or 6%, due primarily to unusually mild weather in the first quarter of 2006 which enabled an increased volume of work to be performed. Telecommunications revenues increased by \$9.8 million, or 40%, mostly due to an increase in demand for underground telecommunications infrastructure work, including "fiber to the premises" initiatives.

Income from operations as adjusted: Income from operations as adjusted for the six months ended June 30, 2006 was \$21.8 million, an increase of \$16.9 million, or 461%, compared to the six months ended June 30, 2005. The increase was due primarily to a \$25.5 million increase in gross profit, partially offset by a \$7.9 million increase in selling, general and administrative expenses. The increase in gross profit was due primarily to an increase in the volume of electric substation and electric transmission work which generally provides higher margins; the earning of performance bonuses for our strong operating performance on certain electric distribution and substation projects; the absence of certain performance-related pricing concessions we made to a large customer in 2005; and the exit of certain unprofitable natural gas contracts. This increase was partially offset by a decrease in the volume of utility distribution and industrial electric work. Additionally, we incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects. Selling, general and administrative expenses increased primarily as a result of \$5.4 million for additional personnel hired to meet the business growth.

TS

Revenues: TS revenues decreased \$0.5 million, or 3%, to \$19.6 million for the six months ended June 30, 2006 compared to the six months ended June 30, 2005 due to a decrease in outside plant construction, offset in part by an increase in dark fiber leases which is more profitable than construction work.

Income from operations as adjusted: Income from operations as adjusted for the six months ended June 30, 2006 was \$9.2 million, an increase of \$1.2 million, or 15%, compared to the six months ended June 30, 2005. The increase was due primarily to an increase in dark fiber lease revenue.

Corporate

The loss from operations as adjusted for corporate and eliminations increased by \$2.5 million for the six months ended June 30, 2006 compared to the six months ended June 30, 2005 due to an increase in corporate expenses, offset in part by an increase of \$3.6 million for revenue related to administrative services we provide to one of our customers. Corporate expenses increased as a result of \$0.7 million incurred for the secondary offering completed in the first half of 2006 and an increase in salaries and benefits of \$1.4 million for additional personnel hired to manage business growth.

Liquidity and Capital Resources

Cash, Working Capital Requirements and Capital Expenditures

Our working capital needs are influenced by the seasonality of our business. We generally experience a need for additional working capital during the spring season when we increase our level of outdoor

construction in weather-affected regions of the country. Conversely, we typically convert working capital assets to cash during the winter months. We expect capital expenditures to range from \$18.0 million to \$20.0 million during the second half of 2006, which could vary depending on the timing of awards of dark fiber and electric transmission contracts. More than 50% of the expected capital expenditures are for dark fiber expansion. We intend to fund these expenditures primarily with operating cash flows. We have reduced our capital expenditures as a percentage of revenue over the past two years as a result of an increase in the use of equipment leasing arrangements and improved equipment utilization.

Financing

On June 30, 2006, we entered into a new credit agreement which provides for a secured revolving credit facility of \$225.0 million which may be used for revolving credit borrowings, swing loans, not to exceed \$10.0 million, and the issuance of standby letters of credit, not to exceed \$100.0 million. We also have the right to seek additional commitments to increase the aggregate commitments up to \$350.0 million, subject to compliance with applicable covenants. The new credit agreement replaces our previous secured credit facility, which included an \$85.0 million revolving credit commitment and \$84.0 million in term loan commitments.

The proceeds from borrowings under the new credit agreement were used to repay \$83.6 million of outstanding debt existing as of June 30, 2006 under our previous amended and restated credit facility which was terminated upon repayment. As of June 30, 2006, we have a \$75.0 million outstanding revolving credit borrowing and \$34.0 million in letters of credit outstanding. As a result of the entry into the new credit agreement and refinancing of the previous credit facilities, we recorded a charge in the second quarter of 2006 of \$4.3 million related to the write-off of deferred financing costs. For a discussion of fees and covenants related to our new credit facility, see Note 7 to our condensed consolidated financial statements.

We anticipate that our cash on hand of \$20.5 million as of June 30, 2006, our new credit facility and our future cash flow from operations will provide sufficient cash to enable us to meet our operating needs for the next twelve months, based on expected levels of business, debt service requirements and planned capital expenditures. However, we may find it necessary or desirable to seek additional financing to support our capital needs, which may include additional financing to support our expected growth, and to provide funds for strategic initiatives, such as acquisitions. Accordingly, this may require us to increase our credit facility or complete equity-based financing, such as the issuance of common stock or preferred stock, which would be dilutive to our existing shareholders. Our future working capital needs may also be affected by any increases in demand for our services, including any spending generated as a result of the Energy Policy Act of 2005.

Sources and Uses of Cash

As of June 30, 2006, we had cash and cash equivalents of \$20.5 million, working capital of \$120.7 million and long-term debt of \$75.0 million under our revolving credit facility. As of June 30, 2006 we had \$34.0 million in letters of credit outstanding thereunder, leaving \$116.0 million available for additional borrowings. As of December 31, 2005, we had cash and cash equivalents of \$24.3 million, working capital of \$117.2 million and long-term debt of \$83.9 million. As of December 31, 2005, we had \$52.7 million available for additional borrowings.

Cash from operating activities from continuing operations. During the six months ended June 30, 2006 net cash provided by operating activities from continuing operations was \$31.0 million compared to cash used of \$27.6 million for the six months ended June 30, 2005. This increase in net cash provided from operating activities from continuing operations is due to cash provided from accounts receivable and costs in excess of billings, net (including \$5.8 million in claims amounts existing at December 31, 2005 which were collected during the first half of 2006), primarily due to a lower increase in contract revenues growth in the period ended June 30, 2006 versus June 30, 2005. The increase in contract revenues was \$63.0 or

15.3% as compared to \$124.0 or 43.0% for the six months ended June 30, 2006 and 2005, respectively. In addition, the age of accounts receivable and costs in excess of billings, net decreased in the period ended June 30, 2006 versus June 30, 2005, respectively. We incurred a charge of \$6.6 million for an electric transmission contract determined to be in a loss position during the quarter which was less than the \$8.5 million charge in the second quarter of 2005 for the loss on one of our underground utility construction projects.

Cash from investing activities from continuing operations. During the six months ended June 30, 2006, net cash used by investing activities for continuing operations was \$27.2 million compared to \$8.2 million used during the six months ended June 30, 2005. The primary use of cash for the six months ended June 30, 2006 was \$18.9 million for purchases of equipment, a \$3.5 million payment of the remaining holdback plus interest to the sellers of the Maslonka business (renamed "InfraSource Transmission Services") and a \$7.1 million payment to the former owners of Blair Park for additional purchase price consideration, offset in part by cash proceeds from the sale of equipment of \$2.3 million. The primary use of cash for the six months ended June 30, 2005 was \$16.0 million for purchases of equipment, offset in part by cash proceeds from the sale of equipment of \$2.9 million and the release of \$5.0 million from restricted cash.

Cash from financing activities from continuing operations. During the six months ended June 30, 2006, net cash used by financing activities for continuing operations was \$7.6 million compared to net cash provided of \$18.6 million for the six months ended June 30, 2005. The sources of cash from financing activities for the six months ended June 30, 2006 were proceeds from our debt refinancing of \$75.0 million, \$1.9 million from the exercise of stock options and employee stock purchase plan stock purchases and \$0.4 million from excess tax benefits from share-based compensation, more than offset by \$83.8 million long-term debt repayments and \$1.1 million of debt issuance costs paid. The sources of cash from financing activities for the six months ended June 30, 2005 were a \$18.0 million borrowing under our revolving credit facility and proceeds of \$1.0 million from the exercise of stock options and employee stock purchase plan stock purchases, offset by \$0.5 million long-term debt repayments.

During the six months ended June 30, 2005, net cash reclassified from discontinued operations was \$0.5 million. For the six months ended June 30, 2005, cash used by operating activities from discontinued operations was \$0.3 million and cash used in investing activities from discontinued operations was \$0.2 million. The investing activities related to purchases of equipment.

Contractual Obligations and Other Commitments

As of June 30, 2006, our future contractual obligations were as follows (in thousands):

	Payments due by period				
	Total	Less than 1 year	1-3 years	4-5 years	More than 5 years
Contractual Obligations(1)					
Long-term debt obligations	75,074	51,000	10,016	10,002	4,056
Operating lease obligations	54,431	16,739	31,623	861	5,208
Projected interest payments on long term debt(2)	29,630	24,598	10,016	10,002	5,014
Contingent earnout payments(3)	600	600	—	—	—
Other long-term liabilities	—	—	—	—	—
Non-vested options exercised	378	355	23	—	—
Other(4)	5,029	43	14,744	46	196
Total	\$ 165,142	\$ 22,386	\$ 46,406	\$ 10,909	\$ 85,441

(1) Trade accounts payable are not included in Contractual Obligations.

ORIGINAL

EXHIBIT E

IFS' 10-Q For Period Ending June 30, 2006

A-310812F2000

- (2) The total projected interest payments on long-term debt are based upon borrowings and interest rates as of June 30, 2006. The interest rate on variable rate debt is subject to changes beyond our control and may result in actual interest expense and payments differing from the amounts above.
- (3) See discussion below in “Contingent Earnout Payments”.
- (4) Approximately \$3.6 million of this balance relates to insurance claims that are expected to be paid by our insurance carrier. A corresponding receivable is recorded in deferred charges and other assets on our condensed consolidated balance sheet.

Contingent Earnout Payments

Pursuant to the terms of the EHV acquisition agreement, \$0.6 million of the consideration was subject to a holdback provision. The holdback is payable in 2007 and payment of the holdback is not contingent on future events, with the exception of any indemnification obligations owed to us.

Related Party Transactions

As of June 30, 2006, we had \$0.3 million due from our Principal Stockholders included in receivables from related party on our condensed consolidated balance sheet. This amount relates to reimbursements for certain secondary offering costs.

On June 28, 2006, we entered into a Second Amendment to Registration Rights Agreement (the “Second Amendment”) to allow the Principal Stockholders to request that we file with the Securities and Exchange Commission a registration statement on Form S-3 within 180 days following March 20, 2006 for an underwritten public offering (the “Offering”) of shares of our common stock. In connection with the Offering, our stockholders participating in the Offering must pay their own expenses as well as their pro rata share of our expenses incurred in connection with the Offering.

In addition, on June 28, 2006, in connection with the Second Amendment, we entered into an Agreement (the “Agreement”) with our Principal Stockholders and Ian Schapiro and Michael Harmon, two members of the our board of directors, to set forth certain agreements of the parties following the closing of the Offering. Pursuant to the Agreement, Messrs. Schapiro and Harmon, representatives of the Principal Stockholders, agreed to work with us in good faith to determine a mutually acceptable transition plan for their board of directors and committee responsibilities. In addition, the Principal Stockholders have entered into non-disclosure agreements with us and have agreed to certain limited restrictive covenant obligations following the closing of the Offering.

As of December 31, 2005, we had \$7.1 million due to the former owners of Blair Park accrued in other liabilities—related parties on our condensed consolidated balance sheet for additional contingent purchase price consideration. Blair Park was acquired by InfraSource Incorporated in 2001. The balance was paid in the second quarter of 2006.

As of June 30, 2006, we had \$0.8 million due to the sellers of the Maslonka business, who are also employees, accrued in other liabilities—related parties on our condensed consolidated balance sheet. This balance relates to amounts due upon collection from a third party. In January 2006, we paid the sellers of the Maslonka business \$3.5 million of holdback consideration, including interest, and released the holdback shares.

We lease our InfraSource Transmission Services (“ITS”) headquarters in Mesa, Arizona and our ITS Texas field office in San Angelo, Texas from EC Source, LLC, which is wholly owned by Martin Maslonka. Our leases for these two properties will run through February 2009, subject to a five-year renewal option. Pursuant to these leases, we expect to incur total annual lease payments of \$0.2 million.

We lease office and warehouse space from Coleman Properties of which three officers of Blair Park are general partners. The lease for this space continues through October 2008. Our annual payments under this agreement are approximately \$0.1 million.

We also lease ducts in two river bores under the Delaware River from Coleman Properties. Our lease commenced on May 1, 2005 and has a term of five years, with an option to extend. Our annual lease payment is \$0.02 million for each pair of fiber installed in the conduit up to a maximum of \$0.2 million per year if additional ducts are leased.

As of June 30, 2006, we had \$0.4 million due to the EHV stockholders, who are currently our employees, accrued in other liabilities—related parties on our condensed consolidated balance sheet. This amount is a portion of the holdback consideration from our acquisition of EHV, which is payable in 2007 and not contingent on future events, with the exception of any indemnification obligations owed to us.

We lease office and warehouse facilities in Michigan which are owned by an employee and his family members. Our leases for these properties are through March 2011 and May 2007. Pursuant to these leases, we expect to incur total annual lease payments of \$0.3 million.

New Accounting Pronouncements

In July 2006, the Financial Accounting Standards Board (“FASB”) issued FASB Interpretation (“FIN”) No. 48, “Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109,” which clarifies the accounting for uncertainty in tax positions. FIN No. 48 requires that the impact of a tax position be recognized if that position is more likely than not of being sustained on audit, based on the *technical merits of the position*. The tax position is measured at the largest amount of benefit that is greater than 50% likely of being realized upon the ultimate settlement. The provisions of FIN No. 48 are effective for fiscal years beginning after December 15, 2006, with any cumulative effect of the change in accounting principle recorded as an adjustment to opening retained earnings. We currently do not believe FIN No. 48 will have a significant impact on our financial results.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risk primarily related to potential adverse changes in interest rates as discussed below. We have not historically and do not intend to use derivative financial instruments for trading or to speculate on changes in interest rates or commodity prices. We are not exposed to any significant market risks, foreign currency exchange risk or interest rate risk from the use of *derivative financial instruments*.

The sensitivity analysis below, which illustrates our hypothetical potential market risk exposure, estimates the effects of hypothetical sudden and sustained changes in the applicable market conditions on 2006 earnings. The sensitivity analysis presented does not consider any additional actions we may take to mitigate our exposure to such changes. The hypothetical changes and assumptions may be different from what actually occurs in the future.

Interest Rates. As of June 30, 2006, our \$75.0 million borrowing under our revolving credit facility was subject to floating interest rates. We have an interest rate swap on a \$30.0 million notional amount where we pay a fixed rate of 2.395% in exchange for three month LIBOR until October 10, 2006. We also have a 4.00% interest rate cap that matures October 10, 2006 on \$40.0 million of the notional amount. Subsequent to the June 30, 2006 debt refinancing, our interest rate cap and interest rate swap are no longer designated as cash flow hedges under the provisions of SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities,” as amended by SFAS Nos. 137, 138 and 149; however we continue to utilize these derivative instruments to hedge the variability of cash flows related to our variable rate debt. We are exposed to earnings and fair value risk due to changes in interest rates with respect to our long-

term obligations. The detrimental effect on our quarterly pre-tax earnings of a hypothetical 50 basis point increase in interest rates would be approximately \$0.1 million.

Currency Risk. With our November 2005 acquisition of our Canadian subsidiary, we may be subject to currency fluctuations in the future. We do not expect any such currency risk to be material.

Gasoline and Diesel Fuel. We have market risk for changes in the price of gasoline and diesel fuel. To the extent we cannot mitigate increases in fuel prices through surcharges and other contract provisions with our customers, our operating income will be affected. In April 2006, we entered into fuel hedges to mitigate a portion of our exposure to price fluctuations of gasoline and diesel fuel. The fuel hedges cap our exposure to price fluctuations for approximately one-quarter of our expected usage for the remainder of 2006. These derivative instruments have not been designated as cash flow hedges, therefore changes in fair value are recorded in current period income.

Item 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

The company has designed and maintains a system of disclosure controls and procedures to give reasonable assurance that information required to be disclosed in the company's reports submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. These controls and procedures also give reasonable assurance that information required to be disclosed in such reports is accumulated and communicated to management to allow timely decisions regarding required disclosures. The company's management, with the participation of the company's Chief Executive Officer and Chief Financial Officer, 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, the Chief Executive Officer and Chief Financial Officer concluded that the company's disclosure controls and procedures as of the end of the period covered by this report were effective at a reasonable assurance level.

Internal Control Over Financial Reporting

No change in the Company's internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) 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.*

On September 21, 2005, a petition, as amended, was filed against InfraSource, certain of its officers and one of its directors and various other defendants in the Harris County, Texas District Court seeking unspecified damages. The plaintiffs allege that the defendants violated their fiduciary duties and committed constructive fraud by failing to maximize shareholder value in connection with the Merger and committed other acts of misconduct following the filing of the petition. At this time, it is too early to form a definitive opinion concerning the ultimate outcome of this litigation. Management of InfraSource plans to vigorously defend against this claim.

Pursuant to our service contracts, we generally indemnify our customers for the services we provide under such contracts. Furthermore, because our services are integral to the operation and performance of the electric power transmission and distribution infrastructure, we may become subject to lawsuits or claims for any failure of the systems that we work on, even if our services are not the cause for such failures, and we could be subject to civil and criminal liabilities to the extent that our services contributed to any property damage or blackout. The outcome of these proceedings could result in significant costs and diversion of management's attention to our business. Payments of significant amounts, even if reserved, could adversely affect our reputation and liquidity position.

From time to time, we are a party to various other lawsuits, claims, other legal proceedings and are subject, due to the nature of our business, to governmental agency oversight, audits, investigations and review. Such actions may seek, among other things, compensation for alleged personal injury, breach of contract, property damage, punitive damages, civil penalties or other losses, or injunctive or declaratory relief. Under such governmental audits and investigations, we may become subject to fines and penalties or other monetary damages. With respect to such lawsuits, claims, proceedings and governmental investigations and audits, we accrue reserves when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. We do not believe any of these proceedings currently pending, individually or in the aggregate, would be expected to have a material adverse effect on our results of operations, cash flows or financial condition.

Item 1A. *RISK FACTORS.*

Risks Relating to Our Business and Industry

Our ability to obtain new contracts and the timing of the award and performance of any such contracts may result in unpredictable fluctuations in our cash flow and profitability.

A substantial portion of our revenues is derived from project-based work. It is generally very difficult to predict whether and when we will be awarded contracts for significant projects, resulting in unpredictability in our cash flow and profitability. We expect to have a higher percentage of revenues from large-scale projects going forward, further exacerbating the unpredictability of our operating results.

In certain circumstances, customers require us to provide credit enhancements, including surety bonds, letters of credit and, in rare instances, cash collateral, which we may be unable to satisfactorily obtain or provide, placing us at a competitive disadvantage compared to providers with more liquidity. In addition, to the extent such credit enhancements are provided, our liquidity could be significantly reduced, which may negatively impact our ability to secure additional contracts.

Even if we are awarded contracts, we face additional risks that could affect whether, or when, work will begin. For example, some of our contracts are subject to financing and other contingencies that may delay or result in termination of projects. The uncertainty of the timing of contract awards and work release can also present difficulties in matching workforce size with contract needs. In some cases, we

maintain and bear the cost of a ready workforce that is larger than necessary in anticipation of future workforce needs for expected contract awards. If an expected contract award or the related work release is delayed or not received, we could incur substantial costs *without receipt of any corresponding revenues*. Delays by our customers in obtaining required approvals for their infrastructure projects may delay their awarding contracts for those projects and, once awarded, the ability to commence construction under those contracts.

Demand for our services is cyclical and vulnerable to downturns in the industries we serve, which may result in extended periods of low demand for our services.

The demand for infrastructure services in the industries we serve has been, and will likely continue to be, cyclical in nature and vulnerable to downturns in the industries we serve or the U.S. economy in general. A number of other factors, including financial conditions in the industries we serve, could adversely affect our customers and their ability or willingness to fund capital expenditures in the future. For example, we have experienced reductions in our revenues from independent power producers since 2003, which reflect the significant decline in construction activity and new construction awards for power generation projects. The demand for our services to natural gas distribution customers is affected by the level of industrial, commercial and residential construction in the geographic areas we serve. For example, the recent downturn in new housing construction in certain regions has had a negative impact on demand from some of our natural gas distribution customers. In addition, our petrochemical customers' demand has recently been restrained by the impact of high natural gas prices. We are also dependent on the amount of infrastructure services that our customers outsource. During downturns in the economy, our customers may determine to outsource fewer projects resulting in decreased demand for our services. In addition, the historical trend toward outsourcing of infrastructure services may not continue as we expect. As a result, demand for our services could decline substantially for extended periods, particularly during economic downturns, which could decrease our revenues, margins, profits and cash flows.

Our participation in fixed-price contracts exposes us to declines in profitability and contract losses related to cost overruns.

We currently generate, and expect to continue to generate, approximately 50% of our revenues under fixed-price contracts. Under fixed-price contracts, we agree to perform the entire project for a fixed price on an agreed upon schedule. We may be unable to recover any cost overruns above the approved contract price. For example, in the past, we have experienced delays and additional costs from severe weather conditions and the required replacement of third-party defective materials, which we were unable to recover. In the second quarter of 2006, we recorded a \$5.0 million loss, after giving effect to assumed claims collections, and a reversal of \$1.6 million of income previously recognized relating to one of our electric transmission projects. This loss was attributable primarily to lower than expected productivity due to ineffective supervision, insufficient access to experienced labor, supplier issues and extremely hot weather. In the second quarter of 2005, we recorded an \$8.5 million loss, which subsequently increased to \$10.2 million, after giving effect to assumed claims collections, on one of our fixed-price underground utility construction projects. This loss resulted from lower than expected productivity, higher materials costs and unforeseen delays and was also partially a result of a failure to accurately estimate project costs during the bidding phase. These and other factors, such as increased fuel and labor costs, could adversely affect our profitability on fixed price contracts.

The claims resolution process is often lengthy, can require legal action to conclude and the ultimate amount to be collected is difficult to estimate. Our actual revenue and profit for any particular project will usually differ from those we originally estimated and could result in reduced profitability or losses on the project. Our acquisition of ITS has resulted in an increase in the proportion of our fixed-price contracts, as

most of ITS's business is performed on a fixed-price basis. We expect that our mix of work will tend to increase the proportion of our fixed-price contracts.

Our use of percentage-of-completion accounting on fixed-price contracts requires us to record the entire expected loss from a contract during the quarter in which we determine the contract to be a loss contract and could result in a reduction or elimination of previously reported profits and significant fluctuations in our results.

As more fully discussed in our Annual Report on Form 10-K for the year ended December 31, 2005 and our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006 under "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Critical Accounting Policies and Estimates" and in the notes to our consolidated financial statements, all of which are incorporated by reference in this prospectus, a significant portion of our revenues are recognized on a percentage-of-completion method of accounting, using primarily the cost-to-cost method. This method is used because management considers expended costs to be the best available measure of progress on our fixed-price contracts. The percentage-of-completion accounting practice we use results in our recognizing contract revenues and earnings over the contract term in proportion to our incurrence of contract costs. The earnings or losses recognized on individual contracts are based on estimates of contract revenues, costs and profitability. Although we update these estimates regularly, they are inherently uncertain, and our ultimate profitability on a contract is usually not known until completion. Estimated contract losses for the full term of the contract are recognized when determined, regardless of where we are in the contract cycle, and contract profit estimates are adjusted based on ongoing reviews of contract profitability.

During a period in which a loss on a contract is first recognized, or in a period when expected profits become lower than previously recorded profits, income recorded on that contract in prior periods is reversed to the extent necessary to give effect to the current estimate. This could cause the profit or loss contribution from any given contract to fluctuate significantly from quarter to quarter. For example, in the second quarter of 2006, we recorded a loss on a project of approximately \$5.0 million, after giving effect to assumed claims collections, and also reversed approximately \$1.6 million of income recorded in the prior three quarters with respect to that project. Further, we recognized a loss of \$8.5 million during the second quarter of 2005 which subsequently increased to \$10.2 million, after giving effect to assumed claims collections, for a project that began in January 2005 and was substantially completed in November 2005. For any estimated contract loss, the actual final loss is generally based on the amount of claims we submit to, and successfully collect from the customer. Therefore, our ultimate loss may exceed our estimates. We record revenue-up to costs incurred on claims and unapproved change orders when we believe recovery is probable and the amounts can be reasonably estimated. Profit related to those costs is recorded in the period such amounts are agreed to with the customer. The timing and amount of actual collection of claims and unapproved change orders could differ from estimates, could take longer than anticipated and could result in a reduction or elimination of previously recognized earnings. In certain circumstances, it is possible that such adjustments could be significant. As of June 30, 2006, we had \$5.7 million of unrecovered contract claims booked on our balance sheet under "Costs and estimated earnings in excess of billings." Claims settlements less than the \$5.7 million balance would result in a reduction of our profits.

Further, a substantial portion of our contracts contain performance-related provisions, including liquidated damages provisions. Such provisions may further increase our period-to-period volatility. For example, we received a performance bonus on certain projects during the first half of 2006, compared to performance-related concessions during 2005. Incentives and penalties are recorded when known or finalized, which is generally during the latter stages of the contract.

We derive a significant portion of our revenue from a small group of customers. The loss of one or more of these customers could negatively impact our revenues.

Our top ten customers accounted for approximately 46%, 45% and 47% of our revenues for the years ended December 31, 2004 and 2005 and the six months ended June 30, 2006, respectively, which includes work performed for those customers as a subcontractor through others. Revenues from Exelon accounted for 17%, 18% and 17% of our revenues for the years ended December 31, 2004 and 2005 and the six months ended June 30, 2006, respectively. In September 2003, we entered into a volume agreement with Exelon, pursuant to which Exelon committed to provide us with a level of work roughly equivalent to the amount of work which we would have received through 2006 if 2003 work levels remained constant. The actual volume of work received from Exelon under the volume agreement has been significantly higher than 2003 levels; therefore, the volume requirements set forth in the volume agreement were satisfied in the fourth quarter of 2005. We may be unable to sustain our volume of business with Exelon without the benefit of the volume agreement. Exelon has recently indicated its intent to curtail expenditures to a level below that sustained in recent years. Exelon has also begun to modify its contracting practices and is seeking alternative commercial arrangements with suppliers like us, including increased use of competitive bidding on certain projects. If we lose significant customers and are not able to replace them or if they reduce their volume of work from us, we could sustain decreased revenues, margins and profits.

Our inability to hire or retain key personnel could disrupt our business.

We depend on the continued efforts of our executive officers and other members of our senior management, including management at each of our subsidiaries. We cannot be certain that any individual will continue in such capacity for any particular period of time. Industry-wide competition for managerial talent has increased and the loss of one or more of our key employees could have an adverse effect on our business. The loss of key personnel, or the inability to hire and retain qualified employees, could negatively impact our ability to manage our business. We generally do not carry key-person life insurance on our employees.

Skilled labor shortages and increased labor costs could negatively affect our ability to compete for new projects and our performance.

We have from time-to-time experienced shortages of certain types of qualified personnel. For example, there is a shortage of engineers and linemen capable of working on and supervising the construction of high-voltage electric lines and substations. This shortage can be exacerbated during periods of storm restoration work. Linemen are frequently recruited across geographic regions to satisfy demand, including for storm response work. The supply of experienced engineers, linemen and supervisors may not be sufficient to meet current or expected demand. Further, we may not be able to allocate or hire sufficient project managers for new electric power transmission projects. The commencement of new, large-scale infrastructure projects or increased demand for infrastructure improvements as well as the aging utility workforce further depletes the pool of skilled labor available to us, even if we are not awarded such projects. As a result, we are bidding selectively in all of our business units. We have recently declined to bid on certain projects that we could not staff adequately with experienced engineers, and in the future we may not be able to maintain an adequate skilled labor force necessary to operate efficiently or to pursue new projects we consider attractive. Furthermore, the limited supply of skilled labor has negatively impacted, and in the future may continue to negatively impact, the productivity and profitability of certain of our projects.

The Energy Act may fail to spur the anticipated increased investment in electric infrastructure, which could slow our growth.

Implementation of the Energy Act is still subject to considerable fiscal and regulatory uncertainty. Many of the regulations implementing the components of the bill have not been finalized and many others have only recently been finalized, and the effect of these regulations is accordingly still uncertain. As a result, the legislation may not increase spending on electric power transmission infrastructure in a manner that will increase demand for our services. In addition, the timing of any new infrastructure investments remains uncertain. Continued uncertainty regarding the implementation and impact of the Energy Act may result in slower growth in demand for our services.

Seasonal and other variations, including severe weather conditions, may cause significant fluctuations in our cash flows and profitability, which may cause the market price of our common stock to fall in certain periods.

A significant portion of our business is performed outdoors, subjecting our results of operations to seasonal variations. Less work is performed by us in the winter months, and work is hindered during other inclement weather events. Our profitability often decreases during the winter months and during severe weather conditions because work performed during these periods is more costly to complete. Our working capital needs are influenced by the seasonality of our business. Generally, we experience a need for additional working capital during the spring when we increase our level of outdoor construction in weather-affected regions of the country, and we convert working capital assets to cash during the winter months. In addition, during periods of peak electricity demand, utilities generally are unable to remove their electric power transmission and distribution equipment from service, decreasing the demand for our maintenance services during these periods. Significant disruptions in our ability to perform services because of these factors could have a material adverse effect on our cash flows and results of operations.

Our backlog may not be realized or may not result in profits. Our customers often have no obligation to assign or release work to us and many of our contracts may be terminated on short notice.

Our backlog may not be realized as revenue or, if realized, may not result in profits. Backlog is often difficult to determine with certainty. In addition, the backlog we obtain in connection with any companies we acquire may not be as large as we believed or may not result in the revenue we expected. Reductions in backlog due to cancellation by a customer or for other reasons could significantly reduce the revenue and profit we actually receive from contracts included in backlog. In the event of a project cancellation, we may be reimbursed for certain costs but typically have no contractual right to the total revenues reflected in our backlog. In addition, projects may remain in our backlog for extended periods of time. We cannot assure you as to our customers' requirements or our estimates.

Certain of our customers assign work to us under master service agreements, or MSAs. Under these arrangements, our customers generally have no obligation to assign work to us. Most of our contracts, including our MSAs, may be terminated by our customers on short notice, typically 30 to 90 days, sometimes less, or may be negatively impacted by the utilities' inability to recover their costs in the rates they are authorized to charge their customers. Moreover, our reported backlog includes estimated work to be performed under these agreements. Our backlog may not be realized as revenues if these contracts are cancelled. In addition, many of our contracts, including our MSAs, are open to competitive bidding at the expiration of their terms. As a result, we have been displaced on contracts by competitors from time to time. Our revenues could materially decline if our customers do not assign work to us or if they cancel a significant number of contracts and we cannot replace them with similar contracts.

Project delays or cancellations may result in additional costs to us, reductions in revenues or the payment of liquidated damages.

In certain circumstances, we guarantee project completion by a scheduled acceptance date or achievement of certain acceptance and performance testing levels. Failure to meet any of these schedules or performance requirements could result in additional costs or penalties, including liquidated damages, and these amounts could exceed expected project profit margins. Many of our projects involve challenging engineering, procurement and construction phases that may occur over extended time periods, sometimes up to two years. We may encounter difficulties in engineering, equipment and material delivery, schedule changes, weather-related delays and other factors, some of which are beyond our control, that impact our ability to complete the project in accordance with the original delivery schedule. For example, the recent increase in demand for transmission services has strained production resources, creating significant lead times for obtaining transmission towers and poles. As a result, our electric transmission project revenues could be significantly reduced or delayed due to the difficulty we or our customers may experience in obtaining required materials. In addition, we occasionally contract with third-party subcontractors to assist us with the completion of contracts. Any delay by suppliers or by subcontractors in the completion of their portion of the project, or any failure by a subcontractor to satisfactorily complete its portion of the project may result in delays in the overall progress of the project or may cause us to incur additional costs, or both. We also may encounter project delays due to local public opposition against the siting of transmission lines or other facilities, which may include injunctive actions as well as public protests. For example, the construction of the Arrowhead to Weston transmission line project between Minnesota and Wisconsin was delayed for several years due to such factors.

Delays and additional costs may be substantial and, in some cases, we may be required to compensate the project customer for these delays. We may not be able to recover all of these costs. In extreme cases, the above-mentioned factors could cause project cancellations, and we may not be able to replace such projects with similar projects or at all. Such delays or cancellations may impact our reputation or our relationships with customers, making it more difficult for us to secure new contracts.

In addition, our project contracts may require that our customers or other parties provide us with design or engineering information or with equipment or materials to be used on a project. In some cases, we may be provided with deficient design or engineering information or equipment or provided with information or equipment later than required by the project schedule. Our customers may also determine, after commencement of the project, to change various elements of the project. Under these circumstances, we generally negotiate with the customer with respect to the amount of additional time required and the compensation to be paid to us. We are subject to the risk that we may be unable to obtain, through negotiation, arbitration, litigation or otherwise, adequate amounts to compensate us for the additional work or expenses incurred by us due to customer-requested change orders or failure by the customer to timely deliver items, such as engineering drawings or materials, required to be provided by the customer. A failure to obtain adequate compensation for these matters could require us to record a reduction to amounts of revenue and gross profit that were recognized in prior periods under the percentage-of-completion accounting method. Any such adjustments could be substantial.

Provisions of our credit facility restrict our business operations and may restrict our access to sufficient funding, including letters of credit, to finance desired growth.

We have a credit facility with a group of financial institutions secured by substantially all of our assets. The credit facility contains customary events of default and covenants that limit us from taking certain actions without obtaining the consent of the lenders. In addition, our credit facility requires us to achieve certain financial ratios as described in our Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2006. These restrictions and covenants may limit our ability to respond to changing business and economic conditions and we may be prevented from engaging in transactions that might otherwise be

considered beneficial to us, including strategic acquisitions. Covenants in our credit facility also restrict our ability to incur indebtedness, subject to certain exceptions, including domestic intercompany indebtedness, guarantee obligations incurred in the ordinary course of business, up to \$20.0 million of secured indebtedness incurred to acquire fixed or capital assets, indebtedness with respect to performance bonds, letters of credit and similar obligations incurred in the ordinary course of business, and up to \$40.0 million of additional indebtedness. We had \$116.0 million of availability under the revolving credit portion of our credit facility as of June 30, 2006 (after giving effect to \$34.0 million of outstanding letters of credit under the credit facility at that date). In the future, we may require substantial additional working capital to fund our growth. However, there is no assurance that we will be able to expand availability under our credit agreement or obtain other sources of liquidity in a timely manner, at favorable cost or at all.

A breach of our credit facility, including our inability to comply with the required financial ratios, could result in an event of default. Upon an event of default under our credit facility, the lenders would be entitled to accelerate the repayment of amounts outstanding, plus accrued and unpaid interest. Moreover, the lenders would have the option to terminate any obligation to make further extensions of credit under our credit facility. Upon the event of a default under any of our secured indebtedness, including our credit facility which is secured by substantially all of our assets, the lenders could proceed to foreclose against the assets securing such obligations. In the event of a foreclosure on all or substantially all of our assets, we may not be able to continue to operate as a going concern.

We are subject to acquisition risks. If we are not successful in integrating companies that we acquire or have acquired, we may not achieve the expected benefits and our profitability could suffer. In addition, the cost of evaluating and pursuing acquisitions may not result in a corresponding benefit.

One of our business strategies is to pursue strategic acquisitions. We completed several acquisitions during 2004 and 2005 and continue to consider strategic acquisitions now and plan to in the future, some of which may be larger than those previously completed and could be material acquisitions. Integrating acquisitions is often costly, and delays or other operational or financial problems may result that interfere with our operations. In addition, our operating subsidiaries have generally maintained their own procedures and operating systems, which make it more difficult for us to evaluate and integrate systems and controls on a reliable company-wide basis. If we fail to implement proper overall business controls for companies we acquire or fail to successfully integrate these acquired companies in our processes, our financial condition and results of operations could be adversely affected. In addition, it is possible that we may incur significant expenses in the evaluation and pursuit of potential acquisitions and that such acquisitions may not be successfully completed. In these events, we may incur substantial costs without any corresponding benefit. For example, during 2005 we incurred a \$1.6 million charge related to due diligence costs for an acquisition that we chose not to complete. Other risks inherent in our acquisition strategy include diversion of management's attention and resources, failure to retain key personnel and risks associated with unanticipated events or liabilities. In addition, in accordance with Statement of Financial Accounting Standards ("SFAS") No. 142, "Goodwill and Other Intangible Assets" we are required to test goodwill for impairment at least annually, or more frequently if events or circumstances exist which indicate that goodwill may be impaired. As a result of changes in circumstances after valuing assets in connection with acquisitions, we may be required to take writedowns of intangible assets, including goodwill, which could be significant.

We cannot be certain of the future effectiveness of our internal controls over financial reporting or the impact thereof on our operations or the market price of our common stock.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, we are required to include in our annual reports on Form 10-K our assessment of the effectiveness of our internal controls over financial reporting. We cannot assure you that our system of internal controls will be effective in the future as our operations

and control environment change. If we cannot adequately maintain the effectiveness of our internal controls over financial reporting, our financial reporting may be inaccurate. If reporting errors actually occur, we could be subject to sanctions or investigation by regulatory authorities, such as the SEC. These results could adversely affect our financial results or the market price of our common stock.

We are implementing a company-wide Enterprise Resource Planning system which could disrupt our day-to-day operations temporarily.

We are implementing a company-wide information technology system or Enterprise Resource Planning (“ERP”) system. The ERP system is intended to replace disparate individual information systems at our operating subsidiaries for functions such as accounting and finance, human resources and customer relationships with a common, uniform information system. Implementation of an ERP system will require substantial financial and personnel resources. While the ERP system is intended to improve and enhance our information systems, large scale implementation of new information systems across all of our operating companies exposes us to the risks of start up of the new system and integration of that system with our existing systems and processes, including possible disruption of our financial reporting. In addition, if we fail to implement the ERP system or fail to implement the ERP system successfully, we will have to continue to rely on the disparate information systems at our operating subsidiaries.

A significant portion of our business depends on our ability to obtain surety bonds. We may be unable to compete for or work on certain projects if we are not able to obtain the necessary surety bonds.

Surety market conditions are currently difficult as a result of significant recent losses incurred by many sureties, both in the construction industry as well as in certain larger corporate bankruptcies. As a result, less bonding capacity is available in the market and terms have become more expensive and restrictive. We are required to post letters of credit to support our surety bond program. Further, under standard terms in the surety market, sureties issue bonds on a project-by-project basis and can decline to issue bonds at any time. Historically, approximately 10% to 20% of our annual volume of business, including a number of our fixed-price contracts, has required bonds. These percentages may increase depending on our mix of contracts. Current or future market conditions, as well as changes in our surety’s assessment of our operating and financial risk, could cause our surety provider to decline to issue, or substantially reduce the amount of, bonds for our work and could increase our bonding costs. These actions can be taken on short notice. If our surety provider were to limit or eliminate our access to bonding, our alternatives include seeking bonding capacity from other sureties, finding more business that does not require bonds and posting other forms of collateral for project performance, such as letters of credit or cash. We may be unable to provide these alternatives in a timely manner, on acceptable terms or at all. Accordingly, if we were to experience an interruption or reduction in the availability of bonding capacity, we may be unable to compete for or work on certain projects.

Higher fuel prices and material costs may increase our cost of doing business, and we may not be able to pass those added costs to our customers.

Our spending on fuel has increased significantly over the last 12 months. Under our fixed-price contracts, we are limited in our ability to pass these higher fuel costs to our customers. In addition, even if we are able to incorporate the higher cost of fuel and materials into new project contracts, higher overall project costs may depress the market for large-scale infrastructure projects. Therefore, higher fuel and material costs may directly or indirectly negatively impact our financial condition and results of operations.

We are subject to the risks associated with being a government contractor.

We are from time to time a provider of services to government agencies, primarily the DOE’s federal power marketing agencies, such as our recently completed contract with the Bonneville Power

Administration. Therefore, we are exposed to the risks associated with government contracting. For example, a reduction in spending by government agencies could limit the continued funding of existing contracts with these agencies and could limit our ability to obtain additional contracts, which could result in lower revenues from these customers. The risks of government contracting also include the risk of civil and criminal fines and penalties for violations of applicable regulations and statutes and the risk of public scrutiny of our performance on high profile sites. For example, there is a pending investigation by the Department of Labor with respect to employee pay and work hours in connection with one of our electric transmission projects. In addition, our failure to comply with the terms of one or more of our government contracts, other government agreements or government regulations and statutes could result in our being suspended or barred from future government contract projects for a significant period of time.

In addition, government customers typically can terminate or modify their contracts with us at their convenience, and some of these government contracts are subject to renewal or extension annually. If a government customer terminates a contract or fails to renew or extend a contract, our backlog or revenue may be reduced or we may incur a loss, either of which could impair our financial condition and operating results. A termination due to our unsatisfactory performance could expose us to liability and adversely affect our ability to compete for future contracts and orders. In cases where we are a subcontractor, the prime contract could be terminated, regardless of the quality of our services as a subcontractor or our relationship with the relevant government agency. Our government customers can also reduce the value of existing contracts, issue modifications to a contract and control and potentially prohibit the export of our services and associated materials.

Our projects are subject to numerous hazards. If we do not maintain an adequate safety record, we may be ineligible to bid on certain projects, could be terminated from existing projects and could have difficulty procuring adequate insurance.

Hazards experienced as a result of our activities include electrocutions, fires, natural gas explosions, mechanical failure, transportation accidents and damage to equipment we work on. These hazards can cause and have caused personal injury and loss of life, severe damage to or destruction of property and equipment and other consequential damages, including blackouts, and may result in suspension of operations, large damage claims, and, in extreme cases, criminal liability. At any given time, we are subject to multiple workers' compensation and personal injury claims resulting from such hazards or other workplace accidents. We maintain substantial loss accruals for workers' compensation claims. Our insurance does not cover all types or amounts of liabilities. Our third-party insurance is subject to large deductibles for which we establish reserves and, accordingly, we effectively self-insure for much of our exposures. In addition, for a variety of reasons such as increases in claims, a weak economy, projected significant increases in medical costs and wages, lost compensation and reductions in coverage, insurance carriers may be unwilling to provide the current levels of coverage without a significant increase in collateral requirements to cover our deductible obligations. We may not be able to maintain adequate insurance at reasonable rates or meet collateral requirements. Further, regulatory changes implemented by the Occupational Safety and Health Administration ("OSHA") could impose additional costs on us. Our safety record is an important consideration for our customers. If serious accidents or fatalities occur or our safety record were to deteriorate, we may be ineligible to bid on certain projects and could be terminated from existing projects. In addition, our reputation and our prospects for future projects could be negatively affected. The OSHA recordable rate of one of our transmission construction subsidiaries has historically been higher than the industry average. If we cannot improve on this subsidiary's safety record, we may not be able to bid successfully on future projects. As is common in our industry, we regularly have been and will continue to be subject to claims by employees, customers and third parties for property damage and personal injuries.

Our unionized workforce could cause interruptions in our provision of services. In addition, we contribute to multiemployer plans that could result in liabilities to us if these plans are terminated or we withdraw.

A significant percentage of our workforce is covered by collective bargaining agreements. Strikes or work stoppages could occur that would adversely impact our relationships with our customers and our ability to conduct our business. Alternatively, our non-union workforce could be disrupted by union organizing activities and similar actions.

We contribute to several multiemployer pension plans for employees covered by collective bargaining agreements. These plans are not administered by us, and contributions are determined in accordance with provisions of negotiated labor contracts. The Employee Retirement Income Security Act of 1974, or ERISA, as amended by the Multiemployer Pension Plan Amendments Act of 1980, imposes certain liabilities upon employers who are contributors to a multiemployer plan in the event of the employer's withdrawal from, or upon termination of, such plan. We do not have information on the net assets and actuarial present value of the multiemployer pension plans' unfunded vested benefits allocable to us, if any, or the amounts, if any, for which we may be contingently liable if we were to withdraw from any of these plans.

Changes in, or interpretations of, existing state or federal telecommunications regulations or new regulations could adversely affect us.

Many of our telecommunications customers benefit from the Universal Service "E-rate" program, which was established by Congress in the 1996 Telecommunications Act and is administered by the Universal Service Administrative Company, or USAC, under the oversight of the Federal Communications Commission, or FCC. To remain eligible to provide services under this program in any state, we must maintain our telecommunications authorizations in that state. Under the E-rate program, schools, libraries and certain health-care facilities may receive subsidies for certain approved telecommunications services, internet access, and internal connections. From time to time, bills have been introduced in Congress that would eliminate or curtail the E-rate program. If such a bill were passed, or if the FCC or USAC were to further limit E-rate subsidies, it could result in a decrease in the demand for our telecommunications infrastructure services by certain customers.

The telecommunications services that we provide are subject to regulation by the FCC to the extent that they are interstate telecommunications services and, when wholly within a particular state, are subject to regulation by such state. We currently contribute to state, but not federal, universal service funds for the majority of our telecommunications services. Changes in federal or state regulations could reduce the profitability of our telecommunications business. We could also be subject to fines if the FCC or a state regulatory agency were to determine that any of our activities or positions violated its regulations.

One of our subsidiaries which is licensed, but not conducting business, is regulated by a state public utility commission that requires approval prior to the proposed offering of shares by our principal stockholders, which approval has not been obtained. We intend to seek such approval at such time, if any, when we expect to begin operations in the applicable state. We do not believe that our failure to obtain such approval prior to the consummation of the offering will have material consequences to us, but there can be no assurance that it will not.

Newly adopted accounting regulations require us to expense stock options, which could cause our stock price to decline.

We recently adopted the provisions of the Financial Accounting Standards Board ("FASB") 123R, "Share Based Payment" which will eliminate the ability to account for share-based compensation transactions using the intrinsic method that we used during 2005. Generally, these new provisions require that such transactions be accounted for using a fair-value-based method and recognized as an expense in our consolidated statement of operations. The effective date for this change for us was as of January 1,

2006. Previously, we only disclosed such expenses on a pro forma basis in the notes to our consolidated financial statements in accordance with generally accepted accounting principles ("GAAP"). Accordingly, in any reporting period in which we are required to recognize an expense for share-based compensation, our earnings will be lower than if no expense had been taken. Our stock price could decline in response to any perceived decline in our reported earnings.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS.

None.

Item 3. DEFAULTS UPON SENIOR SECURITIES.

None

Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.

- (a) The 2006 Annual Meeting of stockholders of the registrant was held on May 9, 2006.
- (b) At the 2006 Annual Meeting, the following were elected as directors:

Director	For	Withheld
John A. Brayman	35,372,247	290,732
J. Michal Conaway	35,493,636	169,343
Michael P. Harmon	35,305,405	357,574
David R. Helwig	28,623,000	7,039,979
Jan A. Schapiro	29,185,053	6,477,926
Richard S. Siudek	35,309,426	353,553
David H. Watts	35,492,836	170,143

* Terry Winter was appointed to the Board of Directors on June 29, 2006.

Item 5. OTHER INFORMATION.

None.

Item 6. EXHIBITS.

- 3.1 Restated Certificate of Incorporation of InfraSource Services, Inc.(1)
- 3.1.1 Certificate of Amendment to the Restated Certificate of Incorporation of InfraSource Services, Inc.(1)
- 3.2 Amended and Restated Bylaws of InfraSource Services, Inc.(1)
- 3.3 Specimen of Common Stock certificate of InfraSource Services Inc.(1)
- 4.1 Stockholders Agreement, dated as of September 24, 2003, by and among InfraSource Services, Inc. (f/k/a the Dearborn Holdings Corporation) and its Security Holders party thereto.(2)
- 4.2 Registration Rights Agreement, dated as of April 20, 2004, by and among InfraSource Services, Inc. OCM Principal Opportunities Fund II, L.P., OCM/GFI Power Opportunities Funds, L.P., Martin Maslonka, Thomas B. Tilford, Mark C. Maslonka, Justin Campbell, Joseph Gabbard, Sidney Strauss, Jon Maslonka, David R. Helwig, Terence R. Montgomery and Paul M. Daily.(1)

4.2.1	Amendment to Registration Rights Agreement, dated as of December 7, 2005, by and among InfraSource Services, Inc. and OCM Principal Opportunities Fund II, L.P., OCM/GFI Power Opportunities Funds, L.P., Tontine Capital Partners, L.P., Martin Maslonka, Thomas B. Tilford, Mark C. Maslonka, Justin Campbell, Joseph Gabbard, Sidney Strauss, Jon Maslonka, David R. Helwig, Terence R. Montgomery and Paul M. Daily.(3)
4.2.2	Second Amendment to Registration Rights Agreement, dated as of June 28, 2006, by and among InfraSource Services, Inc., OCM Principal Opportunities Fund II, L.P., OCM/GFI Power Opportunities Fund, L.P., Tontine Capital Partners, L.P., Martin Maslonka, Thomas B. Tilford, Mark C. Maslonka, Justin Campbell, Joseph Gabbard, Sidney N. Strauss, Jon Maslonka, David R. Helwig, Terence R. Montgomery and Paul M. Daily.(4)
10.1	Agreement, dated as of June 28, 2006, by and among InfraSource Services, Inc., OCM Principal Opportunities Fund II, L.P., OCM/GFI Power Opportunities Fund, L.P., Ian Schapiro and Michael Harmon.(4)
10.2	Credit Agreement, dated as of June 30, 2006, among InfraSource Incorporated, as borrower, InfraSource Services, Inc., Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, JPMorgan Chase Bank, N.A., as Syndication Agent, Lasalle Bank National Association and National City Bank as Co-Documentation Agents, and other lenders party thereto.*
10.3	Guaranty, dated as of June 30, 2006 among the Guarantors identified on the signature page, in favor of Bank of America, N.A., as administrative agent for itself and the other lenders under the Credit Agreement.*
31.1	Rule 13a-14(a)/Rule 15d-14(a) Certification of Chief Executive Officer.*
31.2	Rule 13a-14(a)/Rule 15d-14(a) Certification of Chief Financial Officer.*
32.1	Certification pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code.*

* Filed herewith

- (1) Filed as an exhibit to the Registrant's Registration Statement on Form S-8 (Registration No. 333-115648) filed with the Commission on May 19, 2004.
- (2) Filed as an exhibit to the Registrant's Registration Statement on Form S-1 (Registration No. 333-112375) filed with the Commission on January 30, 2004.
- (3) Filed as an exhibit to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2005.
- (4) Filed as an exhibit to the Registrant's Current Report on Form 8-K dated June 28, 2006.

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.

Date: August 3, 2006

By:

INFRA SOURCE SERVICES, INC.

(Registrant)

/s/ TERENCE R. MONTGOMERY

Terence R. Montgomery

Senior Vice President and Chief Financial Officer

CREDIT AGREEMENT

Dated as of June 30, 2006

among

INFRA SOURCE INCORPORATED,

as the Borrower,

INFRA SOURCE SERVICES, INC.,

as Holdings,

BANK OF AMERICA, N.A.,

as Administrative Agent, Swing Line Lender and L/C Issuer,

JPMORGAN CHASE BANK, N.A.

as Syndication Agent,

LASALLE BANK NATIONAL ASSOCIATION and NATIONAL CITY BANK

as Co-Documentation Agents,

and

The Other Lenders Party Hereto

BANC OF AMERICA SECURITIES LLC,

as

Sole Lead Arranger and Sole Book Manager

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E	Assignment and Assumption
F	Guaranty
G	Security Agreement
H	Pledge Agreement
I	Collateral Assignment of Intercompany Notes

CREDIT AGREEMENT

This CREDIT AGREEMENT ("Agreement") is entered into as of June 30, 2006, among INFRASOURCE INCORPORATED, a Delaware corporation (the "Borrower"), INFRASOURCE SERVICES, INC., a Delaware corporation ("Holdings") each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer.

The Borrower has requested that the Lenders provide a revolving credit facility, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

1.01. **Defined Terms.** As used in this Agreement, each of the following terms shall have the meaning set forth below:

"Administrative Agent" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

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

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

"Aggregate Commitments" means the Commitments of all the Revolving Credit Lenders.

"Agreement" means this Credit Agreement.

"Alternative Currency" means the Canadian dollar.

"Alternative Currency Equivalent" means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the L/C Issuer at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

"Applicable Percentage" means (a) in respect of the Term Loan Facility, with respect to any Term Loan Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Loan Facility represented by the principal amount of such Term Loan Lender's Term Loan at such time and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender's Commitment at such time. If the commitment of each Revolving Credit

Lender to make Committed Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Aggregate Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means the following percentages per annum, based upon the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Applicable Rate

Pricing Level	Consolidated Leverage Ratio	Commitment Fee	Eurodollar Rate Letters of Credit	Base Rate
1	≥3.00:1	0.350%	2.00%	1.00%
2	<3.00:1 but ≥2.25:1	0.300%	1.75%	0.75%
3	<2.25:1 but ≥1.50:1	0.250%	1.50%	0.50%
4	<1.50:1 but ≥1.00:1	0.200%	1.25%	0.25%
5	<1.00:1	0.175%	1.00%	0.00%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until the first Business Day after such Compliance Certificate is delivered. The Applicable Rate in effect from the Closing Date through the date of receipt by the Administrative Agent of the First Compliance Certificate after the Closing Date shall be determined based upon Pricing Level 4.

“Applicable Revolving Credit Percentage” means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender’s Applicable Percentage in respect of the Revolving Credit Facility at such time.

“Applicable Time” means, with respect to any payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the L/C Issuer to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“Appropriate Lender” means, at any time, (a) with respect to the Term Loan Facility, a Lender that holds a Term Loan at such time, (b) with respect to the Revolving Credit Facility, a Revolving Credit

Lender that has a Commitment with respect to the Revolving Credit Facility or a Committed Loan at such time, (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swing Line Sublimit, (i) the Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arranger” means Banc of America Securities LLC, in its capacity as sole lead arranger and sole book manager.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E or any other form approved by the Administrative Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

“Audited Financial Statements” means the audited consolidated balance sheet of Holdings and its Subsidiaries for the fiscal year ended December 31, 2005, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of Holdings and its Subsidiaries, including the notes thereto.

“Availability Period” means, in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Committed Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

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

“Base Rate” means for any day a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a Committed Loan or a Term Loan that is a Base Rate Loan.

“Bonded Contracts” has the meaning specified in Section 7.01(q).

"Borrower" has the meaning specified in the introductory paragraph hereto.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrowing" means a Committed Borrowing, a Swing Line Borrowing or a Term Loan Borrowing, as the context may require.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located and, if such day relates to any Eurodollar Rate Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance which are properly charged to current operations). Notwithstanding the foregoing, Capital Expenditures shall not include (a) expenditures with net cash proceeds of substantially concurrent sales or issuances of Equity Interests, (b) amounts expended in connection with Permitted Acquisitions, and (c) equipment or other property purchases simultaneously or substantially concurrently with the trade-in of existing equipment or property owned by the Borrower and its Subsidiaries to the extent of the trade-in credit with respect to the equipment or property being trade-in.

"Cash Collateralize" has the meaning specified in Section 2.03(g).

"Cash Equivalents" means any of the following types of Investments:

- (a) marketable obligations issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition thereof; provided that the full faith and credit of the United States of America is pledged in support thereof;
- (b) dollar denominated (including eurodollar) time deposits with, or certificates of deposit, repurchase agreements or bankers' acceptances of, any commercial bank that (i) is a Lender or (ii) has combined capital and surplus of at least \$500,000,000, in each case with maturities of not more than one year from the date of acquisition thereof;
- (c) commercial paper issued by any Person organized under the laws of any state of the United States of America and rated at least "Prime-1" (or the then equivalent grade) by Moody's or at least "A-1" (or the then equivalent grade) by S&P, in each case with maturities of not more than six months from the date of acquisition thereof;
- (d) Investments, classified in accordance with GAAP as current assets of the Borrower or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, as amended, having portfolios of at least \$500,000,000, and which are limited substantially to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition; and
- (e) Investments by Foreign Subsidiaries in short term Investments not exceeding \$2,000,000 in the aggregate at any time.

“Cash Management Agreement” means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.

“Cash Management Bank” means any Person that, at the time it enters into a Cash Management Agreement, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Cash Management Agreement.

“CFC” means a Person that is a controlled foreign corporation under Section 957 of the Code.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

“Change of Control” means an event or series of events by which:

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of 35% or more of the equity securities of Holdings entitled to vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right), but excluding from such limitation (i) the Existing Investors, (ii) any Person or Persons who acquires the Existing Investors’ equity securities in Holdings so long as such Person or Persons do not become the “beneficial owner” of more than 50% of such securities, and (iii) any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan);

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors);

(c) any Person or two or more Persons acting in concert shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of the Borrower, or control over the equity securities of Holdings entitled to

vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis (and taking into account all such securities that such Person or group has the right to acquire pursuant to any option right) representing 35% or more of the combined voting power of such securities, but excluding from such limitation (i) the Existing Investors and (ii) any Person or Persons who acquires the Existing Investors' equity securities in Holdings so long such Person or Persons shall not hold more than 50% of the combined voting power of such securities; or

(d) Holdings shall cease, directly or indirectly, to own and control legally and beneficially all of the Equity Interests in the Borrower and, except as provided in Sections 7.04 or 7.05, each of the Guarantors.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01.

"Code" means the Internal Revenue Code of 1986.

"Collateral" means all of the "Collateral" referred to in the Collateral Documents and all of the other property that is or is intended under the terms of the Collateral Documents to be subject to Liens in favor of the Administrative Agent for the benefit of the Secured Parties.

"Collateral Assignment of Intercompany Notes" means collectively or individually as the context may require, the Collateral Assignments of Intercompany Notes, dated as of the Closing Date, executed by the Loan Parties party thereto and substantially in the form of Exhibit I, and each other Collateral Assignment of Intercompany Notes at any time delivered by a Loan Party.

"Collateral Documents" means, collectively, the Security Agreement, the Pledge Agreement, the Collateral Assignment of Intercompany Notes, each of the collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.12, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

"Commitment" means, as to each Revolving Credit Lender, its obligation to (a) make Committed Loans to the Borrower pursuant to Section 2.01, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Committed Borrowing" means a borrowing consisting of simultaneous Committed Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01.

"Committed Loan" has the meaning specified in Section 2.01.

"Compliance Certificate" means a certificate substantially in the form of Exhibit D.

"Consolidated Adjusted EBITDA" means, for any period, for Holdings and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for Federal, state, local and foreign income taxes payable by Holdings and its Subsidiaries for such period, (iii) depreciation and amortization expense, (iv) amortization of

intangibles (including, but not limited to, goodwill and organization costs) and any charges pursuant to SFAS 142 or 144), (v) any extraordinary, unusual or non-recurring expenses or losses which (A) do not represent a cash item in such period or any future period or (B) do not, in the aggregate, exceed \$20,000,000 for the term of this Agreement (including, in the case of (A) or (B), whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period and losses on sales of assets outside of the ordinary course of business), (vi) expenses or fees incurred in connection with any Permitted Acquisitions, (vii) SFAS 123R expenses or payments or distributions in compliance with Section 7.06(f), and (viii) offering costs related to the sale by Holdings of Equity Interests or the sale by the Borrower of unsecured debt or Subordinated Debt pursuant to Section 7.03(i) and minus (b) the following to the extent included in calculating such Consolidated Net Income: (i) Federal, state, local and foreign income tax credits of Holdings and its Subsidiaries for such period, (ii) interest income, and (iii) all extraordinary, unusual or non-recurring (it being understood that income arising from contracts with customers entered into in the ordinary course of business shall not be considered non-recurring for purposes of this definition) income or gain increasing Consolidated Net Income for such period (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business).

For the purposes of calculating Consolidated Adjusted EBITDA for any period of four consecutive fiscal quarters (each, a "Reference Period"), (i) if at any time during such Reference Period Holdings or any Subsidiary shall have made any Material Disposition, the Consolidated Adjusted EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated Adjusted EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Reference Period or increased by an amount equal to the Consolidated Adjusted EBITDA (if negative) attributable thereto for such Reference Period, in each case calculated as if such Material Disposition occurred on the first day of such Reference Period and (ii) if during such Reference Period Borrower or any Subsidiary shall have made a Material Acquisition, Consolidated Adjusted EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto (including pro forma effect to any Permitted Cost-Savings) as if such Material Acquisition occurred on the first day of such Reference Period. As used in this definition, "Material Acquisition" means any acquisition of property or series of related acquisitions of property that (a) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the Equity Interests of a Person and (b) involves the payment of consideration by Holdings and its Subsidiaries in excess of \$5,000,000; and "Material Disposition" means any Disposition of property or series of related Dispositions of property that yields gross proceeds to Holdings or any of its Subsidiaries in excess of \$5,000,000.

"Consolidated Adjusted EBITA" means, for any period, Consolidated Adjusted EBITDA for such period minus depreciation expenses for such period.

"Consolidated Funded Indebtedness" means, as of any date of determination, for Holdings and its Subsidiaries on a consolidated basis, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds (other than Surety Bonds), debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all direct obligations arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business), (e) Attributable Indebtedness in respect of capital leases and Synthetic Lease Obligations, (f) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than Holdings or any Subsidiary, and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited

liability company) in which Holdings or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to Holdings or such Subsidiary, in each case, as determined in accordance with GAAP. Notwithstanding the foregoing, Consolidated Funded Indebtedness shall not include (i) an amount equal to the lesser of (A) the face amount of all outstanding Letters of Credit with an expiry date (exclusive of automatic renewal provisions) of less than or equal to 365 days and (B) \$75,000,000, and (ii) surety bonds (and Guarantee obligations relating thereto), other than those not reimbursed by Holdings or a Subsidiary thereof within five (5) Business Days of a drawing thereunder.

“Consolidated Interest Charges” means, for any period, total cash interest expense (including that attributable to capital leases) of Holdings and its Subsidiaries for such period with respect to all outstanding Indebtedness of Holdings and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net costs under Swap Contracts in respect of interest rates to the extent such net costs, other than termination costs, are allocable to such period in accordance with GAAP) minus total cash interest income of Holdings and its Subsidiaries for such period, all as determined on a consolidated basis in accordance with GAAP.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Adjusted EBITA for the period of the four prior fiscal quarters ending on such date to (b) Consolidated Interest Charges for such period.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated Adjusted EBITDA for the period of the four fiscal quarters most recently ended.

“Consolidated Net Income” means, for any period, for Holdings and its Subsidiaries on a consolidated basis, the net income of the Holdings and its Subsidiaries (excluding extraordinary gains and extraordinary losses) for that period; provided that there shall be excluded (a) the income of any Person accrued prior to the date it becomes a Subsidiary of Holdings or is merged into or consolidated with Holdings or any of its Subsidiaries, (b) the income of any Person (other than a Subsidiary of Holdings) in which Holdings or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by Holdings or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary of Holdings to the extent that (i) such undistributed earnings exceed 5% of the net income of Holdings and its Subsidiaries and (ii) the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under any Loan Document) or Law applicable to such Subsidiary.

“Consolidated Senior Funded Indebtedness” means, as of any date of determination, for Holdings and its Subsidiaries on a consolidated basis, Consolidated Funded Indebtedness minus the aggregate outstanding principal amount of Subordinated Debt and unsecured senior debt incurred by the Borrower pursuant to Section 7.03(j).

“Consolidated Senior Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Senior Funded Indebtedness as of such date to (b) Consolidated Adjusted EBITDA for the period of the four fiscal quarters most recently ended.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

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

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate **plus** (ii) the Applicable Rate, if any, applicable to Base Rate Loans **plus** (iii) 2% per annum; **provided, however**, that with respect to a Eurodollar Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan **plus** 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate **plus** 2% per annum.

“Defaulting Lender” means any Lender that (a) has failed to fund any portion of the Committed Loans, the Term Loan, participations in L/C Obligations or participations in Swing Line Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder unless such failure has been cured, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Disposition” or **“Dispose”** means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollar” and **“\$”** mean lawful money of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the L/C Issuer at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States.

“Effective Date” has the meaning specified in Section 2.14(b).

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)).

“Environmental Laws” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

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

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or receipt by the Borrower or any ERISA Affiliate of notice that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Eurodollar Rate” means, for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to the British Bankers Association LIBOR Rate (“**BBA LIBOR**”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day

of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the "Eurodollar Rate" for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

"Eurodollar Rate Loan" means a Committed Loan or a Term Loan that bears interest at a rate based on the Eurodollar Rate.

"Event of Default" has the meaning specified in Section 8.01.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 11.13), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 3.01(a). Notwithstanding anything to the contrary contained in this definition, "Excluded Taxes" shall not include any withholding tax imposed at any time on payments made by or on behalf of a Foreign Subsidiary to any Lender hereunder or under any other Loan Document so long as such Lender shall have complied with the last paragraph of Section 3.01(e).

"Existing Credit Agreement" means that certain Amended and Restated Credit Agreement, as amended, dated as of May 12, 2004, as amended, among Holdings, the Borrower, Barclays Bank PLC, as agent, and a syndicate of lenders.

"Existing Investors" means GFI Energy Ventures, LLC and Oaktree Capital Management, LLC.

"Existing Letters of Credit" means the letters of credit issued by LaSalle Bank National Association under the Existing Credit Agreement and listed on Schedule 1.01.

"Facility" means the Term Loan Facility or the Revolving Credit Facility, as the context may require.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next

succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means the letter agreement, dated May 11, 2006, among Holdings, the Borrower, the Administrative Agent and the Arranger.

“Foreign L/C Exposure” means, at any time, the sum of the Dollar Equivalent amounts of (a) 100% of the aggregate undrawn amount of all outstanding Letters of Credit issued in an Alternative Currency at such time, plus (b) the aggregate amount of all drawings under Letters of Credit issued in an Alternative Currency that have not yet been reimbursed by or on behalf of any Loan Party at such time.

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

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

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

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 11.06(h).

“Guarantee” means, as to any Person, any (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of

such Person securing any indebtedness or other obligation of any other Person, whether or not such indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such indebtedness to obtain any such Lien); provided, however, that the term Guarantee shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means, collectively, Holdings, the Subsidiaries of Holdings listed on Schedule 6.12 and each other Subsidiary of Holdings (other than the Borrower) that shall be required to execute and deliver a guaranty or guaranty supplement pursuant to Section 6.12; provided that, no Regulated Subsidiary shall be a Guarantor.

"Guaranty" means, collectively, the Guaranty made by Holdings under Article X in favor of the Secured Parties and the Guaranty made by the other Guarantors in favor of the Secured Parties, substantially in the form of Exhibit E, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hedge Bank" means any Person that, at the time it enters into a Secured Hedge Agreement, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Secured Hedge Agreement.

"Holdings" has the meaning specified in the introductory paragraph hereto.

"Immaterial Subsidiary" means, at any time, any Subsidiary of Holdings (other than the Borrower) then having net assets with a fair market value of less than \$5,000,000 and gross assets with a fair market value of less than \$20,000,000; provided, that if the aggregate fair market value of (a) the net assets of all Subsidiaries of Holdings (other than the Borrower) that would otherwise constitute Immaterial Subsidiaries shall exceed \$20,000,000 or (b) the gross assets of all Subsidiaries of Holdings (other than the Borrower) that would otherwise constitute Immaterial Subsidiaries shall exceed \$50,000,000, only those such Subsidiaries as shall not then have net assets the aggregate fair market value of which is greater than \$20,000,000 or gross assets the aggregate fair market value of which is greater than \$50,000,000 and as shall be designated in writing by Holdings to the Administrative Agent as Immaterial Subsidiaries shall be deemed to constitute Immaterial Subsidiaries.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds (other than Surety Bonds), debentures, notes, loan agreements or other similar instruments;

(b) (i) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties and similar instruments and (ii) the maximum amount of obligations due and payable as a result of a default arising under surety bonds;

- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) capital leases and Synthetic Lease Obligations;
- (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitees” has the meaning specified in Section 11.04(b).

“Information” has the meaning specified in Section 11.07.

“Intercreditor Agreements” means those certain Intercreditor Agreements from time to time entered into among the Administrative Agent, the applicable Loan Party and the customer of such Loan Party providing surety bond(s) to such Loan Party, each in form and substance reasonably satisfactory to the Administrative Agent.

“Interest Payment Date” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan or a Swing Line Loan, the last Business Day of each March, June, September and December and the Maturity Date (with Swing Line Loans being deemed made under the Revolving Credit Facility for purposes of this definition).

“Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower in its Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(i) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(ii) no Interest Period shall extend beyond the Maturity Date.

“Internal Control Event” means a material weakness in, or fraud that involves management or other employees who have a significant role in, Holding’s internal controls over financial reporting, in each case as described in the Securities Laws.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit or all or a substantial part of the business, of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IP Rights” has the meaning specified in Section 5.17.

“IRS” means the United States Internal Revenue Service.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower (or any Subsidiary) or in favor the L/C Issuer and relating to such Letter of Credit.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage. All L/C Advances shall be denominated in Dollars.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Committed Borrowing. All L/C Borrowings shall be denominated in Dollars.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder and, solely with respect to the Existing Letters of Credit, LaSalle Bank National Association.

“L/C Obligations” means, as at any date of determination, the aggregate Dollar Equivalent amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination, a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lender” has the meaning specified in the introductory paragraph hereto and, as the context requires, includes the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Letter of Credit” means any standby letter of credit issued hereunder and shall include the Existing Letters of Credit. Letters of Credit may be issued in Dollars or in an Alternative Currency.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is five days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.03(i).

“Letter of Credit Sublimit” means an amount equal to \$100,000,000, up to the Alternative Currency Equivalent of \$2,000,000 of which may be denominated in an Alternative Currency pursuant to Section 2.03(a)(i). The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan, a Swing Line Loan or a Term Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents, (e) the Fee Letter, (f) each Issuer Document, (g) each Secured Hedge Agreement, (h) each Secured Cash Management Agreement, and (i) each Intercreditor Agreement; provided that for purposes of the definition of “Material Adverse Effect”, Articles IV through IX and Section 11.01, “Loan Documents” shall not include Secured Hedge Agreements or Secured Cash Management Agreements.

“Loan Notice” means a notice of (a) a Committed Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), financial condition or prospects of the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document, or of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect, in each case, as related to a Loan Party, or enforceability against any Loan Party of any Loan Document to which it is a party.

“Maturity Date” means June 30, 2012 provided, however, that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Note” means a Term Note or a Revolving Credit Note, as the context may require.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the

jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

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

“Outstanding Amount” means (i) with respect to the Term Loan, Committed Loans and Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of the Term Loans, Committed Loans and Swing Line Loans, as the case may be, occurring on such date; and (ii) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in an Alternative Currency, the rate of interest per annum at which overnight deposits in the applicable Alternative Currency, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Bank of America in the applicable offshore interbank market for such currency to major banks in such interbank market.

“Participant” has the meaning specified in Section 11.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

“PCAOB” means the Public Company Accounting Oversight Board.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

“Permitted Acquisition” has the meaning specified in Section 7.02(h).

“Permitted Cost-Savings” means, in connection with any Permitted Acquisition or Investment, those demonstrable cost-savings reasonably anticipated by the Borrower as of any date of determination to be achieved in connection with such Permitted Acquisition or Investment, as the case may be, for the 12-month period following the consummation of such Permitted Acquisition or Investment, which cost-savings shall be estimated by the Borrower on a good faith basis as of each date of determination prior to the inclusion of the applicable cost-savings in the calculation of Permitted Cost-Savings (which may include, without limitation, those permitted under Regulation S-X of the Exchange Act) and which are reasonably approved by the Administrative Agent; it is understood and agreed that, for the avoidance of duplication, no anticipated cost-savings shall be included in the calculation of Permitted Cost-Savings for any period to the extent such anticipated cost-savings are otherwise reflected in Consolidated Adjusted

EBITDA for such period by virtue of the achievement of actual cost-savings that were part of the cost-savings anticipated to be achieved.

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

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

“Pledge Agreement” means collectively or individually as the context may require, the Pledge Agreements, dated as of the Closing Date, executed by the Loan Parties party thereto and substantially in the form of Exhibit H, and each other Pledge Agreement at any time delivered by a Loan Party.

“Register” has the meaning specified in Section 11.06(c).

“Registered Public Accounting Firm” has the meaning specified in the Securities Laws and shall be independent of Holdings as prescribed by the Securities Laws.

“Regulated Subsidiary” means any Subsidiary of Holdings (other than the Borrower) so long as such Subsidiary is subject to regulation by a Governmental Authority and for which the incurrence of Indebtedness (including Guarantees) would be prohibited or require the consent or approval of any Governmental Authority (and such consent or approval has not been obtained), as set forth in any rule or regulation of such Governmental Authority.

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

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Committed Loans or Term Loans, a Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, as of any date of determination, Lenders holding more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Commitments; provided that the unused Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Required Revolving Lenders” means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Commitments; provided that the unused Commitment of, and the

portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party and, any other officer of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of Holdings or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to Holding’s stockholders, partners or members (or the equivalent Person thereof) or any option, warrant or other right to acquire any such dividend or other distribution or payment.

“Revaluation Date” means, with respect to any Letter of Credit, each of the following: (i) each date of issuance of a Letter of Credit denominated in an Alternative Currency, (ii) each date of an amendment of any such Letter of Credit having the effect of increasing the amount thereof (solely with respect to the increased amount), (iii) each date of any payment by the L/C Issuer under any Letter of Credit denominated in an Alternative Currency, (iv) the last Business Day of each calendar month and (v) such additional dates as the Administrative Agent or the L/C Issuer shall determine.

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Commitments at such time.

“Revolving Credit Lender” means, at any time, any Lender that has a Commitment at such time.

“Revolving Credit Note” means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing Committed Loans or Swing Line Loans, as the case may be, made by such Revolving Credit Lender, substantially in the form of Exhibit C-2.

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

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the L/C Issuer *to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.*

“Sarbanes–Oxley” means the Sarbanes–Oxley Act of 2002.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between the Borrower and any Cash Management Bank.

“Secured Hedge Agreement” means any Swap Contract permitted under Article VI or VII that is entered into by and between the Borrower and any Hedge Bank.

“Secured Parties” means, collectively, the Administrative Agent, the Lenders, the L/C Issuer, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

“Securities Laws” means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the PCAOB.

“Security Agreement” means collectively or individually as the context may require, the Security Agreements, dated as of the Closing Date, executed by the Loan Parties party thereto and substantially in the form of Exhibit G, and each other Security Agreement at any time delivered by a Loan Party.

“SPC” has the meaning specified in Section 11.06(h).

“Spot Rate” for a currency means the rate determined by the L/C Issuer as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or the L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or the L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that the L/C Issuer may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in an Alternative Currency.

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including 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, (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, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. 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.

“Subordinated Debt” means any and all loans or other extensions of credit from time to time made to any Loan Party subordinated to the Obligations in a manner and form reasonably satisfactory to the Administrative Agent, as to right and time of payment and as to any other rights and remedies thereunder.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more

intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of Holdings.

"Sunesys Pledge" means the pledge, by the Borrower to the Administrative Agent, of the Equity Interests of Sunesys, Inc. pursuant to the applicable Pledge Agreement.

"Surety" has the meaning specified in Section 7.01(q).

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

"Swing Line" means the revolving credit facility made available by the Swing Line Lender pursuant to Section 2.04.

"Swing Line Borrowing" means a borrowing of a Swing Line Loan pursuant to Section 2.04.

"Swing Line Lender" means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

"Swing Line Loan" has the meaning specified in Section 2.04(a).

"Swing Line Loan Notice" means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B.

"Swing Line Sublimit" means an amount equal to the lesser of (a) \$10,000,000 and (b) the Aggregate Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

"Synthetic Lease Obligation" means the monetary obligation of a Person under any lease of goods or other property, whether real or personal, which is treated by Holdings as an operating lease under GAAP and as a loan or financing for U.S. income tax purposes.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan Borrowing" means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term Loan Lenders pursuant to Section 2.15.

"Term Loan Facility" means, at any time, the aggregate principal amount of the Term Loans of all Term Loan Lenders outstanding at such time.

"Term Loan Lender" means any Lender that holds Term Loans at such time.

"Term Loan" means an advance made by any Lender under the Term Loan Facility, if any, pursuant to Section 2.15.

"Term Loan Note" means a promissory note made by the Borrower in favor of a Term Loan Lender evidencing Term Loans made by such Term Loan Lender, substantially in the form of Exhibit C-1.

"Threshold Amount" means \$10,000,000.

"Treasury Regulations" means the income tax regulations promulgated under the Code.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"Total Revolving Credit Outstandings" means the aggregate Outstanding Amount of all Committed Loans, Swing Line Loans and L/C Obligations.

"Type" means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

"UCC" means the Uniform Commercial Code as in effect in the Commonwealth of Pennsylvania; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the Commonwealth of Pennsylvania, **"UCC"** means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"Unfunded Pension Liability" means the amount, if any, by which the accumulated benefits for any Pension Plan as of the close of the most recent plan year, determined using actuarial assumptions at the time consistent with those prescribed by Financial Accounting Standard No. 87, exceeds the fair market value of such assets allocable to such liabilities.

"United States" and **"U.S."** mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

1.02. Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03. Accounting Terms. (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(c) Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of Holdings and its Subsidiaries or to the determination of any amount for Holdings and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to include each variable interest entity that Holdings is required to consolidate pursuant to FASB

Interpretation No. 46 – Consolidation of Variable Interest Entities: an interpretation of ARB No. 51 (January 2003) as if such variable interest entity were a Subsidiary as defined herein.

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

1.05. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

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

1.07. Exchange Rates; Currency Equivalents. (a) The L/C Issuer shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the L/C Issuer.

Wherever in this Agreement in connection with the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the L/C Issuer.

ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS

2.01. Committed Loans. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Committed Loan") to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Commitment; provided, however, that after giving effect to any Committed Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Committed Loans of any Revolving Credit Lender, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment. Within the limits of each Revolving Credit Lender's Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under

this Section 2.01. Committed Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

2.02. Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Term Loans or Committed Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans and (ii) on the requested date of any Borrowing of Base Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Committed Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date the Loan Notice with respect to a Committed Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Committed Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence

of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect with respect to Loans.

2.03. Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Revolving Credit Outstandings shall not exceed the Aggregate Commitments, (y) the aggregate Outstanding Amount of the Committed Loans of any Revolving Credit Lender, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Subject to the other terms and conditions set forth herein, the Borrower may request, for its own account or the account of a Subsidiary, the issuance of such Letters of Credit in an Alternative Currency; provided, however, that, in addition to the other conditions to the issuance of Letters of Credit set forth in this Section 2.03(a)(i), after giving effect to such request, the Dollar Equivalent of the Foreign LC Exposure shall not exceed \$2,000,000 at any one time. Such Letters of Credit issued in an Alternative Currency hereunder shall constitute utilization of the Aggregate Commitments in the amount of the Dollar Equivalent of such Letter of Credit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the provisos to the preceding two sentences. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof; provided that, on or before the date that is ninety (90) days after the Closing Date, the Borrower shall cause the Existing Letters of Credit to be cancelled and, if necessary, re-issued as Letters of Credit hereunder.

(ii) The L/C Issuer shall not issue any Letter of Credit, if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Revolving Credit Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of general applicability of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$100,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars or an Alternative Currency;

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder;

(F) a default of any Lender's obligations to fund under Section 2.03(c) exists or any Lender is at such time a Defaulting Lender hereunder, unless the L/C Issuer has entered into satisfactory arrangements with the Borrower or such Lender to eliminate the L/C Issuer's risk with respect to such Lender (it being understood that the L/C Issuer would consider the Borrower providing Cash Collateral to the Administrative Agent, for the benefit of the L/C Issuer, to secure the Defaulting Lender's pro rata share of the Letter of Credit a satisfactory arrangement); or

(G) the L/C Issuer does not as of the issuance date of such requested Letter of Credit issue Letters of Credit in the requested currency.

(iv) If the Borrower requests any amendment to a Letter of Credit, the L/C Issuer shall not so amend such Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent by the Lenders in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, 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 IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or the applicable Subsidiary or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of

each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Revolving Credit Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Revolving Credit Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in an Alternative Currency, the Borrower shall reimburse the L/C Issuer in such Alternative Currency, unless the L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Dollars. In the case of any such reimbursement in Dollars of a drawing under a Letter of Credit denominated in an Alternative Currency, the L/C Issuer shall notify the Borrower of the Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than 11:00 a.m. on the date of any payment by the L/C Issuer under a Letter of Credit to be reimbursed in Dollars (in the event that the Borrower has been notified prior to 10:00 a.m. on such day and otherwise not later than 11:00 a.m. on the next Business Day), or the Applicable Time on the date of any payment by the L/C Issuer under a Letter of Credit to be reimbursed in an Alternative Currency (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing and in the applicable currency (i.e., Dollars or Canadian dollars). If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving

Credit Lender of the Honor Date, the amount of the unreimbursed drawing (expressed in Dollars in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit denominated in an Alternative Currency) (the "Unreimbursed Amount"), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the Borrower shall be deemed to have requested a Committed Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Administrative Agent for the account of the L/C Issuer, in Dollars, at the Administrative Agent's Office in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer in Dollars.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Committed Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Revolving Credit Lender's obligation to make Committed Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Committed Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in Dollars and in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such 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; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary; or

(vi) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relevant currency markets generally.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer 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, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Cash Collateral. Upon the request of the Administrative Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.05 and 8.02(c) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.03, Section 2.05 and Section 8.02(c), "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Borrower hereby grants to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Administrative Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount over (y) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Laws, to reimburse the L/C Issuer.

(h) Applicability of ISP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), the rules of the ISP shall apply to each Letter of Credit.

(i) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the third Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(j) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter

of Credit, at the rate per annum specified in the Fee Letter, computed on the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the third Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to the L/C Issuer for its own account, in Dollars, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(l) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary of the Borrower, the Borrower shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries of the Borrower inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

2.04. Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, to make loans (each such loan, a "Swing Line Loan") to the Borrower from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Revolving Credit Percentage of the Outstanding Amount of Committed Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Commitment; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Revolving Credit Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Committed Loans of any Revolving Credit Lender, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all L/C Obligations, plus such Revolving Credit Lender's Applicable Revolving Credit Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and provided, further, that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at a rate based on the Base Rate. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not

later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$500,000 and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the *Swing Line Lender* and the Administrative Agent of a written *Swing Line Loan Notice*, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the *Swing Line Lender* of any telephonic *Swing Line Loan Notice*, the *Swing Line Lender* will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such *Swing Line Loan Notice* and, if not, the *Swing Line Lender* will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the *Swing Line Lender* has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any *Revolving Credit Lender*) prior to 2:00 p.m. on the date of the proposed *Swing Line Borrowing (A)* directing the *Swing Line Lender* not to make such *Swing Line Loan* as a result of the limitations set forth in the proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the *Swing Line Lender* will, not later than 3:00 p.m. on the borrowing date specified in such *Swing Line Loan Notice*, make the amount of its *Swing Line Loan* available to the Borrower at its office by crediting the account of the Borrower on the books of the *Swing Line Lender* in Same Day Funds.

(c) Refinancing of Swing Line Loans.

(i) The *Swing Line Lender* at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the *Swing Line Lender* to so request on its behalf), that each *Revolving Credit Lender* make a *Base Rate Loan* in an amount equal to such Lender's *Applicable Revolving Credit Percentage* of the amount of *Swing Line Loans* then outstanding. Such request shall be made in writing (which written request shall be deemed to be a *Loan Notice* for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of *Base Rate Loans*, but subject to the unutilized portion of the *Aggregate Commitments* and the conditions set forth in Section 4.02. The *Swing Line Lender* shall furnish the Borrower with a copy of the applicable *Loan Notice* promptly after delivering such notice to the Administrative Agent. Each *Revolving Credit Lender* shall make an amount equal to its *Applicable Revolving Credit Percentage* of the amount specified in such *Loan Notice* available to the Administrative Agent in Same Day Funds for the account of the *Swing Line Lender* at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such *Loan Notice*, whereupon, subject to Section 2.04(c)(j), each *Revolving Credit Lender* that so makes funds available shall be deemed to have made a *Base Rate Loan* to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the *Swing Line Lender*.

(ii) If for any reason any *Swing Line Loan* cannot be refinanced by such a *Committed Borrowing* in accordance with Section 2.04(c)(i), the request for *Base Rate Loans* submitted by the *Swing Line Lender* as set forth herein shall be deemed to be a request by the *Swing Line Lender* that each of the *Revolving Credit Lenders* fund its risk participation in the relevant *Swing Line Loan* and each *Revolving Credit Lender's* payment to the Administrative Agent for the account of the *Swing Line Lender* pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any *Revolving Credit Lender* fails to make available to the Administrative Agent for the account of the *Swing Line Lender* any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the *Swing Line Lender* shall be entitled to recover from such Lender (acting through

the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Credit Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to the Swing Line Lender its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the applicable Overnight Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swing Line Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.05. Prepayments.

(a) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof, or, in each case, if less, the entire principal amount thereof, then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage of such prepayment in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(b) The Borrower may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(c) If for any reason the Total Revolving Credit Outstandings at any time exceed the Aggregate Commitments then in effect, the Borrower shall immediately prepay Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(c) unless after the prepayment in full of the Loans the Total Revolving Credit Outstandings exceed the Aggregate Commitments then in effect.

2.06. Termination or Reduction of Commitments. The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments, or from time to time permanently reduce the Aggregate Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$1,000,000 in excess thereof, (iii) the Borrower shall not terminate or reduce the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Aggregate Commitments, and (iv) if, after giving effect to any reduction of the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Commitments, such Sublimit shall be automatically reduced by the amount of such excess. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Commitments. Any reduction of the Aggregate Commitments shall be applied to the Commitment of each Lender according to its Applicable Percentage. All fees

accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

2.07. Repayment of Loans.

(a) The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of all Loans outstanding on such date.

(b) The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Loan is made and (ii) the Maturity Date.

(c) Currency Matters.

(i) Dollars are the currency of account and payment for each and every sum at any time due from the Loan Parties hereunder. No payment to the Administrative Agent, any Lender or the L/C Issuer (whether under any judgment or court order or otherwise) shall discharge the obligation or liability in respect of which it was made unless and until the Administrative Agent or such Lender shall have received payment in full of the Dollar Equivalent of the amount of such obligation or liability, and to the extent that the amount of any such payment shall, on actual conversion into Dollars, fall short of such obligation or liability actual or contingent expressed in Dollars, the Borrower shall indemnify and hold harmless the Administrative Agent, the L/C Issuer or such Lender, as the case may be, with respect to the amount of the shortfall.

(ii) If, on any Revaluation Date, the Dollar Equivalent of the aggregate outstanding amount of all Loans and the L/C Obligations exceeds the Aggregate Commitments, then the Borrower shall repay or prepay the Loans in accordance with this Agreement in an aggregate principal amount such that, after giving effect thereto, the aggregate outstanding amount (expressed in Dollars) of all Loans plus the L/C Obligations no longer exceeds the Aggregate Commitments.

(iii) If on any Revaluation Date, the Dollar Equivalent of the Foreign LC Exposure exceeds \$2,000,000, then the Borrower shall immediately upon demand provide cash collateral to the Administrative Agent in the amount of such excess.

2.08. Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate; (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods),

whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(iv) Upon the request of the Required Lenders, while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09. Fees. In addition to certain fees described in subsections (i) and (j) of Section 2.03:

(a) **Commitment Fee.** The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee equal to the Applicable Rate times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Committed Loans and (ii) the Outstanding Amount of L/C Obligations. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) **Other Fees.** (i) The Borrower shall pay to the Arranger and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(c) For the purposes of the Interest Act (Canada), whenever a fee rate hereunder is calculated on the basis of a year (the "deemed year") that contains fewer days than the actual number of days in the calendar year of calculation, such fee rate shall be expressed as a yearly rate by multiplying such fee rate by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

2.10. Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by Bank of America's "prime rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall

accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11. Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12. Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:30 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:30 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a

Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 11.04(c).

(e) **Funding Source.** Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) **Insufficient Funds.** If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) **first**, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) **second**, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

2.13. **Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each of Holdings and the Borrower consent to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such

participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14. Increase in Commitments.

(a) Request for Increase or a Term Loan. Provided there exists no Default, upon written notice to the Administrative Agent and the Lenders, the Borrower may from time to time, request an increase in the Aggregate Commitments or a Term Loan; provided that (i) the aggregate amount of all such increases together with the principal amount of such Term Loans shall not exceed \$125,000,000, (ii) any such request for an increase or a Term Loan shall be in a minimum amount of \$25,000,000, (iii) the Borrower may make a maximum of five (5) such requests and (iv) in the case of a Term Loan, such Term Loan (A) shall be pari passu with the Committed Loans, (B) shall mature on or after the Maturity Date, (C) shall be subject to customary mandatory prepayment provisions and (D) shall otherwise be on terms and conditions satisfactory to the Administrative Agent (such consent, in the event that such Term Loan is on then market terms, not to be unreasonably withheld). In the event of a request of a Term Loan, the parties hereto acknowledge and agree that this Agreement shall be amended to incorporate the Term Loan and related provisions and such amendment shall be subject to the prior written consent of the Administrative Agent and the Required Lenders (such consent not to be unreasonably withheld or delayed so long as such Term Loan satisfies the provisions of the preceding sentence). At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections to Increase or Participate in a Term Loan. Each Lender shall notify the Administrative Agent in writing within such time period whether or not it agrees to increase its Commitment or participate in the Term Loan and, if so, at what percentage of such requested increase or Term Loan. Any Lender not responding within such time period shall be deemed to have declined to increase its Commitment or participate in the Term Loan.

(c) Notification by Administrative Agent: Additional Lenders. The Administrative Agent shall notify the Borrower and each Lender of the Lenders' responses to each request made hereunder. In the event that the Lenders do not agree to increase their Commitments or participate in the Term Loan in an amount equal to the amount requested by the Borrower, to achieve the full amount of a requested increase or Term Loan and subject to the approval of the Administrative Agent and the L/C Issuer (which approvals shall not be unreasonably withheld), the Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance satisfactory to the Administrative Agent and its counsel.

(d) Effective Date and Allocations. If the Aggregate Commitments are increased in accordance with this Section or a Term Loan is advanced, the Administrative Agent and the Borrower shall determine the effective date (the "Effective Date") and the final allocation of such increase or Term Loan. The Administrative Agent shall promptly notify the Borrower and the Lenders of the final allocation of such increase or Term Loan and the Effective Date.

(e) Conditions to Effectiveness of Increase or Term Loan. As a condition precedent to such increase or Term Loan, (i) the Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase or Term Loan, and (B) in the case of Holdings and the Borrower, certifying that, before and after giving effect to such increase or Term Loan, (1) the

representations and warranties contained in Article V and the other Loan Documents are true and correct on and as of the Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 2.14, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01, and (2) no Default exists, (ii) counsel for Holdings and the Borrower shall have provided to the Administrative Agent a supplemental opinion in form and substance reasonably satisfactory to the Administrative Agent and (iii) Holdings, the Borrower, the Lenders and any such additional Eligible Assignees shall otherwise have executed and delivered such other instruments and documents as the Administrative Agent shall have reasonably requested in connection with such increase or Term Loan. The Borrower shall prepay any Committed Loans outstanding on the Effective Date (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Committed Loans ratable with any revised Applicable Revolving Credit Percentages arising from any nonratable increase in the Commitments under this Section.

(f) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 11.01 to the contrary.

2.15. The Term Loan Borrowings. If the Borrower requests a Term Loan pursuant to Section 2.14, subject to the terms and conditions set forth herein, each Term Loan Lender severally agrees to make a Term Loan on the applicable Effective Date not to exceed such Term Loan Lender's Applicable Percentage of the Term Loan requested by the Borrower. Amounts borrowed under this Section 2.15 and repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as provided herein.

ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

3.01. Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower or Holdings hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, any Lender or the L/C Issuer, 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 or Holdings, as the case may be, shall make such deductions and (iii) the Borrower or Holdings, as the case may be, shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrower and Holdings. Without limiting the provisions of subsection (a) above, the Borrower or Holdings, as applicable, shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower and Holdings. The Borrower and Holdings shall, jointly and severally, indemnify the Administrative Agent, each Lender and the L/C Issuer, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this

Section) paid by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

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

(e) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower or Holdings, as the case may be, is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower and Holdings (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower, Holdings or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower, Holdings, or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower, Holdings or the Administrative Agent as will enable the Borrower, Holdings or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each such Foreign Lender shall also deliver to the Borrower (with a copy to the Administrative Agent) such further documentation requested by the Borrower on or before the date that any documentation previously delivered to the Borrower hereunder shall expire or become obsolete and after the occurrence of any event requiring a change in such previously delivered documentation.

Without limiting the generality of the foregoing, in the event that the Borrower or Holdings, as the case may be, is resident for tax purposes in the United States, any Foreign Lender shall deliver to the Borrower, Holdings and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower, Holdings or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) duly completed copies of Internal Revenue Service Form W-8BEN certifying that such Foreign Lender is not a United States Person and claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(ii) *duly completed copies of Internal Revenue Service Form W-8ECI certifying that such Foreign Lender is not a United States Person and claiming that payments hereunder are income effectively connected with the conduct of a trade or business in the United States,*

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10

percent shareholder” of the Borrower or Holdings within the meaning of section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN certifying that such Foreign Lender is not a United States Person, or

(iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax, backup withholding or information reporting requirements, in each case, duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

(f) **Treatment of Certain Refunds.** If the Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or Holdings, as the case may be, or with respect to which the Borrower or Holdings, as the case may be, has paid additional amounts pursuant to this Section, it shall pay to the Borrower or Holdings, as the case may be, an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or Holdings under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower or Holdings, as the case may be, upon the request of the Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the L/C Issuer in the event the Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower, Holdings or any other Person.

3.02. Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Eurodollar Rate Loans, or to determine or charge interest rates based upon the Eurodollar Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03. Inability to Determine Rates. If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan, or (b) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurodollar

Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein.

3.04. Increased Costs; Reserves on Eurodollar Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or the L/C Issuer;

(ii) subject any Lender or the L/C Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurodollar Rate Loan made by it, or change the basis of taxation of payments to such Lender or the L/C Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or the L/C Issuer); or

(iii) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Rate Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

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

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law 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).

(e) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

3.05. Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower;

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 11.13;

(d) any failure by any Borrower to make payment of any drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency;

including any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract.

The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

3.06. Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if the Lender determines it is unlawful to make, maintain or fund Eurodollar Loans pursuant to Section 3.02, the Borrower may replace such Lender in accordance with Section 11.13.

3.07. Survival. All of the Borrower's obligations under Sections 3.01, 3.04 and 3.05 shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

**ARTICLE IV.
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

4.01. Conditions of Initial Credit Extension. The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement and the other Loan Documents, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower;

(ii) a Note executed by the Borrower in favor of each Lender requesting a Note;

(iii) executed counterparts of each Collateral Document, together with:

(A) certificates representing the Equity Interests pledged thereunder accompanied by undated stock powers executed in blank and instruments evidencing any debt pledged thereunder indorsed in blank,

(B) proper Financing Statements in form appropriate for filing under the Uniform Commercial Code of all jurisdictions that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created under the Collateral Documents, covering the Collateral described in the Collateral Documents,

(C) completed requests for information, dated on or before the date of the initial Credit Extension, listing all effective financing statements filed in any jurisdiction that name any Loan Party as debtor, together with copies of such other financing statements,

(D) evidence of the completion of all other actions, recordings and filings of or with respect to the Collateral Documents that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created thereby,

(E) evidence that all other action that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created under the Security Agreement has been taken (including receipt of duly executed payoff letters, UCC-3 termination statements, bailees' waiver and consent agreements and a landlord waiver for the locations listed on Schedule 4.01(a)(iii));

(iv) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(v) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(vi) a favorable opinion of Ballard Spahr Andrews & Ingersoll, LLP, counsel to the Loan Parties, and each local counsel listed on Schedule 4.01(a)(vi), each addressed to the Administrative Agent and each Lender, as to the matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(vii) a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(viii) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect; and (C) that, after giving effect to the transactions contemplated hereby, each Loan Party is Solvent;

(ix) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect, together with the certificates of insurance, naming the Administrative Agent, on behalf of the Lenders, as an additional insured or loss payee, as the case may be, under all insurance policies maintained with respect to the assets and properties of the Loan Parties that constitutes Collateral;

(x) evidence that the Existing Credit Agreement has been or concurrently with the Closing Date is being terminated and all Liens securing obligations under the Existing Credit Agreement have been or concurrently with the Closing Date are being released

(xi) Intercreditor Agreement with Arch Insurance Company, duly executed by the appropriate parties; and

(xii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the L/C Issuer, the Swing Line Lender or the Required Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(d) The Closing Date shall have occurred on or before July 31, 2006.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement 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 a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02. Conditions to all Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of Holdings and the Borrower contained in Article V or any other Loan Document, or which are contained in any document furnished pursuant to the terms of this Agreement, shall be true and correct in all material respects (except for representations and warranties that are already qualified as to materiality, which shall instead be true and correct) on and as of the date of

such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) In the case of a Credit Extension to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the L/C Issuer would make it impracticable for such Credit Extension to be denominated in the relevant Alternative Currency.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

Each of Holdings and the Borrower represents and warrants to the Administrative Agent and the Lenders that:

5.01. Existence, Qualification and Power. Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02. Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under (other than Liens created under the Loan Documents), or require any payment to be made under (i) any Contractual Obligation (other than the Loan Documents) to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

5.03. Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or

enforcement against, any Loan Party of this Agreement or any other Loan Document, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents other than the required approval, if any, of the New Jersey Board of Public Utilities, with respect to the pledge of any Regulated Subsidiary's stock pursuant to the Pledge Agreement, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the first priority nature thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents other than the required approval, if any, of (i) the applicable Governmental Authorities with respect to the transfer of Equity Interests of any Regulated Subsidiary pursuant to the terms and conditions of the Pledge Agreement and (ii) the United States Federal Communications Commission with respect to the transfer of Equity Interests of M.J. Electric, Inc. pursuant to the terms and conditions of the Pledge Agreement.

5.04. Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except (a) enforceability may be limited by applicable Debtor Relief Laws and by general equitable principals (whether enforcement is sought by proceedings in equity or at law) and (b) with respect to the Sunesys Pledge, with respect to the matters set forth in Section 8.01(j).

5.05. Financial Statements; No Material Adverse Effect; No Internal Control Event.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and (ii) fairly present in all material respects the financial condition of Holdings and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) The unaudited consolidated balance sheet of Holdings and its Subsidiaries dated March 31, 2006, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of Holdings and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) To the knowledge of Holdings and the Borrower, as of the date of this Agreement, no Internal Control Event exists or has occurred since the date of the Audited Financial Statements that has resulted in or could reasonably be expected to result in a misstatement in any material respect, in any financial information delivered to the Administrative Agent or the Lenders, of the assets, liabilities, financial condition or results of operations of Holdings and its Subsidiaries on a consolidated basis.

5.06. Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Holdings and the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against Holdings or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan

Document, or any of the transactions contemplated hereby, or (b) except as specifically disclosed in Holdings' SEC filings on the date of this Agreement, either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect, and there has been no adverse change that could reasonably be expected to have a Material Adverse Effect in the status, or financial effect on any Loan Party or any Subsidiary thereof, of the matters described in Holdings' SEC filings on the date of this Agreement.

5.07. No Default. Neither any Loan Party nor any Subsidiary thereof is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08. Ownership of Property; Liens. (a) Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Schedule 5.08(b) sets forth a complete and accurate list of all Liens on the property or assets of each Loan Party and each of its Subsidiaries, showing as of the date hereof the lienholder thereof, the principal amount of the obligations secured thereby and the property or assets of such Loan Party or such Subsidiary subject thereto. The property of each Loan Party and each of its Subsidiaries is subject to no Liens, other than Liens set forth on Schedule 5.08(b), and as otherwise permitted by Section 7.01.

5.09. Environmental Compliance. Except as specifically disclosed in Schedule 5.09, (a) Holdings and its subsidiaries are in material compliance with all Environmental Laws unless the failure to comply could not reasonably be expected to have a Material Adverse Effect and (b) no claims under the Environmental Laws are pending or, to Holdings' or the Borrower's knowledge, threatened against Holdings or its Subsidiaries that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.10. Insurance. The properties of Holdings and its Subsidiaries are insured with financially sound and reputable insurance companies, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where Holdings or the applicable Subsidiary operates.

5.11. Taxes. Holdings and its Subsidiaries have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (a) those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP and (b) those which could not reasonably be expected to have a Material Adverse Effect.

5.12. ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the best knowledge of Holdings and the Borrower, nothing has occurred which is reasonably expected prevent, or cause the loss of, such

qualification. Each of Holdings, the Borrower and each ERISA Affiliate has made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of the Borrower or Holdings, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) Except as could not reasonably be expected to have a Material Adverse Effect, (i) no ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither Holdings, the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither Holdings, the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither Holdings, the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

5.13. Subsidiaries; Equity Interests. Neither Holdings, the Borrower nor any Guarantor has any Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by a Loan Party in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens (other than Liens created by the Collateral Documents). All Immaterial Subsidiaries as of the Closing Date are listed on Part (b) of Schedule 5.13.

5.14. Margin Regulations; Investment Company Act.

(a) The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15. Disclosure. No statement or information contained in this Agreement, any other Loan Document, the confidential information memorandum dated May, 2006 or any other document, certificate or statement furnished by the Borrower pursuant to the terms of this Agreement to the Administrative Agent or the Lenders, when taken as a whole, contained as of the date of such statement, information, document or certificate was furnished, any untrue statement of a material fact or omitted a material fact necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

5.16. Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently

conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.17. Intellectual Property; Licenses, Etc. Holdings and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "**IP Rights**") that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person unless the failure to own or possess such right to use or such conflict with the rights of others could not reasonably be expected to have a Material Adverse Effect.

5.18. Solvency. The Borrower is Solvent. As of the date of this Agreement, each Loan Party (other than the Borrower) is, individually and together with its Subsidiaries on a consolidated basis, Solvent.

5.19. Collateral Documents. The provisions of the Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of the respective Loan Parties in the Collateral described therein, except that, with respect to the Sunesys Pledge, with respect to the matters set forth in Section 8.01(l). Except for filings completed prior to the Closing Date and as contemplated hereby and by the Collateral Documents and the filing of periodic continuation statements relating to any financing statements in accordance with Uniform Commercial Code as in effect in the applicable jurisdiction, no filing or other action will be necessary to perfect or protect such Liens.

5.20. Guaranty. As of the Closing Date, each Domestic Subsidiary of Holdings (other than the Regulated Subsidiaries and the Borrower) has guaranteed the Obligations pursuant to the Guaranty.

5.21. Regulated Subsidiaries. As of the Closing Date, no Subsidiary of Holdings (other than Sunesys, Inc. and Sunesys of Virginia, Inc.) is a Regulated Subsidiary.

ARTICLE VI. AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, each of Holdings and the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Subsidiary to:

6.01. Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within 105 days after the end of each fiscal year of Holdings, a consolidated balance sheet of Holdings and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by (i) a report and opinion of a Registered Public Accounting Firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable Securities Laws and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit or with respect to the absence of any material misstatement and (ii) an opinion of such Registered Public Accounting Firm independently assessing the

Borrower's internal controls over financial reporting in accordance with Item 308 of SEC Regulation S-K, PCAOB Auditing Standard No. 2, and Section 404 of Sarbanes-Oxley; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Holdings a consolidated balance sheet of Holdings and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of Holding's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, treasurer or controller of Holdings as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of Holdings and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

As to any information contained in materials furnished pursuant to Section 6.02(b), the Borrower shall not be separately required to furnish such information under clause (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Borrower to furnish the information and materials described in clauses (a) and (b) above at the times specified therein.

6.02. Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders;

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of Holdings;

(b) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of any Loan Party, and copies of all annual, regular, periodic and special reports and registration statements (excluding any registration statements on Form S-8) which any Loan Party may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(c) promptly after the furnishing thereof and only to the extent not otherwise disclosed in Holdings' SEC filings, copies of any statement or report furnished to any holder of the Subordinated Debt or unsecured senior debt permitted under Section 7.03(j) and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(d) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Holdings and within 105 days after the end of the fourth fiscal quarter of each fiscal year of Holdings, a narrative discussion and analysis of the financial condition and results of operations of Holdings and its Subsidiaries for such fiscal quarter and for the period from the beginning of the fiscal year in which such fiscal quarter is included to the end of such fiscal quarter; and

(e) promptly, such additional information regarding the business, financial or corporate affairs of Holdings or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(b) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the

Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 11.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 6.02(a) to the Administrative Agent. Except for such Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each of Holdings and the Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Loan Parties hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders may be "public-side" Lenders (*i.e.*, Lenders that do not wish to receive material non-public information with respect to any Loan Party or its securities) (each, a "Public Lender"). Each of Holdings and the Borrower hereby agrees that so long as such Loan Party is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Loan Parties shall be deemed to have authorized the Administrative Agent, the Arranger, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to any Loan Party or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor;" and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

6.03. Notices. Promptly notify the Administrative Agent and each Lender:

- (a) of the occurrence of any Default; and
- (b) of the occurrence of any ERISA Event.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

6.04. Payment of Obligations. Pay and discharge as the same shall become due and payable, (a) all material tax liabilities, assessments and governmental charges or levies upon it or its properties or

assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by Holdings or such Subsidiary and (b) all lawful claims which, if unpaid, would by law become a Lien upon its property.

6.05. Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06. Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

6.07. Maintenance of Insurance. Maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons and providing for not less than 30 days' prior notice to the Administrative Agent of termination, lapse or cancellation of such insurance.

6.08. Compliance with Laws. Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.09. Books and Records. (a) Maintain proper books of record and account, in which full, true and correct entries, in all material respects, in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of Holdings or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over Holdings or such Subsidiary, as the case may be.

6.10. Inspection of Properties and Books, etc.. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Lenders and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

6.11. Use of Proceeds. Use the proceeds of the Credit Extensions for general corporate purposes not in contravention of any Law or of any Loan Document.

6.12. Covenant to Guarantee Obligations and Give Security. (a) Upon (x) the formation or acquisition of any new direct or indirect Subsidiary (other than any CFC or a Subsidiary that is held directly or indirectly by a CFC) by any Loan Party or (y) the receipt by a Subsidiary of the necessary approvals and/or consents pursuant to Section 6.14, then, in each case, the Borrower shall, at the Borrower's expense:

(i) within 30 days after such formation, acquisition or receipt of such approvals and/or consents cause such Subsidiary (other than a Regulated Subsidiary), and cause each direct and indirect parent of such Subsidiary (if it has not already done so), to duly execute and deliver to the Administrative Agent a guaranty or guaranty supplement, in form and substance satisfactory to the Administrative Agent, guaranteeing the other Loan Parties' obligations under the Loan Documents,

(ii) within 30 days after such formation, acquisition or receipt of such approvals and/or consents, furnish to the Administrative Agent a description of the personal properties of such Subsidiary, in detail satisfactory to the Administrative Agent,

(iii) within 30 days after such formation, acquisition or receipt of such approvals and/or consents, cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to duly execute and deliver to the Administrative Agent a Security Agreement and other security and pledge agreements, as specified by and in form and substance satisfactory to the Administrative Agent (including delivery of all pledged Equity Interests in and of such Subsidiary, and other instruments of the type specified in Section 4.01(a)(iii)), securing payment of all the Obligations of such Subsidiary or such parent, as the case may be, under the Loan Documents and constituting Liens on all such personal properties; provided that a Regulated Subsidiary shall not be required to execute a Security Agreement or otherwise grant a security interest to the Administrative Agent;

(iv) within 30 days after such formation, acquisition, or receipt of such approvals and/or consents, cause such Subsidiary and each direct and indirect parent of such Subsidiary (if it has not already done so) to take whatever action (including the filing of Uniform Commercial Code financing statements, the giving of notices and the endorsement of notices on title documents) may be necessary or advisable in the opinion of the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid and subsisting Liens on the properties purported to be subject to the Security Agreement and security and pledge agreements delivered pursuant to this Section 6.12, enforceable against all third parties in accordance with their terms, and

(v) within 30 days after such formation, acquisition or receipt of such approvals and/or consents (other than with respect to the formation or acquisition of an Immaterial Subsidiary), deliver to the Administrative Agent, upon the request of the Administrative Agent in its sole discretion, a signed copy of a favorable opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties acceptable to the Administrative Agent as to the matters contained in clauses (i), (iii) and (iv) above, and as to such other matters as the Administrative Agent may reasonably request.

(b) Upon the formation or acquisition by any Loan Party of any new direct or indirect Subsidiary that is a CFC or of a Subsidiary that is held directly or indirectly by a CFC, the Borrower shall, at the Borrower's expense, (i) within 30 days after such formation or acquisition, cause such Loan Party to pledge to the Administrative Agent all of such Subsidiary's non-voting Equity Interests and 66% of the total combined voting Equity Interests of such Subsidiaries that are held directly or indirectly by such Loan Party pursuant to a pledge agreement in form and substance satisfactory to the Administrative Agent; and (ii) take such other actions and deliver, or caused to be delivered, such other documents and opinions as required by Section 6.12(iv) and (v) in connection with such pledge.

6.13. Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document (which correction shall also be executed by the Administrative Agent and the Lenders) or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable law, subject any Loan Party's or any of its Subsidiaries' properties, assets, rights or interests which constitute Collateral to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder (other than, with respect to the Sunesys Pledge, with respect to the matters set forth in Section 8.01(i)) and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

6.14. Regulated Subsidiaries; Approval. (a) Within a reasonable period of time following the Closing Date (not to exceed fifteen days), commence to diligently pursue, on a commercially reasonable basis, all required consents and approvals from each applicable Governmental Authority so that (i) each Regulated Subsidiary existing on the Closing Date may guarantee the Indebtedness pursuant to the Guaranty and grant Liens to the Administrative Agent pursuant to the Security Agreement and (ii) each parent of such Regulated Subsidiary may pledge the Equity Interests of such Regulated Subsidiary to the Administrative Agent and (b) within a reasonable period of time following the formation or acquisition of any Regulated Subsidiary after the Closing Date (not to exceed fifteen days), commence to diligently pursue, on a commercially reasonable basis, all required consents and approvals from each applicable Governmental Authority so that (i) such Regulated Subsidiary may guarantee the Indebtedness pursuant to the Guaranty and grant Liens to the Administrative Agent pursuant to the Security Agreement and (ii) each parent of such Regulated Subsidiary may pledge the Equity Interests of such Regulated Subsidiary to the Administrative Agent

6.15. Mechanical Specialties. In the event that Borrower has not provided satisfactory evidence to the Administrative Agent within 90 days following the Closing Date that Mechanical Specialties, Inc. consummated a sale of all or substantially all of its assets and has subsequently dissolved, Mechanical Specialties, Inc. shall become a Guarantor pursuant to Section 6.12 and execute and/or deliver all security agreements, pledge agreements and certificates required to be executed and/or delivered pursuant to Section 6.12.

**ARTICLE VII.
NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, neither Holdings or the Borrower shall, nor shall they permit any Subsidiary to, directly or indirectly:

7.01. Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or sign or file or suffer to exist under the Uniform Commercial Code of any jurisdiction a financing statement that names Holdings or any of its Subsidiaries as debtor, or assign any accounts or other right to receive income, other than the following:

- (a) Liens pursuant to any Loan Document;
- (b) Liens existing on the date hereof and listed on Schedule 5.08(b) and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.03(b), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.03(b);
- (c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;
- (d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 60 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;
- (e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;
- (f) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (g) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);
- (h) Liens securing Indebtedness permitted under Section 7.03(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;
- (i) any interest or title of a lessor, licensor or sublessor under any lease, license or sublease entered into by the Borrower or any other Subsidiary in the ordinary course of its business and covering only the assets so leased, licensed or subleased;

(j) Liens arising out of any conditional sale, title retention, consignment or other similar arrangements for the sale of goods by the Borrower or any of its Subsidiaries in the ordinary course of business to the extent such Liens do not attach to any assets other than the goods subject to such arrangements;

(k) Liens on insurance policies and the proceeds thereof pursuant to insurance premium financing arrangements;

(l) Liens (i) incurred in the ordinary course of business in connection with the purchase or shipping of goods or assets (or the related assets and proceeds thereof), which Liens are in favor of the seller or shipper of such goods or assets and only attached to such goods or assets, and (ii) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(m) Liens in favor of collecting banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of the Borrower or any of its Subsidiaries on deposits with or in possession of such banks, other than relating to Indebtedness;

(n) Liens on the assets of Foreign Subsidiaries that are not Guarantors in connection with financing arrangements for their benefit that are not otherwise prohibited under this Agreement;

(o) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(p) (i) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business and (ii) Liens on cash reserves securing Indebtedness of the Borrower and its Subsidiaries in respect of letters of credit or surety bonds permitted by Section 7.03(g); and Liens on cash reserves securing other obligations of the Borrower and its Subsidiaries in respect of letters of credit or surety bonds arising in the ordinary course of business, to the extent not provided to secure the repayment of other Indebtedness of the Borrower and its Subsidiaries; provided that the aggregate amount of all such deposits and cash reserves provided by the Borrower and its Subsidiaries in respect of surety bonds shall not, at any time, exceed ten percent (10%) of the aggregate backlog of all contracts covered by surety bonds;

(q) Liens on contracts entered into with its customers by Holdings or any of its Subsidiaries, and on all assets related thereto and to the projects that are the subject thereof, to secure the obligations of Holdings or such Subsidiary in respect of surety bonds issued on its behalf (the issuer thereof, the "Surety") to assure performance of such contracts (each such contract, a "Bonded Contract"); provided that (i) all such Liens (other than those on accounts receivable due and to become due with respect to all Bonded Contracts, contract rights related to such accounts receivable and materials purchased for incorporation in any project that is the subject of a Bonded Contract) shall be subject, subordinate and junior to the Liens on the assets that are subject thereto created by the Collateral Documents and (ii) prior to the creation of any such Liens each Person (directly or through its agent) which is to be secured thereby shall have entered into with the Administrative Agent, on behalf of the Lenders, an Intercreditor Agreement which is in form and substance satisfactory to the Administrative Agent; and

(r) Liens not otherwise permitted by this Section so long as the aggregate outstanding principal amount of the obligations secured thereby do not exceed \$10,000,000 at any one time; and

(s) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 7.02.

7.02. Investments. Make any Investments, except:

(a) Investments held by the Borrower or such Subsidiary in the form of Cash Equivalents;

(b) advances (i) to employees of the Borrower and Subsidiaries in the ordinary course of business and (ii) to officers and directors of the Borrower and Subsidiaries in an aggregate amount not to exceed \$1,000,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) Investments of the Borrower in any Guarantor and Investments of any Guarantor in the Borrower or in another Guarantor;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.03;

(f) Investments existing on the date hereof; provided that, any existing Investment consisting of intercompany loans by any Loan Party in a Person that is a Regulated Subsidiary that is not a Guarantor (A) shall be evidenced by an intercompany note or notes, (B) such notes shall be in form and substance reasonably satisfactory to the Administrative Agent and (C) such notes shall be pledged and delivered to the Administrative Agent as Collateral;

(g) Investments by the Borrower in Swap Contracts permitted under Section 7.03(d);

(h) Investments by the Borrower or a Guarantor consisting of the purchase or other acquisition of all of the Equity Interests in, or all or substantially all of the property of, any Person or a line of business or a division of such Person that, upon the consummation thereof, will be wholly-owned directly by the Borrower or one or more of its wholly-owned Subsidiaries (including as a result of a merger or consolidation) (each, a "Permitted Acquisition"); provided that, with respect to each purchase or other acquisition made pursuant to this Section 7.03(h):

(i) any such newly-created or acquired Subsidiary shall comply with the requirements of Section 6.12;

(ii) the lines of business of the Person to be (or the property of which is to be) so purchased or otherwise acquired shall not be substantially different from the lines of business conducted by the Borrower and its Subsidiaries on the date hereof or any business substantially related or incidental thereto;

(iii) (A) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition (including the revenues and expenses (less Permitted Cost-Savings)), no Default shall have occurred and be continuing and (B) immediately after giving effect to such purchase or other acquisition, Holdings and its Subsidiaries shall be in pro forma compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and

the Lenders pursuant to Section 6.01(a) or (b) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby;

(iv) after giving effect to such Permitted Acquisition, the sum of (i) the Aggregate Commitments minus the Total Revolving Credit Outstandings plus (ii) the aggregate amount of cash and Cash Equivalents then held by the Borrower and its Subsidiaries shall be no less than \$15,000,000; and

(v) in the case of any newly created or acquired Regulated Subsidiary that is not a Guarantor or Foreign Subsidiary that is not a Guarantor, such Investment shall be permitted by clause (i)(iii) or, as applicable, clause (i)(iv) of this Section.

(i) (i) intercompany Investments by any Loan Party in the Borrower or any Person that, prior to such investment, is a Guarantor, (ii) Investments by any Foreign Subsidiary that is not a Guarantor in any Person that, prior to such Investment, is a Foreign Subsidiary and not a Guarantor, (iii) Investments by any Loan Party in any Foreign Subsidiary in an aggregate amount outstanding at any time not to exceed \$5,000,000 (after giving effect to any portion of any such Investment returned to the investor in cash, whether as a repayment of principal or a return of invested capital, as the case may be, but without giving effect to any earnings on such Investment, whether in the form of interest, dividends or otherwise), and (iv) Investments consisting of intercompany loans by any Loan Party (other than a Foreign Subsidiary) in a Person that, prior to such Investment, is a Regulated Subsidiary that is not a Guarantor in an aggregate amount outstanding at any time not to exceed \$75,000,000 (after giving effect to any portion of any such Investment returned to the investor in cash, whether as a repayment of principal or a return of invested capital, as the case may be, but without giving effect to any earnings on such Investment, whether in the form of interest, dividends or otherwise); provided that (A) all such loans are evidenced by an intercompany note or notes, (B) such notes are in form and substance reasonably satisfactory to the Administrative Agent and (C) such notes are pledged and delivered to the Administrative Agent as Collateral.

(j) Investments (including Indebtedness and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(k) without duplication, Investments that constitute Capital Expenditures permitted pursuant to Section 7.12;

(l) Investments funded through substantially concurrent capital contributions to Holdings or substantially concurrent sales or issuances of Equity Interests of Holdings; provided, that the proceeds (if any) of such capital contributions, sales or issuances are contributed by Holdings, directly or indirectly through any Subsidiary, to the Borrower or a Subsidiary of the Borrower, as the case may be, making such Investment or used to fund the acquisition of Investments which are so contributed to the Borrower or a Subsidiary of the Borrower;

(m) guarantees by the Borrower of employment contracts entered into between Holdings and officers of Holdings and its Subsidiaries; and

(n) in addition to Investments otherwise expressly permitted by this Section, Investments by the Borrower or any of its Subsidiaries in an aggregate amount (valued at cost but giving effect to any portion of such Investments returned to the investor in cash as a repayment of principal or a return of invested capital but without giving effect to any earnings on such Investment, whether in the form of interest, dividends or otherwise) not to exceed \$10,000,000 in any fiscal year of Holdings.

7.03. Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.03 and any refinancings, refundings, renewals or extensions thereof; provided that (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(c) Guarantees of the Borrower or any Guarantor in respect of Indebtedness otherwise permitted hereunder of the Borrower or any other Guarantor;

(d) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view;" and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Indebtedness in respect of capital leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(h); provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$20,000,000;

(f) (i) Indebtedness of the Borrower to any Guarantor, (ii) Indebtedness of any Guarantor (other than Holdings) to the Borrower or any other Guarantor, (iii) Indebtedness of a Regulated Subsidiary that is not a Guarantor to the Borrower or any Guarantor to the extent such Indebtedness constitutes an Investment permitted under Section 7.02(i)(iv), (iv) Indebtedness of any Foreign Subsidiary that is a Guarantor to any other Foreign Subsidiary, and (v) Indebtedness in an aggregate principal amount not to exceed \$5,000,000 of all Foreign Subsidiaries;

(g) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, bankers acceptances, letters of credit, surety bonds or other similar obligations arising in the ordinary course of business, and any refinancings thereof to the extent not provided to secure the repayment of other Indebtedness (including Guarantee Obligations relating thereto);

(h) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days after its incurrence;

(i) Indebtedness of the Borrower or any of its Subsidiaries consisting of the financing of insurance premiums in the ordinary course of business;

(j) Indebtedness of the Borrower consisting of unsecured senior debt or unsecured Subordinated Debt in an aggregate amount not to exceed \$150,000,000, in each case, on terms and conditions reasonably satisfactory to the Administrative Agent (including, without limitation, satisfactory evidence of pro forma compliance with all financial covenants contained in Section 7.11 after giving effect to such incurrence of Indebtedness under this clause (j)) and any refinancing of such Indebtedness permitted under Section 7.15;

(k) Indebtedness of the Borrower or any Subsidiary Guarantor assumed in connection with any Permitted Acquisition; provided, however, that such Indebtedness existed at the time of the completion of such Permitted Acquisition and was not incurred or created in anticipation of such Permitted Acquisition; and

(l) Other Indebtedness of the Borrower and the Guarantors in an aggregate amount not to exceed \$5,000,000.

7.04. Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or 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 or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries, provided that when any Guarantor is merging with another Subsidiary, the Guarantor shall be the continuing or surviving Person;

(b) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or to another Subsidiary; provided that if the transferor in such a transaction is a Guarantor, then the transferee must either be the Borrower or a Guarantor; and

(c) any Immaterial Subsidiary may liquidate, wind up or dissolve.

7.05. Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete, worn out, replaced or upgraded property or property that the Borrower and its Subsidiaries have ceased to use or need in the ordinary conduct of their business, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is identified on Schedule 7.05. (ii) such property is exchanged for credit against the purchase price of similar replacement property or (iii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property by any Subsidiary to the Borrower or to a wholly-owned Subsidiary; provided that if the transferor of such property is a Guarantor, the transferee thereof must either be the Borrower or a Guarantor;

(e) Dispositions permitted by Section 7.04;

(f) the Disposition of cash or Cash Equivalents in the ordinary course of business;

(g) non-exclusive licenses of IP Rights in the ordinary course of business and substantially consistent with past practice for terms not exceeding five years; and

(h) Dispositions by the Borrower and its Subsidiaries not otherwise permitted under this Section 7.05; provided that (i) at the time of such Disposition, no Default shall exist or would result from such Disposition and (ii) the aggregate book value of all property Disposed of in reliance on this clause (h) in any fiscal year shall not exceed \$20,000,000.

7.06. Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests, except:

(a) each Subsidiary may make Restricted Payments to Holdings, the Borrower, the Guarantors and any other Person that owns an Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) Holdings and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) Holdings and each Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests;

(d) Holdings may declare or pay cash dividends to its stockholders and make redemptions or purchases of its Equity Interests in any fiscal year of Holdings in an amount not to exceed 50% of Consolidated Net Income for such fiscal year; provided, that (i) the Consolidated Leverage Ratio, determined as of the end of the most recent fiscal quarter (calculated on a pro forma basis to include any borrowings used to make any dividend or redemption) is less than 2.00:1.00 and (ii) no Default or Event of Default shall have occurred or be continuing at the time of the making of such dividend or redemption;

(e) the Borrower may declare and pay cash dividends to Holdings not to exceed an amount necessary to permit Holdings to pay (i) reasonable and customary corporate and operating expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers), (ii) franchise fees or similar taxes and fees required to maintain its corporate existence, (iii) its proportionate share of the tax liability of the affiliated group of corporations that file consolidated Federal income tax returns (or that file state and local income tax returns on a consolidated basis) as determined using any method permitted by Section 1552 of the Code or Section 1.1502-33(d) of the Treasury Regulations and (iv) to provide funding of Restricted Payments permitted under Section 7.06(d); and

(f) so long as no Default or Event of Default shall have occurred and be continuing, the Borrower may pay dividends to Holdings to permit Holdings to purchase Holding's common stock or common stock options from present or former officers or employees of any of Holdings or its Subsidiaries upon the death, disability or termination of employment of such officer or employee or pursuant to the terms of any stock option plan or like agreement.

7.07. Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the date hereof or any business substantially related or incidental thereto.

7.08. Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, provided that the foregoing restriction shall not apply to transactions between or among the Borrower and any Guarantor or between and among any Guarantors.

7.09. Burdensome Agreements. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, except for any agreement in effect (A) on the date hereof and set forth on Schedule 7.09 or (B) at the time any Subsidiary becomes a Subsidiary of Holdings, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of Holdings, (ii) of any Subsidiary to Guarantee the Indebtedness of the Borrower or (iii) of the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this clause (iii) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.03(e) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

7.10. Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

7.11. Financial Covenants.

(a) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the end of any fiscal quarter of Holdings to be less than 2.00:1.00:

(b) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio, determined (i) as of the end of any fiscal quarter of Holdings ending prior to the incurrence of Subordinated Debt and/or senior unsecured debt pursuant to Section 7.03(j) in an amount equal to or greater than \$25,000,000, to be greater than 3.25:1.00 and (ii) as of the end of any fiscal quarter of Holdings ending after such incurrence, to be greater than 4.00:1.00; provided that subsection (i) shall apply if such Subordinated Debt and senior unsecured debt is no longer outstanding.

(c) Consolidated Senior Leverage Ratio. Permit the Consolidated Senior Leverage Ratio, determined as of the end of any fiscal quarter of Holdings ending after the incurrence of Subordinated Debt and/or senior unsecured debt pursuant to Section 7.03(j) in an amount equal to or greater than \$25,000,000, to be greater than 2.50:1.00; provided that this provision shall not apply if such Subordinated Debt and senior unsecured debt is no longer outstanding.

7.12. Capital Expenditures. Make or become legally obligated to make Capital Expenditures exceeding, in the aggregate for the Borrower and its Subsidiaries during each fiscal year set forth below, net of the proceeds received by the Borrower and its Subsidiaries during such fiscal year from Dispositions of property pursuant to Section 7.05(a), the amount set forth opposite such fiscal year:

Fiscal Year	Amount
2006	\$ 65,000,000
2007 and each fiscal year of Holdings thereafter	\$ 70,000,000

provided, however, that so long as no Default has occurred and is continuing or would result from such expenditure, 50% of any amount set forth above, if not expended in the fiscal year for which it is permitted above, may be carried over for expenditure in the next following fiscal year.

7.13. Amendments of Organization Documents. Amend any of its Organization Documents if such amendment could reasonably have a Material Adverse Effect.

7.14. Accounting Changes. Make any change in Holdings' fiscal year or the determination of the quarters within the fiscal year.

7.15. Prepayments, Etc. of Indebtedness. Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner or make any payment in violation of any subordination terms of, (a) any Subordinated Debt or (b) senior unsecured Indebtedness set forth in Section 7.03(j); provided that nothing in this Section shall prohibit Holdings and its Subsidiaries from (i) converting such Indebtedness to Equity Interests or (ii) prepaying such Indebtedness in full with proceeds received from a refinancing of such Indebtedness; provided that (A) the amount of such Indebtedness is not increased at the time of such refinancing except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder, (B) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced and the interest rate applicable to any such refinancing does not exceed the then applicable market interest rate and (C) such refinancing shall be on terms and conditions reasonably satisfactory to the Administrative Agent (including, without limitation, satisfactory evidence of pro forma compliance with all financial covenants contained in Section 7.11 after giving effect to such refinancing of Indebtedness under this clause (ii)).

7.16. Sales and Leasebacks. Enter into any arrangement with any Person providing for the leasing by any Loan Party of real or personal property that has been or is to be sold or transferred by such Loan Party to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Loan Party, except for the sale and leaseback of trucks and equipment for immaterial amounts in the ordinary course of business.

7.17. Swap Contracts. Enter into any Swap Contract, except (a) Swap Contracts entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests) and (b) Swap Contracts entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.

7.18. Certain Agreements. Consent to, or otherwise enter into or permit, any amendment, supplement or other modification of any document governing Subordinated Debt or the senior unsecured Indebtedness set forth in Section 7.03(j) without the prior written consent of the Administrative Agent.

7.19. Holdings. Holdings shall not directly or indirectly (i) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than those incidental to its ownership of the Equity Interests of the Borrower and in connection with employment contracts entered into with officers of Holdings and its Subsidiaries, or (ii) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (w) obligations in respect of surety bonds referred to in Section 7.01(a), (x) nonconsensual obligations imposed by operation of law, (y) Indebtedness, liabilities and obligations pursuant to the Loan Documents to which it is a party, agreements entered into in connection with or related to Permitted Acquisitions and issuances of Equity Interests, agreements entered into with directors and officers of Holdings and corporate overhead expenses and (z) obligations with respect to its Equity Interests.

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

8.01. Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within five days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower or any other Loan Party fails to perform or observe (a) any term, covenant or agreement contained in any of (i) Section 6.05(a), 6.10, 6.11 or 6.12 or Article VII (excluding 7.19), or (ii) Section 6.01, 6.02, or 6.03 and such failure continues for 15 days after the earlier of (A) the date on which any Responsible Officer of the Borrower knows or should have known of such failure, and (B) notice thereof to the Borrower and Holdings by the Administrative Agent or the Required Lenders; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (i) the date on which any Responsible Officer of the Borrower knows of such failure, and (ii) notice thereof to the Borrower and Holdings by the Administrative Agent or the Required Lenders; or

(d) Representations and Warranties. Any representation, warranty or certification made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered pursuant to the terms of this Agreement shall be materially incorrect or misleading when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party or any Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or

beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which any Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which any Loan Party or any Subsidiary thereof is an Affected Party (as so defined) and, in either event, (x) the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount and (y) such Loan Party does not pay in full such Swap Termination Value within fifteen (15) days after it becomes due and payable; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary thereof (other than an Immaterial Subsidiary) institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Subsidiary thereof (other than an Immaterial Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary thereof (other than an Immaterial Subsidiary) (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage).

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason (other than (i) as expressly permitted hereunder or thereunder, (ii) as a result of the satisfaction in full of all the Obligations or (iii) as a result of the Sunesys Pledge being voided by the New Jersey Board of Public Utilities) ceases to be in full force and effect with respect to any Loan Party; or any Loan Party contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation

under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control; or

(l) Collateral Documents. Any Collateral Document after delivery thereof pursuant to Section 4.01 or 6.12 shall for any reason (other than (i) pursuant to the terms thereof or (ii) as a result of the Sunesys Pledge being voided by the New Jersey Board of Public Utilities) cease to create a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on the Collateral purported to be covered thereby; or

(m) (i) The subordination provisions of the documents evidencing or governing any Subordinated Debt (the "Subordinated Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Debt; or (ii) the Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Administrative Agent, the Lenders and the L/C Issuer or (C) that all payments of principal of or premium and interest on the applicable Subordinated Debt, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions.

8.02. Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided, however, that upon 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, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03. Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any

amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (including fees and time charges for attorneys who may be employees of any Lender or the L/C Issuer) and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and amounts owing under Secured Hedge Agreements and Secured Cash Management Agreements and to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among the Lenders, the L/C Issuer, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX. ADMINISTRATIVE AGENT

9.01. Appointment and Authority. (a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable), potential Hedge Bank and potential Cash Management Bank) and the L/C Issuer hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and the L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan

Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article XI (including Section 11.04(c), as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto.

(c) The Administrative Agent is authorized and directed to execute and deliver the Intercreditor Agreements on behalf of the Secured Parties and to act in accordance with the provisions thereof. Each of the Secured Parties agrees to be bound by the provisions thereof.

(d) The Administrative Agent is authorized and directed to grant to the Borrower and the other Loan Parties a limited power of attorney, for the administration of Collateral, the ownership of or title to, which is evidenced by a motor vehicle or other certificate of title.

9.02. Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Holdings, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03. Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or

willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by Holdings, the Borrower, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

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

9.06. Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the approval of the Borrower if no Default exists, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged

from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

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

9.08. No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agents or Documentation Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

9.09. Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the

Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(i) and (j), 2.09 and 11.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 11.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer in any such proceeding.

9.10. Collateral and Guaranty Matters. The Lenders and the L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing in accordance with Section 11.01;

(b) to release the Collateral granted pursuant to the Collateral Assignment of Intercompany Notes upon Sunesys, Inc. and Sunesys of Virginia, Inc. (a) obtaining the necessary approvals and/or consents pursuant to Section 6.14 and (b) becoming a Guarantor, granting a security interest to the Administrative Agent in substantially all of its assets and otherwise executing and/or delivering all documents, certificates, opinions and other items required under Section 6.12;

(c) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(h); and

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

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

ARTICLE X. CONTINUING GUARANTY

10.01. Guaranty. Holdings hereby absolutely and unconditionally guarantees, as a guaranty of payment and performance and not merely as a guaranty of collection, prompt payment when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, and at all times thereafter, of any and all of the Obligations, whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise, of the Borrower to the Secured Parties, arising hereunder and under the other Loan Documents (including all renewals, extensions, amendments, refinancings and other modifications thereof and all costs, attorneys' fees and expenses incurred by the Secured Parties in connection with the collection or enforcement thereof). The Administrative Agent's books and records showing the amount of the Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon Holdings, and conclusive for the purpose of establishing the amount of the Obligations. This Guaranty shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any instrument or agreement evidencing any Obligations, or by the existence, validity, enforceability, perfection, non-perfection or extent of any collateral therefor, or by any fact or circumstance relating to the Obligations which might otherwise constitute a defense to the obligations of Holdings under this Guaranty, and Holdings hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to any or all of the foregoing.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or Swap Contracts, the obligations of Holdings under this Article X and the other Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law.

10.02. Rights of Lenders. Holdings consents and agrees that the Secured Parties may, at any time and from time to time, without notice to or demand of Holdings, and without affecting the enforceability or continuing effectiveness hereof: (a) amend, extend, renew, compromise, discharge, accelerate or otherwise agree to change the time for payment or the terms of the Obligations or any part thereof; (b) take, hold, exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any security for the payment of this Guaranty or any Obligations; (c) apply such security and direct the order or manner of sale thereof as the Administrative Agent, the L/C Issuer and the Lenders in their sole discretion may determine; and (d) release or substitute one or more of any endorsers or other guarantors of any of the Obligations. Without limiting the generality of the foregoing, Holdings consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of Holdings under this Guaranty or which, but for this provision, might operate as a discharge of Holdings.

10.03. Certain Waivers. Holdings waives (a) any defense arising by reason of any disability or other defense of the Borrower or any other guarantor, or the cessation from any cause whatsoever

(including any act or omission of any Secured Party) of the liability of the Borrower; (b) any defense based on any claim that Holdings' obligations exceed or are more burdensome than those of the Borrower; (c) the benefit of any statute of limitations affecting Holdings' liability hereunder; (d) except as provided in Section 10.05, any right to proceed against the Borrower, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Secured Party whatsoever; (e) any benefit of and any right to participate in any security now or hereafter held by any Secured Party; and (f) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by applicable law limiting the liability of or exonerating guarantors or sureties. Holdings expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Obligations. As provided below, this Guaranty shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania.

10.04. Obligations Independent. The obligations of Holdings hereunder are those of primary obligor, and not merely as surety, and are independent of the Obligations and the obligations of any other guarantor, and a separate action may be brought against Holdings to enforce this Guaranty whether or not the Borrower or any other person or entity is joined as a party.

10.05. Subrogation. Holdings shall not exercise any right of subrogation, contribution, indemnity, reimbursement or similar rights with respect to any payments it makes under this Guaranty until all of the Obligations and any amounts payable under this Guaranty have been indefeasibly paid and performed in full and the Commitments are terminated. If any amounts are paid to Holdings in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Secured Parties to reduce the amount of the Obligations, whether matured or unmatured.

10.06. Termination; Reinstatement. This Guaranty is a continuing and irrevocable guaranty of all Obligations now or hereafter existing and shall remain in full force and effect until all Obligations and any other amounts payable under this Guaranty are indefeasibly paid in full in cash and the Commitments with respect to the Obligations are terminated. Notwithstanding the foregoing, this Guaranty shall continue in full force and effect or be revived, as the case may be, if any payment by or on behalf of the Borrower or Holdings is made, or any of the Secured Parties exercises its right of setoff, in respect of the Obligations and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by any of the Secured Parties in their discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Laws or otherwise, all as if such payment had not been made or such setoff had not occurred and whether or not the Secured Parties are in possession of or have released this Guaranty and regardless of any prior revocation, rescission, termination or reduction. The obligations of Holdings under this paragraph shall survive termination of this Guaranty.

10.07. Subordination. Holdings hereby subordinates the payment of all obligations and indebtedness of the Borrower owing to Holdings, whether now existing or hereafter arising, including but not limited to any obligation of the Borrower to Holdings as subrogee of the Secured Parties or resulting from Holdings' performance under this Guaranty, to the indefeasible payment in full in cash of all Obligations. If the Secured Parties so request, any such obligation or indebtedness of the Borrower to Holdings shall be enforced and performance received by Holdings as trustee for the Secured Parties and

the proceeds thereof shall be paid over to the Secured Parties on account of the Obligations, but without reducing or affecting in any manner the liability of Holdings under this Guaranty.

10.08. Stay of Acceleration. If acceleration of the time for payment of any of the Obligations is stayed, in connection with any case commenced by or against Holdings or the Borrower under any Debtor Relief Laws, or otherwise, all such amounts shall nonetheless be payable by Holdings immediately upon demand by the Secured Parties.

10.09. Condition of Borrower. Holdings acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrower and any other guarantor such information concerning the financial condition, business and operations of the Borrower and any such other guarantor as Holdings requires, and that none of the Secured Parties has any duty, and Holdings is not relying on the Secured Parties at any time, to disclose to Holdings any information relating to the business, operations or financial condition of the Borrower or any other guarantor (Holdings waiving any duty on the part of the Secured Parties to disclose such information and any defense relating to the failure to provide the same).

ARTICLE XI. MISCELLANEOUS

11.01. Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing and signed by the Required Lenders, Holdings and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

- (a) waive any condition set forth in Section 4.01(a) without the written consent of each Lender;
- (b) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;
- (c) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;
- (d) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (v) of the second proviso to this Section 11.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;
- (e) change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;
- (f) change any provision of this Section or the definition of "Required Lenders", "Required Revolving Lenders" or any other provision hereof specifying the number or percentage of Lenders

required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender;

(g) release all or substantially all of the value of the Guaranty without the written consent of each Lender;

(h) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender; or

(i) amend the definition of "Alternative Currency" without the written consent of each Lender;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iv) Section 11.06(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto and (vi) Sections 2.02, 2.03, 2.04, 2.05, 4.02 and this clause (vi) may not be amended, waived or otherwise modified without the consent of the Required Revolving Lenders. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such non-consenting Lender in accordance with Section 11.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

11.02. Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Holdings, the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to Holdings, the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of Holdings, the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to

the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

11.03. No Waiver; Cumulative Remedies. No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

11.04. Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all costs and expenses of lien searches, (iv) taxes, fees and other charges for filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent's Liens, (v) costs of appraisals, inspections, and verifications, including, without limitation, travel, lodging, and meals for inspections of the Collateral and the Borrower's operations by the Administrative Agent, subject to Section 6.10, (vi) costs and expenses of preserving and protecting the Collateral, (vii) sums paid or incurred to pay any amount or take any action required of the Borrower under the Loan Documents that the Borrower fails to pay or take and (viii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout,

restructuring or negotiations in respect of such Loans or Letters of Credit, or (C) in connection with the sale or other realization upon the Collateral.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. To the extent it is legally permitted to do so, the applicable Indemnitee will provide the Borrower with notice of any such investigation, litigation or proceeding described in clause (iv) above and, in the case of litigation, the opportunity to defend such litigation, provided that the Borrower shall not settle any such litigation without the applicable Indemnitee's consent.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower and the Lenders, except as otherwise specifically provided herein, shall not assert, and hereby waives, any claim against any Indemnitee or Loan Party, as applicable, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

11.05. Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

11.06. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party (except as provided in Section 7.04(a)) may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (h) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single assignee (or to an assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any Commitment if such assignment is to a Person that is not a Lender with a Commitment, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) the

Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount, if any, required as set forth in Schedule 11.06; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the

Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 11.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative

Agent as is required under Section 2.12(b)(ii). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.04), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of \$2,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Committed Loans pursuant to subsection (b) above, Bank of America may, (i) upon 30 days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

11.07. Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority,

such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

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

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including Federal and state securities Laws.

11.08. Right of Setoff. If an Event of Default shall have occurred and be *continuing*, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. *The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have.* Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

11.09. Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the

maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

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

11.11. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

11.12. Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

11.13. Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.06(b);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and
- (d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

11.14. Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE COMMONWEALTH OF PENNSYLVANIA.

(b) SUBMISSION TO JURISDICTION. EACH OF THE BORROWER AND HOLDINGS IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE COMMONWEALTH OF PENNSYLVANIA SITTING IN PHILADELPHIA COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF PENNSYLVANIA, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR HOLDINGS OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH OF THE BORROWER AND HOLDINGS IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN

PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

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

11.16. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby, each of the Borrower and Holdings acknowledges and agrees, and acknowledges its Affiliates' understanding that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent and the Arranger, on the other hand, and each of Holdings and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, the Administrative Agent and the Arranger each is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower and Holdings or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Administrative Agent nor the Arranger has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower or Holdings with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether the Administrative Agent or the Arranger has advised or is currently advising the Borrower, Holdings or any of their respective Affiliates on other matters) and neither the Administrative Agent nor the Arranger has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Administrative Agent and the Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, Holdings and their respective Affiliates, and neither the Administrative Agent nor the Arranger has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Administrative Agent and the Arranger have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or

other modification hereof or of any other Loan Document) and each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Borrower and Holdings hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against the Administrative Agent and the Arranger with respect to any breach or alleged breach of agency or fiduciary duty.

11.17. USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower and Holdings 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 the Borrower and Holdings, which information includes the name and address of the Borrower and Holdings and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and Holdings in accordance with the Act.

11.18. Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from any Borrower in the Agreement Currency, such Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to such Borrower (or to any other Person who may be entitled thereto under applicable law).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

INFRA SOURCE SERVICES, INC.

By: /s/ TERENCE R. MONTGOMERY
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

INFRA SOURCE INCORPORATED

By: /s/ TERENCE R. MONTGOMERY
Name: Terence R. Montgomery
Title: Chief Financial Officer, Senior Vice President
and Treasurer

**BANK OF AMERICA, N.A., AS
ADMINISTRATIVE AGENT**

By: /s/ MICHAEL R. LANGMEYER

Name: Michael R. Langmeyer

Title: Assistant Vice President

**BANK OF AMERICA, N.A., AS A LENDER, L/C
ISSUER AND SWING LINE LENDER**

By: /s/ KENNETH G. WOOD

Name: Kenneth G. Wood

Title: Senior Vice President

**JPMORGAN CHASE BANK, N.A., AS SYNDICATION
AGENT**

By: /s/ Lee P. Brennan
Name: Lee P. Brennan
Title: Vice President

**NATIONAL CITY BANK, DOCUMENTATION
AGENT**

By: /s/ Susan S. Callahan

Name: Susan S. Callahan

Title: Vice President

**LASALLE BANK NATIONAL ASSOCIATION, AS
DOCUMENTATION AGENT**

By: /s/ Nick Lotz

Name: Nick Lotz

Title: AVP

CITIZENS BANK OF PENNSYLVANIA

By: /s/ Leslie D. Broderick

Name: Leslie D. Broderick

Title: SVP

HARRIS N.A.

By: /s/ Joann L. Holman

Name: Joann L. Holman

Title: Director

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ [ILLEGIBLE] _____
Name: [ILLEGIBLE]
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Frank A. Pugliese

Name: Frank A. Pugliese

Title: Senior Vice President

NORTH FORK BUSINESSES CAPITAL CORP.

By: /s/ Stephen K. Goetschius

Name: Stephen K. Goetschius

Title: Senior Vice President

GUARANTY

This GUARANTY, dated as of June 30, 2006, by and among the Guarantors identified as such on the signature pages hereof (each individually, a "Guarantor" and, collectively, the "Guarantors"), in favor of BANK OF AMERICA, N.A., a national banking association, as administrative agent (hereinafter, in such capacity, the "Administrative Agent") for itself and the other lending institutions (hereinafter, collectively, the "Lenders") which are or may become parties to that certain Credit Agreement, dated as of June 30, 2006 (as amended, modified, supplemented, or restated and in effect from time to time, the "Credit Agreement"), among InfraSource Incorporated, a Delaware corporation (the "Borrower"), InfraSource Services, Inc. ("Holdings"), the Lenders and the Administrative Agent.

WHEREAS, the Borrower, Holdings and the Guarantors are members of a group of related Persons, the success of any one of which is dependent in part on the success of the other members of such group;

WHEREAS, each Guarantor expects to receive substantial direct and indirect benefits from the extensions of credit to the Borrower by the Lenders pursuant to the Credit Agreement (which benefits are hereby acknowledged);

WHEREAS, it is a condition precedent to the Lenders' making any loans or otherwise extending credit to the Borrower under the Credit Agreement that each Guarantor executes and delivers to the Administrative Agent, for the benefit of the Lenders and the Administrative Agent, a guaranty substantially in the form hereof; and

WHEREAS, each Guarantor wishes to guaranty the Borrower's obligations to the Lenders and the Administrative Agent under or in respect of the Credit Agreement as provided herein;

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, each Guarantor, intending to be legally bound, hereby agrees with the Lenders and the Administrative Agent as follows:

1. **Definitions** The term "Obligations" and all other capitalized terms used herein without definition shall have the respective meanings provided therefor in the Credit Agreement.
 2. **Guaranty of Payment and Performance.** Each Guarantor hereby jointly and severally unconditionally guarantees to the Lenders and the Administrative Agent the full and punctual payment when due (whether at stated maturity, by required pre-payment, by acceleration or otherwise), as well as the performance, of all of the Obligations, including all such which would become due but for the operation of the automatic stay pursuant to §362(a) of the Bankruptcy Code of the United States and the operation of §§502(b) and 506(b) of the Bankruptcy Code of the United States. This Guaranty is an absolute, unconditional and continuing guaranty of the full and punctual payment and performance of all of the Obligations and not of their collectibility only and is in no way conditioned upon any requirement that the Administrative Agent or any Lender first attempt to collect any of the Obligations from the
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Borrower or resort to any collateral security or other means of obtaining payment. Should the Borrower default in the payment or performance of any of the Obligations, the obligations of the Guarantors hereunder with respect to such Obligations in default shall, upon demand by the Administrative Agent, become immediately due and payable to the Administrative Agent, for the benefit of the Lenders and the Administrative Agent, without demand or notice of any nature, all of which are expressly waived by each Guarantor. Payments by each Guarantor hereunder may be required by the Administrative Agent on any number of occasions. All payments by any Guarantor hereunder shall be made to the Administrative Agent, in the manner and at the place of payment specified therefor in the Credit Agreement, for the account of the Lenders and the Administrative Agent.

Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents or Swap Contracts, the obligations of each Guarantor under this Guaranty and the other Loan Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law.

3. **Guarantors' Agreement to Pay Enforcement Costs, etc.** Each Guarantor further jointly and severally agrees, as the principal obligor and not as a guarantor only, to pay to the Administrative Agent, on demand, all costs and expenses (including court costs and reasonable legal expenses) incurred or expended by the Administrative Agent or any Lender in connection with the Obligations, this Guaranty and the enforcement thereof, together with interest on amounts recoverable under this Section 3 from the time when such amounts become due until payment, whether before or after judgment, at the rate of interest for overdue principal set forth in the Credit Agreement, provided that if such interest exceeds the maximum amount permitted to be paid under applicable law, then such interest shall be reduced to such maximum permitted amount.

4. **Waivers by Guarantors; Lenders' Freedom to Act** Each Guarantor agrees that the Obligations will be paid and performed strictly in accordance with their respective terms, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Administrative Agent or any Lender with respect thereto. Each Guarantor waives promptness, diligence, presentment, demand, protest, notice of acceptance, notice of any Obligations incurred and all other notices of any kind, all defenses which may be available by virtue of any valuation, stay, moratorium law or other similar law now or hereafter in effect, any right to require the marshalling of assets of the Borrower or any other entity or other person primarily or secondarily liable with respect to any of the Obligations, and all suretyship defenses generally. Without limiting the generality of the foregoing, each Guarantor agrees to the provisions of any instrument evidencing, securing or otherwise executed in connection with any Obligation and agrees that the obligations of each Guarantor hereunder shall not be released or discharged, in whole or in part, by (i) the failure of the Administrative Agent or any Lender to assert any claim or demand or to enforce any right or remedy against the Borrower or any other entity or other person primarily or secondarily liable with respect to any of the Obligations; (ii) any extensions, compromise, refinancing, consolidation or renewals of any Obligation; (iii) any change in the time, place or manner of payment of any of the Obligations or any rescissions, waivers, compromise, refinancing, consolidation or other

amendments or modifications of any of the terms or provisions of the Credit Agreement, the Notes, the other Loan Documents or any other agreement evidencing, securing or otherwise executed in connection with any of the Obligations, (iv) the addition, substitution or release of any entity or other person primarily or secondarily liable for any Obligation; (v) the adequacy of any rights which the Administrative Agent or any Lender may have against any collateral security or other means of obtaining repayment of any of the Obligations; (vi) the impairment of any collateral securing any of the Obligations, including without limitation the failure to perfect or preserve any rights which the Administrative Agent or any Lender might have in such collateral security or the substitution, exchange, surrender, release, loss or destruction of any such collateral security; or (vii) any other act or omission which might in any manner or to any extent vary the risk of any Guarantor or otherwise operate as a release or discharge of any Guarantor, all of which may be done without notice to the Guarantors. To the fullest extent permitted by law, each Guarantor hereby expressly waives any and all rights or defenses arising by reason of (A) any "one action" or "anti-deficiency" law which would otherwise prevent the Administrative Agent or any Lender from bringing any action, including any claim for a deficiency, or exercising any other right or remedy (including any right of set-off), against any Guarantor before or after the Administrative Agent's or such Lender's commencement or completion of any foreclosure action, whether judicially, by exercise of power of sale or otherwise, or (B) any other law which in any other way would otherwise require any election of remedies by the Administrative Agent or any Lender.

5. **Unenforceability of Obligations Against Borrower.** If for any reason the Borrower has no legal existence or is under no legal obligation to discharge any of the Obligations, or if any of the Obligations have become irrecoverable from the Borrower by reason of the Borrower's insolvency, bankruptcy or reorganization or by other operation of law or for any other reason, this Guaranty shall nevertheless be binding on each Guarantor to the same extent as if such Guarantor at all times had been the principal obligor on all such Obligations, subject to any limitations set forth herein. In the event that acceleration of the time for payment of any of the Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, or for any other reason, all such amounts otherwise subject to acceleration under the terms of the Credit Agreement, the Notes, the other Loan Documents or any other agreement evidencing, securing or otherwise executed in connection with any Obligation shall be immediately due and payable by the Guarantors.

6. **Subrogation; Subordination.**

6.1. **Waiver of Rights Against Borrower.** Until the final payment and performance in full of all of the Obligations, (A) no Guarantor shall exercise any rights against the Borrower arising as a result of payment by such Guarantor hereunder, by way of subrogation, reimbursement, restitution, contribution or otherwise, and will not prove any claim in competition with the Administrative Agent or any Lender in respect of any payment hereunder in any bankruptcy, insolvency or reorganization case or proceedings of any nature; (B) no Guarantor will claim any setoff, recoupment or counterclaim against the Borrower in respect of any liability of such Guarantor to the Borrower; and (C) each Guarantor postpones and subordinates any benefit of and any right to participate in any collateral security which may be held by the Administrative Agent or any Lender.

6.2. **Subordination.** The payment of any amounts due with respect to any indebtedness of the Borrower for money borrowed or credit received now or hereafter owed to any Guarantor is hereby subordinated to the prior payment in full of all of the Obligations. Each Guarantor agrees that, after the occurrence of any Default in the payment or performance of any of the Obligations, such Guarantor will not demand, sue for or otherwise attempt to collect any such indebtedness of the Borrower to such Guarantor until all of the Obligations shall have been paid in full in cash or until such Default is cured or waived in accordance with the terms and conditions of the Loan Documents. If, notwithstanding the foregoing sentence, any Guarantor shall collect, enforce or receive any amounts in respect of such indebtedness while any Obligations are still outstanding, such amounts shall be collected, enforced and received by such Guarantor as trustee for the Lenders and the Administrative Agent and be paid over to the Administrative Agent, for the benefit of the Lenders and the Administrative Agent, on account of the Obligations without affecting in any manner the liability of any Guarantor under the other provisions of this Guaranty.

6.3. **Provisions Supplemental.** The provisions of this Section 6 shall be supplemental to and not in derogation of any rights and remedies of the Lenders and the Administrative Agent under any separate subordination agreement which the Administrative Agent may at any time and from time to time enter into with any Guarantor for the benefit of the Lenders and the Administrative Agent.

7. **Security; Setoff.** Each Guarantor grants to each of the Administrative Agent and the Lenders, as security for the full and punctual payment and performance of all of such Guarantor's obligations hereunder, a continuing lien on and security interest in all securities or other property belonging to such Guarantor now or hereafter held by the Administrative Agent or such Lender and in all deposits (general or special, time or demand, provisional or final) and other sums credited by or due from the Administrative Agent or such Lender to such Guarantor or subject to withdrawal by such Guarantor. Regardless of the adequacy of any collateral security or other means of obtaining payment of any of the Obligations, each of the Administrative Agent and the Lenders is hereby authorized at any time and from time to time, without notice to any Guarantor (any such notice being expressly waived by each Guarantor) and to the fullest extent permitted by law, to set off and apply such deposits and other sums against the obligations of such Guarantor under this Guaranty, whether or not the Administrative Agent or such Lender shall have made any demand under this Guaranty and although such obligations may be contingent or unmatured.

8. **Further Assurances.** Each Guarantor agrees that it will from time to time, at the request of the Administrative Agent, do all such things and execute all such documents as the Administrative Agent may consider necessary or desirable to give full effect to this Guaranty and to perfect and preserve the rights and powers of the Lenders and the Administrative Agent hereunder. Each Guarantor acknowledges and confirms that such Guarantor itself has established its own adequate means of obtaining from the Borrower on a continuing basis all information desired by such Guarantor concerning the financial condition of the Borrower and that such Guarantor will look to the Borrower and not to the Administrative Agent or any Lender

in order for such Guarantor to keep adequately informed of changes in the Borrower's financial condition.

9. **Covenants under Credit Agreement.** Each Guarantor acknowledges that a Responsible Officer of such Guarantor has read a copy of each of the Loan Documents and agrees to perform and comply with all of the obligations, covenants and agreements in the Loan Documents that are applicable to it.

10. **Effectiveness; Reinstatement.** This Guaranty shall remain in full force and effect until the Obligations have been paid and performed in full in cash and all credit commitments of the Administrative Agent and the Lenders in respect thereof (including all outstanding Letters of Credit) have terminated. This Guaranty shall continue to be effective or be reinstated, notwithstanding any termination, if at any time any payment made or value received with respect to any Obligation is rescinded or must otherwise be returned by the Administrative Agent or any Lender upon the insolvency, bankruptcy or reorganization of the Borrower, or otherwise, all as though such payment had not been made or value received.

11. **Successors and Assigns.** This Guaranty shall be binding upon each Guarantor, its respective successors and assigns, and shall inure to the benefit of the Administrative Agent and the Lenders and their respective successors, transferees and assigns. Without limiting the generality of the foregoing sentence, each Lender may assign or otherwise transfer the Credit Agreement, the Notes, the other Loan Documents or any other agreement or note held by it evidencing, securing or otherwise executed in connection with the Obligations, or sell participations in any interest therein, to any other entity or other person, and such other entity or other person shall thereupon become vested, to the extent set forth in the agreement evidencing such assignment, transfer or participation, with all the rights in respect thereof granted to such Lender herein, all in accordance with Section 11.06 of the Credit Agreement. No Guarantor may assign any of its obligations hereunder.

12. **Amendments and Waivers.** No amendment or waiver of any provision of this Guaranty nor consent to any departure by the Guarantor therefrom shall be effective unless the same shall be in writing and signed by the Administrative Agent in accordance with Section 11.01 of the Credit Agreement. No failure on the part of the Administrative Agent or any Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

13. **Notices.** All notices and other communications called for hereunder shall be made in writing and, unless otherwise specifically provided herein, shall be deemed to have been duly made or given when delivered by hand or mailed first class, postage prepaid, or, in the case of telegraphic or telexed notice, when transmitted, answer back received, addressed as follows: if to any Guarantor, at the address set forth beneath its signature hereto, and if to the Administrative Agent, at the address for notices to the Administrative Agent set forth in Section 11.02 of the Credit Agreement, or at such address as either party may designate in writing to the other.

14. **Governing Law: Consent to Jurisdiction.** THIS GUARANTY IS INTENDED TO TAKE EFFECT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. Each Guarantor agrees that any suit for the enforcement of this Guaranty may be brought in the courts of the Commonwealth of Pennsylvania sitting in Philadelphia County and of the United States District Court of the Eastern District of Pennsylvania and consents to the nonexclusive jurisdiction of such court and to service of process in any such suit being made upon the Guarantor by mail at the address specified by reference in Section 13. Each Guarantor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit was brought in an inconvenient court.

15. **Waiver of Jury Trial.** EACH GUARANTOR AND THE ADMINISTRATIVE AGENT FOR ITSELF AND THE LENDERS HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS GUARANTY, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY OF SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, each Guarantor and the Administrative Agent for itself and the Lenders hereby waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. Each Guarantor (i) certifies that neither the Administrative Agent or any Lender nor any representative, agent or attorney of the Administrative Agent or any Lender has represented, expressly or otherwise, that the Administrative Agent or any Lender would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Credit Agreement and the other Loan Documents to which the Administrative Agent or any Lender is a party, the Administrative Agent and the Lenders are relying upon, among other things, the waivers and certifications contained in this Section 15.

16. **Miscellaneous.** This Guaranty constitutes the entire agreement of each Guarantor with respect to the matters set forth herein. The rights and remedies herein provided are cumulative and not exclusive of any remedies provided by law or any other agreement, and this Guaranty shall be in addition to any other guaranty of or collateral security for any of the Obligations. The invalidity or unenforceability of any one or more sections of this Guaranty shall not affect the validity or enforceability of its remaining provisions. Captions are for the ease of reference only and shall not affect the meaning of the relevant provisions. The meanings of all defined terms used in this Guaranty shall be equally applicable to the singular and plural forms of the terms defined.

17. **Contribution.** To the extent any Guarantor makes a payment hereunder in excess of the aggregate amount of the benefit received by such Guarantor in respect of the extensions of credit under the Credit Agreement (the "**Benefit Amount**"), then such Guarantor, after the final and undefeasible payment in full, in cash, of all of the Obligations, shall be entitled to recover from each other guarantor of the Obligations such excess payment, pro rata, in accordance with the ratio of the Benefit Amount received by each such other guarantor to the total Benefit Amount received by all guarantors of the Obligations, and the right to such recovery shall be deemed to be an asset and property of such Guarantor so funding.

IN WITNESS WHEREOF, each Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

**INFRA SOURCE UNDERGROUND SERVICES, INC.
CHOWNS, INC.
TRINITY INDUSTRIES, INC.
INFRA SOURCE CORPORATE SERVICES, INC.
OSP CONSULTANTS, INC.
BLAIR PARK SERVICES, INC.
UTILITY LOCATE AND MAPPING SERVICES, INC.
M.J. ELECTRIC, INC.
DASHIELL HOLDINGS CORPORATION
INFRA SOURCE TRANSMISSION SERVICES COMPANY
INFRA SOURCE UNDERGROUND CONSTRUCTION, INC.
INFRA SOURCE MID-ATLANTIC, INC.
INFRA SOURCE UNDERGROUND CONSTRUCTION CALIFORNIA, INC.
INFRA SOURCE UNDERGROUND SERVICE CANADA, INC.
INFRA SOURCE POWER CALIFORNIA, INC.
INFRA SOURCE MASLONKA CA, INC.**

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

**INFRA SOURCE UNDERGROUND CONSTRUCTION SERVICES, LLC
INFRA SOURCE UNDERGROUND INSTALLATION, LLC
INFRA SOURCE POWER, LLC
INFRA SOURCE UNDERGROUND CONSTRUCTION, LLC
INFRA SOURCE CONCRETE & PAVING SERVICES, LLC
IUC IOWA, LLC**

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

**INFRA SOURCE TEXAS HOLDINGS GP LLC
INFRA SOURCE TEXAS HOLDINGS LP LLC**

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

DASHIELL LTD.

By: INFRASOURCE TEXAS HOLDINGS GP LLC, its general partner

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

DACON GP LLC

By: DASHIELL LTD., its sole member
By: INFRASOURCE TEXAS HOLDINGS GP LLC, its general partner

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and
Treasurer

DACON LTD.

By: DACON GP LLC, its general partner
By: DASHIELL LTD., its sole member
By: INFRASOURCE TEXAS HOLDINGS GP LLC, its general partner

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and
Treasurer

INFRASOURCE-MASLONKA, LLC

By: /s/ Terence R. Montgomery
Name: Terence R. Montgomery
Title: Senior Vice President and Treasurer

Address: 100 West Sixth Street, Suite 300
Media, PA 19063
Facsimile:

CERTIFICATION

I, David R. Helwig, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of InfraSource Services, 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(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 3, 2006

/s/ DAVID R. HELWIG

David R. Helwig

President and Chief Executive Officer

CERTIFICATION

I, Terence R. Montgomery, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of InfraSource Services, 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(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 3, 2006

/s/ TERENCE R. MONTGOMERY

Terence R. Montgomery

Senior Vice President and Chief Financial Officer

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
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 InfraSource Services, Inc. (the "Company") for the period ended June 30, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-K"), David R. Helwig, as Chief Executive Officer of the Company, and Terence R. Montgomery, 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 the best of his knowledge:

The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ DAVID R. HELWIG

David R. Helwig
President and Chief Executive Officer
Date: August 3, 2006

/s/ TERENCE R. MONTGOMERY

Terence R. Montgomery
Senior Vice President and Chief Financial Officer
Date: August 3, 2006

This certification accompanies the Form 10-Q pursuant to § 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of § 18 of the Securities Exchange Act of 1934, as amended.