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

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**FORM 10-K**

(Mark One)  
 **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the fiscal year ended June 30, 2011

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: 001-34249

**FARMER BROS. CO.**

(Exact Name of Registrant as Specified in Its Charter)

Delaware  
(State of Incorporation)

95-0725980  
(I.R.S. Employer Identification No.)

20333 South Normandie Avenue, Torrance, California 90502  
(Address of Principal Executive Offices; Zip Code)

Registrant's telephone number, including area code 310-787-5200  
Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class  
Common Stock, \$1.00 par value

Name of Each Exchange on Which Registered  
The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES  NO

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES  NO

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 has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES  NO

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company.

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

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the closing price at which the Farmer Bros. Co. common stock was sold on December 31, 2010 was \$142.6 million.

As of September 9, 2011 the registrant had 16,186,372 shares outstanding of its common stock, par value \$1.00 per share, which is the registrant's only class of common stock.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's definitive proxy statement to be filed with the U.S. Securities and Exchange Commission ("SEC") pursuant to Regulation 14A in connection with the registrant's 2011 Annual Meeting of Stockholders (the "Proxy Statement") or portions of the registrant's 10-K/A, to be filed subsequent to the date hereof, are incorporated by reference into Part III of this report. Such Proxy Statement or 10-K/A will be filed with the SEC not later than 120 days after the conclusion of the registrant's fiscal year ended June 30, 2011.

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements contained in this annual report on Form 10-K are not based on historical fact and are forward-looking statements within the meaning of federal securities laws and regulations. These statements are based on management’s current expectations, assumptions, estimates and observations of future events and include any statements that do not directly relate to any historical or current fact. These forward-looking statements can be identified by the use of words like “anticipates,” “estimates,” “projects,” “expects,” “plans,” “believes,” “intends,” “will,” “assumes” and other words of similar meaning. Owing to the uncertainties inherent in forward-looking statements, actual results could differ materially from those set forth in forward-looking statements. We intend these forward-looking statements to speak only at the time of this report and do not undertake to update or revise these statements as more information becomes available except as required under federal securities laws and the rules and regulations of the SEC. Factors that could cause actual results to differ materially from those in forward-looking statements include, but are not limited to, fluctuations in availability and cost of green coffee, competition, organizational changes, our ability to successfully integrate the CBI and DSD Coffee Business acquisitions, the impact of a weaker economy, business conditions in the coffee industry and food industry in general, our continued success in attracting new customers, variances from budgeted sales mix and growth rates, weather and special or unusual events, changes in the quality or dividend stream of third parties’ securities and other investment vehicles in which we have invested our assets, as well as other risks described in this report and other factors described from time to time in our filings with the SEC.

**PART I**

**Item 1. Business**

***Overview***

Farmer Bros. Co., a Delaware corporation (including its consolidated subsidiaries unless the context otherwise requires, the “Company,” “we,” “our” or “Farmer Bros.”) is a manufacturer, wholesaler and distributor of coffee, tea and culinary products. We are direct distributors of coffee to restaurants, hotels, casinos, hospitals and other foodservice providers, and are providers of private brand coffee programs to grocery retailers, restaurant chains, convenience stores, and independent coffee houses, nationwide. We were founded in 1912, were incorporated in California in 1923, and reincorporated in Delaware in 2004. We operate in one business segment.

***Business Strategy***

Our mission is to “sell great coffee, tea and culinary products and provide superior service—one customer at a time.” We reach our customers in two ways: through our nationwide Direct-Store-Delivery (“DSD”) network of approximately 500 delivery routes, 114 branch locations and six distribution centers, and by using the distribution channels of our national retail and institutional customers. We differentiate ourselves in the marketplace through our customer service model. We offer value-added services including beverage equipment service, menu solutions, wherein we recommend products, how these products are prepared in the kitchen and presented on the menu, and hassle-free inventory and product procurement management to our foodservice customers. These services are conducted primarily in person through Regional Sales Representatives, or RSR’s, who develop personal relationships with chefs, restaurant owners and food buyers at their drop off locations. We also provide comprehensive coffee programs, including private brand development, green coffee procurement, category management, and supply chain management to our national retail customers.

We manufacture and distribute products under our own brands, as well as under private labels on behalf of certain customers. Our branded products are sold primarily into the foodservice channel, and are comprised of both national and regional brands. Our leading national brands include the Farmer Brothers® and Superior® brands, as well as the popular Sierra®, Metropolitan®, Prebica® and Panache® brands. We also market such regional brands as Cain’s®, McGarvey®, and Ireland®, each maintaining loyal customers in its respective geographies.

Since 2007, Farmer Brothers has achieved growth, primarily due to the acquisition in 2007 of Coffee Bean Holding Co. , Inc., a Delaware corporation (“CBH”), the parent company of Coffee Bean International, Inc., an Oregon corporation (“CBI”), a specialty coffee manufacturer and wholesaler headquartered in Portland, Oregon (the “CBI Acquisition”), and the acquisition in 2009 from Sara Lee Corporation (“Sara Lee”) of certain assets used in connection with their DSD coffee business in the United States (the “DSD Coffee Business”). The DSD Coffee Business acquisition helped grow our sales to \$463.9 million in fiscal 2011 from \$266.5 million in fiscal 2008, and added over 2,000 new SKU’s and over 60 trademarks, tradenames and service marks. In fiscal 2010 we completed much of the post-acquisition integration of the DSD Coffee Business in an effort to realize the selling and operating efficiencies of the combined organization through consolidation of product offerings and SKU’s, streamlining of routes and distribution logistics, and consolidation of warehouses and distribution centers, with an expanded, customer-focused organization enabled by enhanced information management tools and training.

***Business Operations***

Our product line is specifically focused on the needs of our market segment: restaurants, hotels, casinos, hospitals and other foodservice providers, as well as private brand retailers in the grocery, restaurant, convenience stores and coffeehouse channels. Our product line of over 2,800 SKUs includes roasted coffee,

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liquid coffee, coffee-related products such as coffee filters, sugar and creamers, assorted teas, and cappuccino, cocoa, spices, gelatins and puddings, soup, gravy and sauce mixes, pancake and biscuit mixes, and jellies and preserves. For the past three fiscal years, sales of roasted coffee products represented approximately 50% of our total sales and no single product other than roasted coffee accounted for more than 10% of our total sales. Coffee purchasing, roasting and packaging takes place at our Torrance, California; Portland, Oregon; and Houston, Texas plants. Spice blending and packaging takes place at our Torrance, California plant. Our distribution centers include our Torrance, Houston, and Portland plants, and distribution centers in Northlake, Illinois; Oklahoma City, Oklahoma; and Moonachie, New Jersey. Our distribution center in Fridley, Minnesota, was closed in July 2011.

### ***Raw Materials and Supplies***

Our primary raw material is green coffee, an agricultural commodity. Green coffee is mainly grown outside the United States and can be subject to volatile price fluctuations. Weather, real or perceived supply shortages, political unrest, labor actions, currency fluctuations, armed conflict in coffee producing nations, speculative investment, and government actions, including treaties and trade controls between the U.S. and coffee producing nations, can affect the price of green coffee. Green specialty coffees sell at a premium to other green coffees due to the inability of producers to increase supply in the short run to meet rising demand. As a result, the price spread between specialty coffee and non-specialty coffee is likely to widen as demand for specialty coffee continues to increase.

Producer organizations can also affect green coffee prices. The most prominent of these are the Colombian Coffee Federation, Inc. (CCF) and the International Coffee Organization (ICO). These organizations seek to increase green coffee prices largely by attempting to restrict supplies, thereby limiting the availability of green coffee to coffee consuming nations.

Other raw materials used in the manufacture of our tea and culinary products include a wide variety of spices, such as pepper, chilies, oregano and thyme, as well as cocoa, dehydrated milk products, salt and sugar. These raw materials are agricultural products and can be subject to wide cost fluctuations. In fiscal 2011 such fluctuations in commodity prices had a material effect on our operating results.

### ***Trademarks and Licenses***

We own 148 registered trademarks which are integral to customer identification of our products. It is not possible to assess the impact of the loss of such identification. Additionally, in connection with the DSD Coffee Business acquisition, the Company and Sara Lee have entered into certain operational agreements that include trademark and formula license agreements.

### ***Seasonality***

We experience some seasonal influences. The winter months are generally the strongest sales months. However, our product line and geographic diversity provide some sales stability during the warmer months when coffee consumption ordinarily decreases. Additionally, we usually experience an increase in sales during the summer and early fall months from seasonal businesses located in vacation areas, and from grocery retailers ramping up inventory for the winter selling season.

### ***Distribution***

Most sales are made "off-truck" to our customers at their places of business by our sales representatives who are responsible for soliciting, selling and collecting from and otherwise maintaining our customer accounts. We serve our customers from six distribution centers strategically located for national coverage. In July 2011, we closed our distribution center in Fridley, Minnesota. Our distribution trucks are replenished from 114 branch warehouses located throughout the contiguous United States. We operate our own trucking fleet to support our

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long-haul distribution requirements. A portion of our products are distributed by third parties or are direct shipped via common carrier. We maintain inventory levels at each branch warehouse to allow for minimal interruption in supply.

### ***Customers***

We serve a wide variety of customers, from small restaurants and donut shops to large institutional buyers like restaurant chains, hotels, casinos, hospitals, foodservice providers and convenience stores. As a result of the CBI acquisition we added additional customer categories including gourmet coffee houses, bakery/café chains, and large regional and national grocery and specialty food retailers. As a result of the DSD Coffee Business acquisition, we added more national accounts and gaming accounts. Within our DSD channel, we believe on-premise customer contact, our large distribution network and our relationship-based high quality service model are integral to our past and future success. No single customer represents a significant concentration of sales. As a result, the loss of one or more of our larger customer accounts is not likely to have a material adverse effect on our results of operations.

### ***Competition***

We face competition from many sources, including the institutional foodservice divisions of multi-national manufacturers of retail products such as The J.M. Smucker Company (Folgers Coffee), Kraft Foods Inc. (Maxwell House Coffee) and Sara Lee Corporation, wholesale grocery distributors such as Sysco Corporation and U.S. Foodservice, regional institutional coffee roasters such as S & D Coffee, Inc. and Boyd Coffee Company, and specialty coffee suppliers such as Green Mountain Coffee Roasters, Inc. and Peet's Coffee & Tea, Inc. We believe our longevity, the quality of our products, our national distribution network and our superior customer service are the major factors that differentiate us from our competitors.

Competition is robust and is primarily based on products and price, with distribution and service often a major factor. Most of our customers rely on us for distribution; however, some of our customers use third party distribution or conduct their own distribution. Some of our customers are "price" buyers, seeking the low cost provider with little concern about service, while others find great value in the service programs we provide. We compete well when service and distribution are valued by our customers, and are less effective when only price matters. Our customer base is price sensitive, and we are often faced with price competition.

### ***Working Capital***

We finance our operations internally and through borrowings under our \$85 million senior secured revolving credit facility with Wells Fargo Bank, National Association ("Wells Fargo"). We believe this credit facility, to the extent available, in addition to our cash flow from operations and other liquid assets, are sufficient to fund our working capital and capital expenditure requirements for the next twelve months.

### ***Foreign Operations***

We have no material revenues from foreign operations.

### ***Other***

On June 30, 2011 we employed 1,820 employees, 616 of whom are subject to collective bargaining agreements. Compliance with government regulations relating to the discharge of materials into the environment has not had a material effect on our financial condition or results of operations. The nature of our business does not provide for maintenance of or reliance upon a sales backlog. None of our business is subject to renegotiation of profits or termination of contracts or subcontracts at the election of the government.

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### **Available Information**

Our Internet website address is <http://www.farmerbros.com> (the website address is not intended to function as a hyperlink, and the information contained in our website is not intended to be part of this filing), where we make available, free of charge, copies of our annual report on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K including amendments thereto as soon as reasonably practicable after filing such material electronically or otherwise furnishing it to the Securities and Exchange Commission ("SEC").

### **Item 1A. Risk Factors**

You should consider each of the following factors as well as the other information in this report, including our financial statements and the related notes, in evaluating our business and our prospects. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also negatively affect our business operations. If any of the following risks actually occurs, our business and financial results could be harmed. In that case, the trading price of our common stock could decline.

#### ***INCREASES IN THE COST OF GREEN COFFEE COULD REDUCE OUR GROSS MARGIN AND PROFIT.***

Our primary raw material is green coffee, an agricultural commodity. Green coffee is mainly grown outside the United States and can be subject to volatile price fluctuations. Weather, real or perceived supply shortages, speculation in the commodity markets, political unrest, labor actions, currency fluctuations, armed conflict in coffee producing nations, and government actions, including treaties and trade controls between the U.S. and coffee producing nations, can affect the price of green coffee. In fiscal 2011, the market for green Arabica coffee increased approximately 80% per pound compared to the prior fiscal year. Additionally, green specialty coffees sell at a premium to other green coffees due to the inability of producers to increase supply in the short run to meet rising demand. As a result, the price spread between specialty coffee and non-specialty coffee is likely to widen as demand for specialty coffee continues to increase.

Green coffee prices can also be affected by the actions of producer organizations. The most prominent of these are the Colombian Coffee Federation, Inc. (CCF) and the International Coffee Organization (ICO). These organizations seek to increase green coffee prices largely by attempting to restrict supplies, thereby limiting the availability of green coffee to coffee consuming nations. As a result these organizations or others may succeed in raising green coffee prices.

There can be no assurance that we will be successful in passing commodity price fluctuations on to our customers without losses in sales volume or gross margin. Similarly, rapid, sharp decreases in the cost of green coffee could also force us to lower sales prices before realizing cost reductions in our green coffee inventory. Additionally, if green coffee beans from a region become unavailable or prohibitively expensive, we could be forced to use alternative coffee beans or discontinue certain blends, which could adversely impact our sales.

Some of the Arabica coffee beans of the quality we purchase do not trade directly on the commodity markets. Rather, we purchase the high-end Arabica coffee beans that we use on a negotiated basis. We depend on our relationships with coffee brokers, exporters and growers for the supply of our primary raw material, high quality Arabica coffee beans. If any of our relationships with coffee brokers, exporters or growers deteriorate, we may be unable to procure a sufficient quantity of high quality coffee beans at prices acceptable to us or at all. In such case, we may not be able to fulfill the demand of our existing customers, supply new customers or expand other channels of distribution. A raw material shortage could result in a deterioration of our relationship with our customers, decreased revenues or could impair our ability to expand our business.

***OUR EFFORTS TO SECURE AN ADEQUATE SUPPLY OF QUALITY COFFEES MAY BE UNSUCCESSFUL AND EXPOSE US TO COMMODITY PRICE RISK.***

Maintaining a steady supply of green coffee is essential to keep inventory levels low and secure sufficient stock to meet customer needs. To help ensure future supplies, we may purchase coffee on forward contracts for delivery up to twelve months in the future. Non-performance by suppliers could expose us to credit and supply risk. Additionally, entering into such future commitments exposes us to purchase price risk. Because we are not always able to pass price changes through to our customers due to competitive pressures, unpredictable price changes can have an immediate effect on operating results that cannot be corrected in the short run. To reduce our potential price risk exposure we have, from time to time, entered into futures contracts to hedge coffee purchase commitments. Open contracts associated with these hedging activities are described in Item 7A. "Quantitative and Qualitative Disclosures About Market Risk."

***WE FACE EXPOSURE TO OTHER COMMODITY COST FLUCTUATIONS, WHICH COULD IMPAIR OUR PROFITABILITY.***

We are exposed to cost fluctuations in other commodities, including, without limitation, milk, spices, natural gas and gasoline. In addition, an increase in the cost of fuel could indirectly lead to higher electricity costs, transportation costs and other commodity costs. Much like green coffee costs, the costs of these commodities depend on various factors beyond our control, including economic and political conditions, foreign currency fluctuations, and global weather patterns. To the extent we are unable to pass along such costs to our customers through price increases, our margins and profitability will decrease.

***IMPAIRMENT CHARGES RELATED TO OUR GOODWILL OR LONG-LIVED ASSETS COULD ADVERSELY AFFECT OUR FUTURE OPERATING RESULTS.***

We perform an analysis on our goodwill balances to test for impairment on an annual basis or whenever events occur that may indicate impairment possibly exists. Goodwill is deemed to be impaired if the net book value of a reporting unit exceeds the estimated fair value. A long-lived intangible asset (other than goodwill) is only deemed to have become impaired if the sum of the forecasted undiscounted future cash flows related to the asset is less than the asset's carrying value. If the sum of the forecasted cash flows is less than the carrying value, then we must write down the carrying value to its estimated fair value.

For the purposes of analysis of our goodwill balances, our estimates of fair value were based on a combination of the income approach, which estimates the fair value of our reporting units based on the future discounted cash flows, and the market approach, which estimates the fair value of our reporting units based on comparable market prices. Our estimates of future cash flows included estimated growth rates and assumptions about the extent and duration of the current economic downturn and operating results of our subsidiary, CBI.

As of June 30, 2011, we had a goodwill balance of \$5.3 million. Goodwill impairment analysis and measurement is a process that requires significant judgment and the use of significant estimates related to valuation such as discount rates, long term growth rates and the level and timing of future cash flows. As a result, several factors could indicate potential impairment of our goodwill balance, including, but not limited to:

- a decline in our stock price and resulting market capitalization, if we determine that the decline is sustained and is indicative of a reduction in the fair value of CBI below its carrying value; and
- further weakening of the economy or the failure of CBI to reach our internal forecasts thereby impacting its ability to achieve our forecasted levels of cash flows and reducing the estimated discounted cash flow value of CBI.

We will continue to review our goodwill and other intangible assets for possible impairment. We cannot be certain that a future downturn in CBI's business, changes in market conditions or a longer-term decline in the quoted market price of our stock will not result in an impairment of goodwill and the recognition of resulting expenses in future periods, which could adversely affect our results of operations for those periods.

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We also test our other long-lived assets for impairment annually and whenever events or changes in circumstances indicate that their carrying amount may be impaired. In the fourth quarter of fiscal 2011, we determined that the customer relationships acquired, and the distribution agreement and co-pack agreement that we entered into, in connection with the DSD Coffee Business acquisition were impaired and wrote these intangible assets off in their entirety. The total impairment charge of \$7.8 million was included in operating expenses in fiscal 2011. Failure to achieve our forecasted operating results, due to further weakness in the economic environment or other factors, and further declines in our market capitalization, among other things could result in further impairment of our long-lived assets.

### ***OUR LEVEL OF INDEBTEDNESS COULD ADVERSELY AFFECT OUR ABILITY TO RAISE ADDITIONAL CAPITAL TO FUND OUR OPERATIONS, AND LIMIT OUR ABILITY TO REACT TO CHANGES IN THE ECONOMY OR OUR INDUSTRY.***

We have an \$85 million revolving credit facility. As of August 31, 2011, we had outstanding borrowings of \$35.3 million, utilized \$9.0 million of the letters of credit sublimit, and had excess availability under the credit facility of \$5.7 million (before giving effect to an increase in the line of credit on September 12, 2011 pursuant to the New Loan Agreement discussed below under the heading “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility”). Maintaining a large loan balance under our credit facility could adversely affect our business and limit our ability to plan for or respond to changes in our business. Additionally, our borrowings under the credit facility are at variable rates of interest, exposing us to the risk of interest rate volatility, which could lead to a decrease in our net income. Our debt obligations could also:

- increase our vulnerability to general adverse economic and industry conditions;
- require us to dedicate a portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow for other purposes, including the payment of dividends, funding daily operations, investing in future business opportunities and capital expenditures;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate thereby placing us at a competitive disadvantage compared to our competitors that may have less debt or debt with less restrictive debt covenants;
- limit, by the financial and other restrictive covenants in our loan agreement, our ability to borrow additional funds; and
- have a material adverse effect on us if we fail to comply with the covenants in our loan agreement because such failure could result in an event of default which, if not cured or waived, could result in our indebtedness becoming immediately due and payable.

### ***RESTRICTIVE COVENANTS IN OUR CREDIT FACILITY MAY RESTRICT OUR ABILITY TO PURSUE OUR BUSINESS STRATEGIES.***

Our revolving credit facility contains various covenants that limit our ability and/or our subsidiaries’ ability to, among other things:

- incur additional indebtedness;
- pay dividends on or make distributions in respect of capital stock or make certain other restricted payments or investments;
- sell assets;
- create liens on certain assets to secure debt; and
- consolidate, merge, sell or otherwise dispose of all or substantially all of our assets.

Our credit facility also contains restrictive covenants that require the Company and its subsidiaries to satisfy financial condition and liquidity tests. Our ability to meet those tests may be affected by events beyond our control, and there can be no assurance that we will meet those tests. The breach of any of these covenants or our failure to meet the financial condition or liquidity tests could result in a default under the credit facility, and the lender could elect to declare all amounts borrowed thereunder, together with accrued interest, to be due and payable and could proceed against the collateral securing that indebtedness.



***OUR BUSINESS IS SUBJECT TO RISKS ASSOCIATED WITH THE CURRENT ECONOMIC CLIMATE.***

Our success depends to a significant extent on a number of factors that affect discretionary consumer spending, including economic conditions, disposable consumer income and consumer confidence, which have deteriorated due to current economic conditions. In a slow economy, businesses and individuals scale back their discretionary spending on travel and entertainment, including “dining out” as well as the purchase of high-end consumables like specialty coffee. Economic conditions may also cause businesses to reduce travel and entertainment expenses, and may even cause office coffee benefits to be eliminated. The current economic downturn and decrease in consumer spending may continue to adversely impact our revenues, and may affect our ability to market our products or otherwise implement our business strategy. Additionally, many of the effects and consequences of the global financial crisis and a broader global economic downturn are currently unknown; any one or all of them could potentially have a material adverse effect on our liquidity and capital resources, including our ability to sell third party securities in which we have invested some of our short-term assets or raise additional capital, if needed, or the ability of our lender to honor draws on our credit facility, or otherwise negatively affect our business, financial condition, operating results and cash flows.

***WE RELY ON INFORMATION TECHNOLOGY AND ARE DEPENDENT ON ENTERPRISE RESOURCE PLANNING SOFTWARE IN OUR OPERATIONS. ANY MATERIAL FAILURE, INADEQUACY, INTERRUPTION OR SECURITY FAILURE OF THAT TECHNOLOGY COULD AFFECT OUR ABILITY TO EFFECTIVELY OPERATE OUR BUSINESS.***

We rely on information technology systems across our operations, including management of our supply chain, point-of-sale processing, and various other processes and transactions. Our ability to effectively manage our business and coordinate the production, distribution and sale of our products depends significantly on the reliability and capacity of these systems. The failure of these systems to operate effectively, problems with transitioning to upgraded or replacement systems, or a breach in security of these systems could result in delays in processing replenishment orders from our branches, our inability to record product sales and reduced operational efficiency. Significant capital investments could be required to remediate any potential problems.

***VOLATILITY IN THE EQUITY MARKETS COULD REDUCE THE VALUE OF OUR INVESTMENT PORTFOLIO.***

We maintain a significant portfolio of fixed-income based investments disclosed as cash equivalents and short-term investments on our consolidated balance sheet. The value of our investments may be adversely affected by interest rate fluctuations, downgrades in credit ratings, illiquidity in the capital markets and other factors which may result in other than temporary declines in the value of our investments. Any of these events could cause us to record impairment charges with respect to our investment portfolio or to realize losses on the sale of investments. We seek to mitigate these risks with the help of our investment advisors by generally investing in high quality securities and continuously monitoring the overall risk of our portfolio. To date, we have not realized any material impairment within our investment portfolio. If the Company’s operating losses continue, a portion or this entire investment portfolio may be liquidated to fund those losses.

***WE ARE LARGELY RELIANT ON MAJOR FACILITIES IN CALIFORNIA, TEXAS AND OREGON FOR PRODUCTION OF OUR PRODUCT LINE.***

A significant interruption in operations at our manufacturing facilities in Torrance, California (our largest facility); Houston, Texas; or Portland, Oregon, whether as a result of an earthquake, hurricane, natural disaster, terrorism or other causes, could significantly impair our ability to operate our business. The majority of our green coffee comes through the Ports of Los Angeles, Long Beach, Houston, San Francisco and Portland. Any interruption to port operations, highway arteries, gas mains or electrical service in these areas could restrict our ability to supply our branches with product and would adversely impact our business.

***WE MAY FAIL TO REALIZE THE EXPECTED SYNERGIES AND OTHER BENEFITS OF THE INTEGRATION OF THE DSD COFFEE BUSINESS, WHICH COULD ADVERSELY AFFECT OUR FUTURE RESULTS.***

In fiscal 2010, we completed the integration of the DSD Coffee Business into our existing business. This was a complex, costly and time-consuming process which presented significant challenges and risks to our business, including:

- distraction of management from ongoing business concerns;
- assimilation and retention of employees and customers of the DSD Coffee Business;
- differences in the culture of the DSD Coffee Business and the Company's culture;
- unforeseen difficulties in integrating the DSD Coffee Business, including information systems and accounting controls;
- failure of the DSD Coffee Business to continue to generate income at the levels upon which we based our acquisition decision;
- managing the DSD Coffee Business operations through offices in Northlake, Illinois, which is distant from the Company's headquarters in Torrance, California;
- expansion into new geographical markets in which we have limited or no experience;
- integration of technologies, services and products; and
- achievement of appropriate internal control over financial reporting.

We may fail to realize the operating efficiencies, synergies, economies of scale, cost savings and other benefits expected from the acquisition. We may fail to grow and build profits in the DSD Coffee Business or achieve sufficient cost savings through the integration of customers or administrative and other operational activities. Furthermore, we must achieve these objectives without adversely affecting our revenues. If we are not able to successfully achieve these objectives, the anticipated benefits of the acquisition may not be realized fully or at all, or it may take longer to realize them than expected, and our results of operations could be adversely affected.

***INCREASED SEVERE WEATHER PATTERNS MAY INCREASE COMMODITY COSTS, DAMAGE OUR FACILITIES, AND IMPACT OR DISRUPT OUR PRODUCTION CAPABILITIES AND SUPPLY CHAIN.***

There is increasing concern that a gradual increase in global average temperatures due to increased concentration of carbon dioxide and other greenhouse gases in the atmosphere have caused and will continue to cause significant changes in weather patterns around the globe and an increase in the frequency and severity of extreme weather events. Major weather phenomena like El Niño and La Niña are dramatically affecting coffee growing countries. The wet and dry seasons are becoming unpredictable in timing and duration causing improper development of the coffee cherries. Decreased agricultural productivity in certain regions as a result of changing weather patterns may affect the quality, limit availability or increase the cost of key agricultural commodities, such as green coffee, sugar and tea, which are important ingredients for our products. Increased frequency or duration of extreme weather conditions could also damage our facilities, impair production capabilities, disrupt our supply chain or impact demand for our products. As a result, the effects of climate change could have a long-term adverse impact on our business and results of operations.

***OUR INDUSTRY IS HIGHLY COMPETITIVE AND WE MAY NOT HAVE THE RESOURCES TO COMPETE EFFECTIVELY.***

We primarily compete with other coffee companies, including multi-national firms with substantially greater financial, marketing and operating resources than the Company. We face competition from many sources

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including the foodservice divisions of multi-national manufacturers of retail products such as The J.M. Smucker Company (Folgers Coffee), Kraft Foods Inc. (Maxwell House Coffee) and Sara Lee Corporation, wholesale grocery distributors such as Sysco Corporation and U.S. Foodservice, regional coffee roasters such as S & D Coffee, Inc. and Boyd Coffee Company, and specialty coffee suppliers such as Green Mountain Coffee Roasters, Inc. and Peet's Coffee & Tea, Inc. If we do not succeed in differentiating ourselves from our competitors or our competitors adopt our strategies, then our competitive position may be weakened. In addition, from time to time, we may need to reduce our prices in response to competitive and customer pressures and to maintain our market share. Competition and customer pressures, however, also may restrict our ability to increase prices in response to commodity and other cost increases. Our results of operations will be adversely affected if our profit margins decrease, as a result of a reduction in prices or an increase in costs, and if we are unable to increase sales volumes to offset those profit margin decreases.

### ***VOLATILITY IN THE EQUITY MARKETS OR INTEREST RATE FLUCTUATIONS COULD SUBSTANTIALLY INCREASE OUR PENSION FUNDING REQUIREMENTS AND NEGATIVELY IMPACT OUR FINANCIAL POSITION.***

At the end of fiscal 2011, the projected benefit obligation of our defined benefit pension plans was \$111.8 million and assets were \$83.7 million. The difference between plan obligations and assets, or the funded status of the plans, significantly affects the net periodic benefit costs of our pension plans and the ongoing funding requirements of those plans. Among other factors, changes in interest rates, mortality rates, early retirement rates, investment returns and the market value of plan assets can affect the level of plan funding, cause volatility in the net periodic pension costs, and increase our future funding requirements. We expect to make approximately \$7.5 million in contributions to our pension plans in fiscal 2012 and record an accrued expense of approximately \$1.2 million per year beginning in fiscal 2012. These payments are expected to continue at this level for several years, and the current economic environment increases the risk that we may be required to make even larger contributions in the future.

### ***OUR SALES AND DISTRIBUTION NETWORK IS COSTLY TO MAINTAIN.***

Our sales and distribution network requires a large investment to maintain and operate. Costs include the fluctuating cost of gasoline, diesel and oil, costs associated with managing, purchasing, leasing, maintaining and insuring a fleet of delivery vehicles, the cost of maintaining distribution centers and branch warehouses throughout the country, and the cost of hiring, training and managing our route sales professionals. Many of these costs are beyond our control, and others are fixed rather than variable. Some competitors use alternate methods of distribution that eliminate many of the costs associated with our method of distribution.

### ***EMPLOYEE STRIKES AND OTHER LABOR-RELATED DISRUPTIONS MAY ADVERSELY AFFECT OUR OPERATIONS.***

We have union contracts relating to a significant portion of our workforce. Although we believe union relations have been amicable in the past, there is no assurance that this will continue in the future. There are potential adverse effects of labor disputes with our own employees or by others who provide transportation (shipping lines, truck drivers) or cargo handling (longshoremen), both domestic and foreign, of our raw materials or other products. These actions could restrict our ability to obtain, process and/or distribute our products.

### ***GOVERNMENT MANDATORY HEALTHCARE REQUIREMENTS COULD ADVERSELY AFFECT OUR PROFITS.***

We offer healthcare benefits to all employees who work at least 40 hours a week and meet service eligibility requirements. In the past, some states, including California, have proposed legislation mandating that employers pay healthcare premiums into a state-run fund for all employees immediately upon hiring or pay a penalty for failing to do so. If legislation similar to this were to be enacted in California, or in the other states in which we do

business, it could have an adverse effect on our results of operations. In addition, comprehensive health care legislation (the Patient Protection and Affordable Care Act and the Health Care and Education Affordability Reconciliation Act of 2010) was passed and signed into law in March 2010. Due to the breadth and complexity of this legislation, the phased-in nature of the implementation, and the lack of implementing regulations, it is difficult to predict the financial and operational impacts this legislation will have on us. Our expenses may significantly increase over the long-term as a result of this legislation.

***POSSIBLE LEGISLATION OR REGULATION INTENDED TO ADDRESS CONCERNS ABOUT CLIMATE CHANGE COULD ADVERSELY AFFECT OUR RESULTS OF OPERATIONS, CASH FLOWS AND FINANCIAL CONDITION.***

Governmental agencies are evaluating changes in laws to address concerns about the possible effects of greenhouse gas emissions on climate. Increased public awareness and concern over climate change may increase the likelihood of more proposals to reduce or mitigate the emission of greenhouse gases. Laws enacted that directly or indirectly affect our suppliers (through an increase in the cost of production or their ability to produce satisfactory products) or our business (through an impact on our inventory availability, cost of goods sold, operations or demand for the products we sell) could adversely affect our business, financial condition, results of operations and cash flows. Compliance with any new or more stringent laws or regulations, or stricter interpretations of existing laws, including increased government regulations to limit carbon dioxide and other greenhouse gas emissions as a result of concern over climate change, could require us to reduce emissions and to incur compliance costs which could affect our profitability or impede the production or distribution of our products, which could affect our results of operations, cash flows and financial condition. In addition, public expectations for reductions in greenhouse gas emissions could result in increased energy, transportation and raw material costs and may require us to make additional investments in facilities and equipment.

***CHANGES IN CONSUMER PREFERENCES COULD ADVERSELY AFFECT OUR BUSINESS.***

Our continued success depends, in part, upon the demand for coffee. We believe that competition from other beverages continues to dilute the demand for coffee. Consumers who choose soft drinks, juices, bottled water, teas and other beverages all reduce spending on coffee. Consumer trends away from coffee could negatively impact our business.

***WE ARE SELF-INSURED. OUR RESERVES MAY NOT BE SUFFICIENT TO COVER FUTURE CLAIMS.***

We are self-insured for many risks up to significant deductible amounts. The premiums associated with our insurance continue to increase. General liability, fire, workers' compensation, directors and officers liability, life, employee medical, dental and vision and automobile risks present a large potential liability. While we accrue for this liability based on historical experience, future claims may exceed claims we have incurred in the past. Should a different number of claims occur compared to what was estimated or the cost of the claims increase beyond what was anticipated, reserves recorded may not be sufficient and the accruals may need to be adjusted accordingly in future periods. In May 2011, we did not meet the minimum credit rating criteria for participation in the alternative security program for California self-insurers. As a result, we were required to post a \$5.9 million letter of credit as a security deposit to the State of California Department of Industrial Relations Self-Insurance Plans. We posted the security deposit in June 2011.

***OUR ROASTING AND BLENDING METHODS ARE NOT PROPRIETARY, SO COMPETITORS MAY BE ABLE TO DUPLICATE THEM, WHICH COULD HARM OUR COMPETITIVE POSITION.***

We consider our roasting and blending methods essential to the flavor and richness of our coffees and, therefore, essential to our brand. Because our roasting methods cannot be patented, we would be unable to prevent competitors from copying these methods if such methods became known. If our competitors copy our

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roasts or blends, the value of our brand may be diminished, and we may lose customers to our competitors. In addition, competitors may be able to develop roasting or blending methods that are more advanced than our production methods, which may also harm our competitive position.

### ***OUR OPERATING RESULTS MAY HAVE SIGNIFICANT FLUCTUATIONS FROM QUARTER TO QUARTER WHICH COULD HAVE A NEGATIVE EFFECT ON OUR STOCK PRICE.***

Our operating results may fluctuate from period to period or within certain periods as a result of a number of factors, including fluctuations in the price and supply of green coffee, fluctuations in the selling prices of our products, the success of our hedging strategy, competition from existing or new competitors in our industry, changes in consumer preferences, and our ability to manage inventory and fulfillment operations and maintain gross margins. During the quarters, we record an estimated impact of the LIFO valuation of our inventory and record the actual impact at year end. Fluctuations in our operating results as a result of these factors or for any other reason could cause our stock price to decline. Accordingly, we believe that period-to-period comparisons of our operating results are not necessarily meaningful, and such comparisons should not be relied upon as indicators of future performance.

### ***OPERATING LOSSES MAY CONTINUE AND, AS A RESULT, COULD LEAD TO INCREASED LEVERAGE WHICH MAY HARM OUR FINANCIAL CONDITION AND RESULTS OF OPERATIONS.***

We have incurred operating losses and net losses for each of the prior three fiscal years. If our current strategies are unsuccessful we may not achieve the levels of sales and earnings we expect. As a result, we could suffer additional losses in future years and our stock price could decline leading to deterioration in our credit rating, which could limit the availability of additional financing and increase the cost of obtaining financing. In addition, an increase in leverage could raise the likelihood of a financial covenant breach which in turn could limit our access to existing funding under our revolving credit facility.

Our ability to satisfy our operating lease obligations and make payments of principal and interest on our indebtedness depends on our future performance. Should we experience deterioration in operating performance, we will have less cash flow available to meet these obligations. In addition, if such deterioration were to lead to the closure of warehouses or distribution centers, we would need to fund the costs of terminating those leases. If we are unable to generate sufficient cash flow from operations in the future to satisfy these financial obligations, we may be required to, among other things:

- seek additional financing in the debt or equity markets;
- refinance or restructure all or a portion of our indebtedness;
- sell selected assets; or
- reduce or delay planned capital or operating expenditures.

Such measures might not be sufficient to enable us to satisfy our financial obligations. In addition, any such financing, refinancing or sale of assets might not be available on economically favorable terms.

### ***FUTURE FUNDING DEMANDS UNDER PENSION PLANS FOR CERTAIN UNION EMPLOYEES ARE UNKNOWN.***

We participate in several multi-employer defined benefit plans for certain union employees. The management, funding status and future viability of these plans is not known at this time. The nature of the contract with these plans allows for future funding demands that are outside our control or ability to estimate.

***WE DEPEND ON THE EXPERTISE OF KEY PERSONNEL. THE UNEXPECTED LOSS OF ONE OR MORE OF THESE KEY EMPLOYEES COULD HAVE A MATERIAL ADVERSE EFFECT ON OUR OPERATIONS AND COMPETITIVE POSITION.***

Our continued success largely depends on the efforts and abilities of our executive officers and other key personnel. There is limited management depth in certain key positions throughout the Company. We must continue to recruit, retain and motivate management and other employees to maintain our current business and support our projected growth. The loss of key employees could adversely affect our operations and competitive position. We do not maintain key person life insurance policies on any of our executive officers.

***CONCENTRATION OF OWNERSHIP AMONG OUR PRINCIPAL STOCKHOLDERS MAY PREVENT NEW INVESTORS FROM INFLUENCING SIGNIFICANT CORPORATE DECISIONS AND MAY RESULT IN A LOWER TRADING PRICE FOR OUR STOCK THAN IF OWNERSHIP OF OUR STOCK WAS LESS CONCENTRATED.***

As of September 9, 2011, members of the Farmer family or entities controlled by the Farmer family (including trusts and a family partnership) as a group beneficially owned approximately 39.1% of our outstanding common stock. As a result, these stockholders, acting together, may be able to influence the outcome of stockholder votes, including votes concerning the election and removal of directors and approval of significant corporate transactions. This level of concentrated ownership may have the effect of delaying or preventing a change in the management or voting control of the Company. In addition, this significant concentration of share ownership may adversely affect the trading price of our common stock if investors perceive disadvantages in owning stock in a company with such concentrated ownership.

***FUTURE SALES OF SHARES BY EXISTING STOCKHOLDERS COULD CAUSE OUR STOCK PRICE TO DECLINE.***

All of our outstanding shares are eligible for sale in the public market, subject in certain cases to limitations under Rule 144 of the Securities Act of 1933, as amended (the "Securities Act"). Also, shares subject to outstanding options and restricted stock under the Farmer Bros. Co. 2007 Omnibus Plan (the "Omnibus Plan") are eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements, our stock ownership guidelines, and Rule 144 under the Securities Act. If these shares are sold, or if it is perceived that they will be sold in the public market, the trading price of our common stock could decline.

***ANTI-TAKEOVER PROVISIONS COULD MAKE IT MORE DIFFICULT FOR A THIRD PARTY TO ACQUIRE US.***

We have adopted a stockholder rights plan (the "Rights Plan") pursuant to which each share of our outstanding common stock is accompanied by one preferred share purchase right (a "Right"). Each Right, when exercisable, will entitle the registered holder to purchase from the Company one one-hundredth of a share of Series A Junior Participating Preferred Stock, \$1.00 par value per share, at a purchase price of \$112.50, subject to adjustment. The Rights expire on March 28, 2015, unless they are earlier redeemed, exchanged or terminated as provided in the Rights Plan. Because the Rights may substantially dilute the stock ownership of a person or group attempting to take us over without the approval of our Board of Directors, our Rights Plan could make it more difficult for a third party to acquire us (or a significant percentage of our outstanding capital stock) without first negotiating with our Board of Directors regarding such acquisition.

In addition, our Board of Directors has the authority to issue up to 500,000 shares of preferred stock (of which 200,000 shares have been designated as Series A Junior Participating Preferred Stock) and to determine the price, rights, preferences, privileges and restrictions, including voting rights, of those shares without any further vote or action by stockholders. The rights of the holders of our common stock may be subject to, and may be adversely affected by, the rights of the holders of any preferred stock that may be issued in the future. The issuance of preferred stock may have the effect of delaying, deterring or preventing a change of control of the Company without further action by stockholders and may adversely affect the voting and other rights of the holders of our common stock.

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Further, certain provisions of our charter documents, including a classified board of directors, provisions eliminating the ability of stockholders to take action by written consent, and provisions limiting the ability of stockholders to raise matters at a meeting of stockholders without giving advance notice, may have the effect of delaying or preventing changes in control or management of the Company, which could have an adverse effect on the market price of our stock. In addition, our charter documents do not permit cumulative voting, which may make it more difficult for a third party to gain control of our Board of Directors. Further, we are subject to the anti-takeover provisions of Section 203 of the Delaware General Corporation Law, which will prohibit us from engaging in a “business combination” with an “interested stockholder” for a period of three years after the date of the transaction in which the person became an interested stockholder, even if such combination is favored by a majority of stockholders, unless the business combination is approved in a prescribed manner. The application of Section 203 also could have the effect of delaying or preventing a change of control or management.

### ***QUALITY CONTROL PROBLEMS MAY ADVERSELY AFFECT OUR BRANDS THEREBY NEGATIVELY IMPACTING OUR SALES.***

Our success depends on our ability to provide customers with high quality products and service. Although we take measures to ensure that we sell only fresh coffee, tea and culinary products, we have no control over our products once they are purchased by our customers. Accordingly, customers may store our products for longer periods of time, potentially affecting product quality. If consumers do not perceive our products and service to be of high quality, then the value of our brands may be diminished and, consequently, our operating results and sales may be adversely affected.

### ***ADVERSE PUBLIC OR MEDICAL OPINIONS ABOUT CAFFEINE AND REPORTS OF INCIDENTS INVOLVING FOOD BORNE ILLNESS AND TAMPERING MAY HARM OUR BUSINESS.***

Coffee contains significant amounts of caffeine and other active compounds, the health effects of some of which are not fully understood. A number of research studies conclude or suggest that excessive consumption of caffeine may lead to increased adverse health effects. An unfavorable report on the health effects of caffeine or other compounds present in coffee could significantly reduce the demand for coffee which could harm our business and reduce our sales.

Similarly, instances or reports, whether true or not, of unclean water supply, food-borne illnesses and food tampering have in the past severely injured the reputations of companies in the food processing sector and could in the future affect us as well. Any report linking us to the use of unclean water, food-borne illnesses or food tampering could damage the value of our brands, negatively impact sales of our products, and potentially lead to product liability claims. Clean water is critical to the preparation of coffee beverages. We have no ability to ensure that our customers use a clean water supply to prepare coffee beverages.

### ***PRODUCT RECALLS AND INJURIES CAUSED BY PRODUCTS COULD REDUCE OUR SALES AND HARM OUR BUSINESS.***

Selling products for human consumption involves inherent legal risks. We could be required to recall products due to product contamination, spoilage or other adulteration, product misbranding or product tampering. We may also suffer losses if our products or operations violate applicable laws or regulations, or if our products cause injury, illness or death. A significant product liability claim against us, whether or not successful, or a widespread product recall may reduce our sales and harm our business.

### ***GOVERNMENT REGULATIONS COULD RESULT IN ADDITIONAL COSTS THEREBY AFFECTING OUR PROFITABILITY.***

New laws and regulations may be introduced that could result in additional compliance costs, seizures, confiscations, recalls or monetary fines, any of which could prevent or inhibit the development, distribution and

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sale of our products. We continually monitor and modify our packaging to be in compliance with applicable laws and regulations. Any change in labeling requirements for our products may lead to an increase in packaging costs or interruptions or delays in packaging deliveries. If we fail to comply with applicable laws and regulations, we may be subject to civil remedies, including fines, injunctions, recalls or seizures, as well as potential criminal sanctions, which could have a material adverse effect on our results of operations.

### ***FAILURE TO MAINTAIN EFFECTIVE INTERNAL CONTROLS IN ACCORDANCE WITH SECTION 404 OF THE SARBANES OXLEY ACT OF 2002 COULD HAVE A MATERIAL ADVERSE EFFECT ON OUR BUSINESS AND STOCK PRICE.***

As directed by Section 404 of the Sarbanes Oxley Act of 2002 (“SOX”), the SEC adopted rules requiring us, as a public company, to include a report of management on our internal controls over financial reporting in our annual report on Form 10-K and quarterly reports on Form 10-Q that contains an assessment by management of the effectiveness of our internal controls over financial reporting. In addition, our independent auditors must attest to and report on management’s assessment of the effectiveness of our internal controls over financial reporting as of the end of the fiscal year. Compliance with SOX Section 404 has been a challenge for many companies. Our ability to continue to comply is uncertain as we expect that our internal controls will continue to evolve as our business activities change. If, during any year, our independent auditors are not satisfied with our internal controls over financial reporting or the level at which these controls are documented, designed, operated, tested or assessed, or if the independent auditors interpret the requirements, rules or regulations differently than we do, then they may decline to attest to management’s assessment or may issue a report that is qualified. In addition, if we fail to maintain the adequacy of our internal controls, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal controls over financial reporting in accordance with SOX Section 404. Failure to maintain an effective internal control environment could have a material adverse effect on our stock price. In addition, there can be no assurance that we will be able to remediate material weaknesses, if any, which may be identified in future periods.

#### **Item 1.B. Unresolved Staff Comments**

None.

#### **Item 2. Properties**

Our largest and most significant facility is our corporate headquarters in Torrance, California. Our Torrance facility is our primary manufacturing facility and the distribution hub for our long-haul trucking fleet and houses our primary administrative offices. Coffee purchasing, roasting and packaging takes place at our Torrance, California; Portland, Oregon; and Houston, Texas plants. Spice blending and packaging takes place at our Torrance, California plant. Our distribution centers include our Torrance, Houston and Portland plants as well as distribution centers in Northlake, Illinois; Oklahoma City, Oklahoma; and Moonachie, New Jersey. In July 2011, we closed our distribution center in Fridley, Minnesota.

We stage our products in 114 branch warehouses throughout the contiguous United States. These warehouses and our six distribution centers, taken together, represent a vital part of our business, but no individual warehouse is material to the business as a whole. Our branch warehouses vary in size from approximately 2,500 to 50,000 square feet. Approximately 55% of our facilities are leased with a variety of expiration dates through 2019. The lease on the CBI facility expires in 2018 and has a 10 year renewal option.

We believe our plants, distribution centers and branch warehouses will continue to provide adequate capacity for the foreseeable future.

A complete list of properties and facilities operated by Farmer Bros. is attached hereto, and incorporated herein by reference, as Exhibit 99.1.



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**Item 3. Legal Proceedings**

We are both defendant and plaintiff in various legal proceedings incidental to our business which are ordinary and routine. It is our opinion that the resolution of these lawsuits will not have a material impact on our financial condition or results of operations.

**Item 4. [Removed and Reserved]**

**PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities*****Market Information***

We have one class of common stock which is traded on the NASDAQ Global Market under the symbol "FARM." The following table sets forth, for the periods indicated, the cash dividends declared and the high and low sales prices of the shares of common stock of the Company as quoted on the NASDAQ Global Market.

	Fiscal year ended June 30, 2011			Fiscal year ended June 30, 2010		
	High	Low	Dividend	High	Low	Dividend
1st Quarter	\$17.46	\$13.94	\$ 0.115	\$24.07	\$18.55	\$ 0.115
2nd Quarter	\$18.93	\$15.55	\$ 0.060	\$21.21	\$16.31	\$ 0.115
3rd Quarter	\$18.13	\$10.28	\$ —	\$20.52	\$16.36	\$ 0.115
4th Quarter	\$13.38	\$ 8.59	\$ —	\$19.49	\$14.81	\$ 0.115

***Holdings***

There were 2,594 holders of record on September 9, 2011. Determination of Holders of record is based upon the number of record holders and individual participants in security position listings.

***Dividends***

Although historically the Company has paid a dividend to stockholders, in light of the Company's current financial position, in the third and fourth quarters of fiscal 2011 and in the first quarter of fiscal 2012, the Company's Board of Directors voted to omit the payment of a quarterly dividend for the fourth quarter of fiscal 2011, and the first and second quarters of fiscal 2012, respectively. The amount, if any, of dividends to be paid in the future will depend upon the Company's then available cash, anticipated cash needs, overall financial condition, loan agreement restrictions, future prospects for earnings and cash flows, as well as other relevant factors. For a description of the loan agreement restrictions on the payment of dividends, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" included in Part II, Item 7 of this Form 10-K, and Note 8 "Bank Loan" to the consolidated financial statements included in Part II, Item 8 of this Form 10-K.

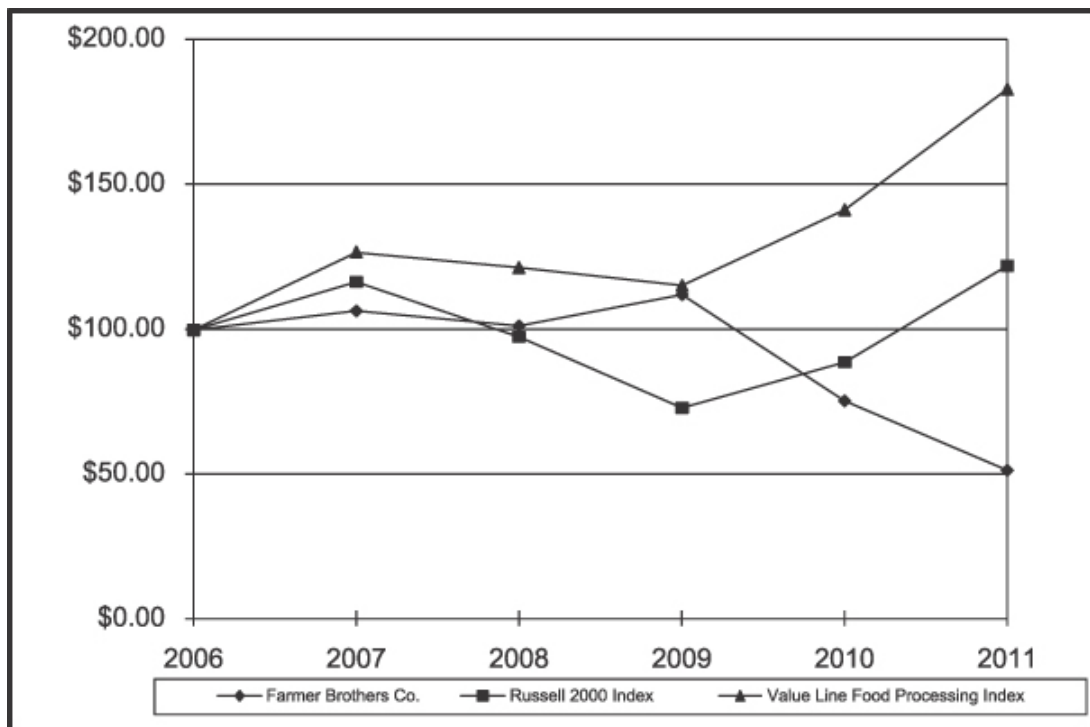
***Equity Compensation Plan Information***

This information appears in Part III, Item 12, hereof.

**Performance Graph**

The chart set forth below shows the value of an investment of \$100 on June 30, 2006 in each of Farmer Bros. Co. common stock, the Russell 2000 Index and the Value Line Food Processing Index. All values assume reinvestment of the pre-tax value of dividends paid by companies included in these indices and are calculated as of June 30 of each year. The historical stock price performance of the Company's common stock shown in the performance graph below is not necessarily indicative of future stock price performance.

**Comparison of Five-Year Cumulative Total Return  
Farmer Bros. Co., Russell 2000 Index And Value Line Food Processing Index  
(Performance Results Through 6/30/11)**



	2006	2007	2008	2009	2010	2011
Farmer Bros. Co.	\$ 100.00	\$ 106.49	\$ 101.47	\$ 112.10	\$ 75.63	\$ 51.81
Russell 2000 Index	\$ 100.00	\$ 116.43	\$ 97.58	\$ 73.18	\$ 88.90	\$ 122.16
Value Line Food Processing Index	\$ 100.00	\$ 126.74	\$ 121.40	\$ 115.36	\$ 141.26	\$ 182.96

**Source: Value Line, Inc.**

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	Fiscal years ended June 30,				
	2011	2010	2009(1)	2008(2)	2007
	(In thousands, except per share data)				
Net sales	\$463,945	\$450,318	\$341,724	\$266,485	\$216,259
Cost of goods sold	\$306,771	\$252,754	\$181,508	\$147,073	\$108,171
Loss from operations	\$ (68,422)	\$ (39,192)	\$ (15,203)	\$ (10,644)	\$ (4,076)
Net (loss) income(3)	\$ (54,317)	\$ (23,953)	\$ (33,270)	\$ (7,924)	\$ 6,815
Net (loss) income per common share	\$ (3.61)	\$ (1.61)	\$ (2.29)	\$ (0.55)	\$ 0.48
Total assets	\$290,053	\$339,121	\$330,017	\$312,984	\$337,609
Capital lease obligations(4)	\$ 8,636	\$ 3,861	\$ 1,252	\$ —	\$ —
Cash dividends declared per common share	\$ 0.18	\$ 0.46	\$ 0.46	\$ 0.46	\$ 0.44

(1) Includes the results of operations of the DSD Coffee Business since its acquisition by the Company effective February 28, 2009.

(2) Includes the results of operations of CBH since its acquisition by the Company effective April 27, 2007.

(3) Includes: (i) \$7.8 million in impairment loss on intangible assets, and \$9.2 million in income tax benefit in fiscal 2011; (ii) \$2.5 million in income tax benefit in fiscal 2010; and (iii) a deferred tax asset valuation allowance of \$19.7 million recorded as income tax expense in fiscal 2009.

(4) Excludes imputed interest.

The Notes to Consolidated Financial Statements and Management's Discussion and Analysis of Financial Condition and Results of Operations included elsewhere in this report should be read in conjunction with the selected financial data in order to understand factors such as business combinations and unusual items which may affect the comparability of the information shown above.

**Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of many factors. The results of operations for the fiscal years ended June 30, 2011, 2010 and 2009 are not necessarily indicative of the results that may be expected for any future period. The following discussion should be read in combination with the consolidated financial statements and the notes thereto included in Item 8 of this report and with the “Risk Factors” described in Item 1A of this report.*

**Overview**

Farmer Bros. Co., a Delaware corporation (including its consolidated subsidiaries unless the context otherwise requires, the “Company,” “we,” “our” or “Farmer Bros.”) is a manufacturer, wholesaler and distributor of coffee, tea and culinary products. We are direct distributors of coffee to restaurants, hotels, casinos, hospitals and other foodservice providers, and are providers of private brand coffee programs to grocery retailers, restaurant chains, convenience stores, and independent coffee houses, nationwide. We were founded in 1912, were incorporated in California in 1923, and reincorporated in Delaware in 2004. We operate in one business segment.

In April 2007, we acquired all of the outstanding shares of CBH for a purchase price of \$23.6 million in cash, including transaction costs of approximately \$1.4 million, net of the amount of all outstanding indebtedness of CBH and its subsidiaries. The results of operations of CBH have been included in our consolidated financial statements since April 27, 2007.

On February 28, 2009, we acquired from Sara Lee Corporation, a Maryland corporation (“Sara Lee”), and Saramar, L.L.C., a Delaware limited liability company (“Saramar” and collectively with Sara Lee, “Seller Parties”) certain assets used in connection with Seller Parties’ direct store delivery coffee business in the United States (the “DSD Coffee Business”). The purchase price of \$45.6 million was paid with approximately \$16.1 million of Company cash and \$29.5 million of proceeds from a bank loan. In addition, we paid approximately \$2.7 million of acquisition related expenses in cash. At closing, we assumed certain liabilities, including obligations under contracts, environmental liabilities with respect to the transferred facilities, pension liabilities, advertising and trade promotion accruals, and accrued vacation as of the closing for hired personnel. As of June 30, 2011, there were no known liabilities related to the DSD Coffee Business acquisition. The results of operations of the DSD Coffee Business have been included in our consolidated financial statements since March 1, 2009.

In connection with the closing, we and Seller Parties entered into certain operational agreements, including trademark and formula license agreements, co-pack agreements, a liquid coffee distribution agreement, a transition services agreement, and a green coffee and tea purchase agreement. One of the co-pack agreements provided that Sara Lee would manufacture branded products for us for a period of three years. This agreement was terminated effective June 30, 2010. Under the other co-pack agreement, we have agreed to perform co-packing services for Sara Lee as Sara Lee’s agent. As a result, we recognize revenue from this arrangement on a net basis, net of direct costs of revenue. The transition services agreement pursuant to which Sara Lee agreed to provide a number of services for us on an interim basis, including hosting, maintaining and supporting IT infrastructure and communications was terminated on August 31, 2010.

**Critical Accounting Policies and Estimates**

Management’s discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. Our significant accounting policies are discussed in Note 1 to our consolidated financial statements, included herein at Item 8. The preparation of these financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate our estimates, including

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those related to inventory valuation, including LIFO reserves, the allowance for doubtful accounts, deferred tax assets, liabilities relating to retirement benefits, liabilities resulting from self-insurance of our workers' compensation liabilities, tax liabilities and litigation. We base our estimates, judgments and assumptions on historical experience and other relevant factors that are believed to be reasonable based on information available to us at the time these estimates are made.

While we believe that the historical experience and other factors considered provide a meaningful basis for the accounting policies applied in the preparation of the consolidated financial statements, actual results may differ from these estimates, which could require us to make adjustments to these estimates in future periods.

We believe that the estimates, judgments and assumptions involved in the accounting policies described below require the most subjective judgment and have the greatest potential impact on our financial statements, so we consider these to be our critical accounting policies. Our senior management has reviewed the development and selection of these critical accounting policies and estimates, and their related disclosure in this report, with the Audit Committee of our Board of Directors.

### *Coffee Brewing Equipment and Service*

Our expenses related to coffee brewing equipment provided to customers include the depreciation cost of the equipment as well as the cost of servicing that equipment (including service employees' salaries, the cost of transportation and the cost of supplies and parts). We capitalize coffee brewing equipment and depreciate it over a three year period; the depreciation expense is reported in cost of goods sold. Since we believe the costs of servicing the equipment are better characterized as direct costs of generating revenues from our customers, we have reported such costs as cost of goods sold in the accompanying financial statements.

### *Investments*

Our investments consist of money market instruments, marketable debt and equity securities, various derivative instruments, primarily exchange traded futures and options, green coffee forward purchase contracts and commodity purchase agreements. All derivative instruments not designated as accounting hedges are marked to market and changes are recognized in current earnings. At June 30, 2011 and 2010, no derivative instruments were designated as accounting hedges. The fair value of derivative instruments is based upon broker quotes. The cost of investments sold is determined on the specific identification method. Dividend and interest income is accrued as earned.

### *Allowance for Doubtful Accounts*

We maintain an allowance for estimated losses resulting from the inability of our customers to meet their obligations. In fiscal 2010, based on a larger customer base due to the recent Company acquisitions and in response to slower collection of our accounts receivable resulting from the impact of the economic downturn on our customers, we increased our allowance for doubtful accounts. In fiscal 2011, we decreased the allowance for doubtful accounts balance by \$0.4 million due to improved collections of outstanding receivables.

### *Inventories*

Inventories are valued at the lower of cost or market. Costs of coffee, tea and culinary products are determined on the last in, first out (LIFO) basis. We account for the costs of coffee brewing equipment manufactured on the first in, first out (FIFO) basis. We regularly evaluate these inventories to determine whether market conditions are correctly reflected in the recorded carrying value.

### *Impairment of Goodwill and Intangible Assets*

We perform our annual goodwill, definite and indefinite-lived intangible assets impairment test as of June 30 of each fiscal year. Goodwill and other indefinite-lived intangible assets are not amortized but instead are reviewed for impairment annually and on an interim basis if events or changes in circumstances between annual

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tests indicate that an asset might be impaired. Testing for impairment of goodwill is a two-step process. The first step requires us to compare the fair value of our reporting units to the carrying value of the net assets of the respective reporting units, including goodwill. If the fair value of the reporting unit is less than the carrying value, goodwill of the reporting unit is potentially impaired and we then complete step two to measure the impairment loss, if any. The second step requires the calculation of the implied fair value of goodwill by deducting the fair value of all tangible and intangible net assets of the reporting unit from the fair value of the reporting unit. If the implied fair value of goodwill is less than the carrying amount of goodwill, an impairment loss is recognized equal to the difference.

In fiscal 2011, during our annual test for impairment of our definite-lived intangible assets, we identified indicators of impairment including a decline in market capitalization and continuing losses from operations. We performed impairment tests to determine the recoverability of the carrying values of the assets or if impairment should be measured. We determined that definite-lived intangible assets consisting of the customer relationships acquired, and the distribution agreement and co-pack agreement entered into, in connection with the DSD Coffee Business acquisition were impaired since the sum of the forecasted cash flows from each of these assets did not exceed their respective carrying values. As a result, in the fourth quarter of fiscal 2011, we wrote off the carrying values of these assets for a total of \$7.8 million.

### *Self-Insurance*

We are self-insured for California workers' compensation insurance subject to specific retention levels and use historical analysis to determine and record the estimates of expected future expenses resulting from workers' compensation claims. The estimated outstanding losses are the accrued cost of unpaid claims valued as of June 30, 2011. The estimated outstanding losses, including allocated loss adjustment expenses ("ALAE"), include case reserves, the development on known claims and incurred but not reported (IBNR) claims. ALAE are the direct expenses for settling specific claims. The amounts reflect per occurrence and annual aggregate limits maintained by the Company. The analysis does not include estimating a provision for unallocated loss adjustment expenses.

Management believes that the amount accrued is adequate to cover all known claims at June 30, 2011. If the actual costs of such claims and related expenses exceed the amount estimated, additional reserves may be required which could have a material negative effect on operating results. If our estimate were off by as much as 15%, the reserve could be under or overstated by approximately \$0.7 million as of June 30, 2011.

In May 2011, we did not meet the minimum credit rating criteria for participation in the alternative security program for California self-insurers. As a result, we were required to post a \$5.9 million letter of credit as a security deposit to the State of California Department of Industrial Relations Self-Insurance Plans. We posted the security deposit in June 2011.

Estimated Company liability resulting from our general liability and automobile liability policies, within our deductible limits, is accounted for by specific identification. Large losses have historically been infrequent, and the lag between incurred but not reported claims has historically been short. Once a potential loss has been identified, the case is monitored by our risk manager to try and determine a likely outcome. Lawsuits arising from injury that are expected to reach our deductible are not reserved until we have consulted with legal counsel, become aware of the likely amount of loss and determined when payment is expected.

The estimated liability related to our self-insured group medical insurance is recorded on an incurred but not reported basis, within deductible limits, based on actual claims and the average lag time between the date insurance claims are filed and the date those claims are paid.

### *Retirement Plans*

We have a defined benefit pension plan for the majority of our employees who are not covered under a collective bargaining agreement, the Farmer Bros. Salaried Employees Pension Plan ("Farmer Bros. Plan"), and

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two defined benefit pension plans for certain hourly employees covered under a collective bargaining agreement, the Brewmatic Plan and the Hourly Employees' Plan. In addition, we contribute to several multi-employer defined benefit pension plans for certain union employees.

As of June 30, 2011, we amended the Farmer Bros. Plan, freezing the benefit for all participants effective June 30, 2011. After the plan freeze, participants do not accrue any benefits under the plan, and new hires are not eligible to participate in the plan. As a result, we recorded a curtailment charge of \$1.5 million in the fourth quarter ended June 30, 2011.

We obtain actuarial valuations for our plans and at present we discount the pension obligations using a 5.60% discount rate and we estimate an 8.25% return on plan assets. The performance of the stock market and other investments as well as the overall health of the economy can have a material effect on pension investment returns and these assumptions. A change in these assumptions could affect our operating results.

At the end of fiscal 2011, the projected benefit obligation of our defined benefit pension plans was \$111.8 million and the fair value of the plan assets was \$83.7 million. The difference between the projected benefit obligation and fair value of plan assets is recognized as a decrease in other comprehensive income ("OCI") and an increase in pension liability and deferred tax assets. The difference between plan obligations and assets, or the funded status of the plans, significantly affects the net periodic benefit costs of our pension plans and the ongoing funding requirements of those plans. Among other factors, changes in interest rates, mortality rates, early retirement rates, investment returns and the market value of plan assets can affect the level of plan funding, cause volatility in the net periodic pension costs, and increase our future funding requirements. We expect to make approximately \$7.5 million in contributions to our pension plans in fiscal 2012 and record an accrued expense of approximately \$1.2 million per year beginning in fiscal 2012. Pension expense beginning in fiscal 2012 is significantly lower than the pension expense in prior years due to the freeze in benefits as of June 30, 2011 under the Farmer Bros. Plan. The pension plan payments are expected to continue at this level for several years, and the current economic environment increases the risk that we may be required to make even larger contributions in the future.

The following chart quantifies the effect on the projected benefit obligation and the net periodic benefit cost of a change in the discount rate assumption and the impact on the net periodic benefit cost of a change in the assumed long term rate of return for fiscal 2012.

	<b>(In thousands)</b>		
<b><u>Farmer Bros. Plan Discount Rate</u></b>	<b><u>5.10%</u></b>	<b><u>Actual 5.60%</u></b>	<b><u>6.10%</u></b>
Net periodic benefit cost	\$ 1,036	\$ 622	\$ 235
Projected benefit obligation	\$114,229	\$ 107,071	\$100,610
<b><u>Long Term Rate of Return</u></b>	<b><u>7.75%</u></b>	<b><u>Actual 8.25%</u></b>	<b><u>8.75%</u></b>
Net periodic benefit cost	\$ 1,032	\$ 622	\$ 212
<b><u>Brewmatic Plan Discount Rate</u></b>	<b><u>5.10%</u></b>	<b><u>Actual 5.60%</u></b>	<b><u>6.10%</u></b>
Net periodic benefit cost	\$ 136	\$ 128	\$ 121
Projected benefit obligation	\$ 3,843	\$ 3,662	\$ 3,497
<b><u>Long Term Rate of Return</u></b>	<b><u>7.75%</u></b>	<b><u>Actual 8.25%</u></b>	<b><u>8.75%</u></b>
Net periodic benefit cost	\$ 142	\$ 128	\$ 114
<b><u>Hourly Employees' Plan Discount Rate</u></b>	<b><u>5.10%</u></b>	<b><u>Actual 5.60%</u></b>	<b><u>6.10%</u></b>
Net periodic benefit cost	\$ 531	\$ 486	\$ 452
Projected benefit obligation	\$ 1,148	\$ 1,055	\$ 973
<b><u>Long Term Rate of Return</u></b>	<b><u>7.75%</u></b>	<b><u>Actual 8.25%</u></b>	<b><u>8.75%</u></b>
Net periodic benefit cost	\$ 490	\$ 486	\$ 483



*Income Taxes*

Deferred income taxes are determined based on the temporary differences between the financial reporting and tax bases of assets and liabilities using enacted tax rates in effect for the year in which differences are expected to reverse. Estimating our tax liabilities involves judgments related to uncertainties in the application of complex tax regulations. We make certain estimates and judgments to determine tax expense for financial statement purposes as we evaluate the effect of tax credits, tax benefits and deductions, some of which result from differences in timing of recognition of revenue or expense for tax and financial statement purposes. Changes to these estimates may result in significant changes to our tax provision in future periods. Each fiscal quarter we reevaluate our tax provision and reconsider our estimates and our assumptions related to specific tax assets and liabilities, making adjustments as circumstances change.

Income tax expense or benefit from continuing operations is generally determined without regard to other categories of earnings, such as discontinued operations and other comprehensive income. An exception is provided in Accounting Standards Codification (“ASC”) 740, “Accounting for Uncertainty in Income Taxes”, when there is aggregate income from categories other than continuing operations and a loss from continuing operations in the current year. In this case, the tax benefit allocated to continuing operations is the amount by which the loss from continuing operations reduces the tax expenses recorded with respect to the other categories of earnings, even when a valuation allowance has been established against the deferred tax assets. In instances where a valuation allowance is established against current year losses, income from other sources, including gain from postretirement benefits recorded as a component of other comprehensive income, is considered when determining whether sufficient future taxable income exists to realize the deferred tax assets. As a result, for the fiscal year ended June 30, 2011, we recorded a tax expense of \$9.8 million in other comprehensive income related to the gain on postretirement benefits, and recorded a corresponding tax benefit of \$9.8 million in continuing operations.

*Deferred Tax Asset Valuation Allowance*

We assess whether a valuation allowance should be recorded against deferred tax assets based on the likelihood that the benefits of the deferred tax assets will or will not ultimately be realized in future periods. In making such assessment, significant weight is to be given to evidence that can be objectively verified such as recent operating results and less consideration is to be given to less objective indicators such as future earnings projections. We have evaluated our deferred tax assets in accordance with these requirements.

In fiscal 2009, we established a valuation allowance against the deferred tax assets in the amount of \$33.3 million. Of this amount \$19.7 million was recorded as a fiscal 2009 tax expense and \$13.6 million was recorded as a reduction in other comprehensive income. A significant negative factor was the Company’s three-year historical cumulative loss as of the end of the fourth quarter of fiscal 2009, compared to the size of deferred tax assets. The deferred tax assets in fiscal 2010 increased to \$53.7 million as compared to \$41.4 million in fiscal 2009. The Company remains in a three-year historical cumulative loss position as of the end of fiscal 2011 and is maintaining its valuation allowance.

The deferred tax assets in fiscal 2011 increased to \$68.8 million as compared to \$53.7 million in fiscal 2010. In fiscal 2011, deferred tax assets increased primarily due to net loss carryovers. This increase was partially offset by a reduction in deferred tax assets due to an increase in pension asset values. In fiscal 2010, deferred tax assets increased primarily due to loss carryovers and decreased pension asset values which in turn created increased pension plan contribution obligations.

*Postretirement Benefits*

We sponsor a postretirement medical and dental plan that covers qualified non-union employees and retirees, and certain qualified union retirees. Under this postretirement plan, our contributions toward premiums

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for retiree medical, dental and vision coverage for participants and dependents are scaled based on length of service, with greater Company contributions for retirees with greater length of service, but subject to a maximum monthly Company contribution.

Our retiree medical plan is unfunded and its liability was calculated using an assumed discount rate of 5.46% at June 30, 2011. We project an initial medical trend rate of 7.5% ultimately reducing to 5.0% in 6 years.

The effect of adopting the current postretirement plan was recorded on the effective date of the plan, January 1, 2008, as an increase in accumulated other comprehensive income of \$16.7 million (net of related tax effects of \$10.6 million), and a reduction to the retiree medical liability of \$27.3 million. The accumulated other comprehensive income amount is expected to be amortized as a reduction in expense over a period of 7 to 12 years. Amortization in fiscal 2011 and 2010 was \$0.7 million and \$4.2 million, respectively.

### *Share-based Compensation*

We measure all share-based compensation cost at the grant date, based on the fair value of the award, and recognize such cost as an expense in our consolidated statement of operations over the requisite service period. The process of estimating the fair value of share-based compensation awards and recognizing share-based compensation cost over the requisite service period involves significant assumptions and judgments. We estimate the fair value of stock option awards on the date of grant using the Black-Scholes option valuation model which requires that we make certain assumptions regarding: (i) the expected volatility in the market price of our common stock; (ii) dividend yield; (iii) risk-free interest rates; and (iv) the period of time employees are expected to hold the award prior to exercise (referred to as the expected holding period). In addition, we estimate the expected impact of forfeited awards and recognize share-based compensation cost only for those awards expected to vest. If actual forfeiture rates differ materially from our estimates, share-based compensation expense could differ significantly from the amounts we have recorded in the current period. We will periodically review actual forfeiture experience and revise our estimates, as necessary. We will recognize as compensation cost the cumulative effect of the change in estimated forfeiture rates on current and prior periods in earnings of the period of revision. As a result, if we revise our assumptions and estimates, our share-based compensation expense could change materially in the future. In fiscal 2011 and 2010, we used an estimated 6.5% annual forfeiture rate to calculate share-based compensation expense based on actual forfeiture experience from the inception of the Omnibus Plan.

### **Liquidity and Capital Resources**

#### *Credit Facility*

On September 12, 2011, we entered into an Amended and Restated Loan and Security Agreement (the "New Loan Agreement") among the Company and CBI, as Borrowers, certain of the Company's other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent. The following description of the New Loan Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to the New Loan Agreement which is included as Exhibit 10.12 to this Form 10-K and incorporated herein by reference. Capitalized terms used below are defined in the New Loan Agreement.

The New Loan Agreement provides for a senior secured revolving credit facility of up to \$85 million, with a letter of credit sublimit of \$20 million. The new revolving line of credit provides for advances of 85% of eligible accounts receivable and 75% of eligible inventory, as defined. The New Loan Agreement provides for a range of interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%. The New Loan Agreement has an amendment fee of 0.375% and an unused line fee of 0.25%. Outstanding obligations under the New Loan Agreement are collateralized by all of the Borrowers' assets, including the Company's preferred stock portfolio. The term of the New Loan Agreement expires on March 2, 2015.

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The New Loan Agreement contains a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including those relating to reporting requirements, maintenance of records, properties and corporate existence, compliance with laws, incurrence of other indebtedness and liens, limitations on certain payments, including the payment of dividends and capital expenditures, and transactions and extraordinary corporate events. The New Loan Agreement allows us to pay dividends, subject to certain liquidity requirements. The New Loan Agreement also contains financial covenants requiring the Borrowers to maintain minimum Excess Availability and Total Liquidity levels. The New Loan Agreement allows the Lender to establish reserve requirements, which may reduce the amount of credit otherwise available to us, to reflect events, conditions, or risks that would have a reasonable likelihood of adversely affecting the Lender's collateral or our assets, including our green coffee inventory.

The New Loan Agreement provides that an event of default includes, among other things, subject to certain grace periods: (i) payment defaults; (ii) failure by any guarantor to perform any guarantee in favor of Lender; (iii) failure to abide by loan covenants; (iv) default with respect to other material indebtedness; (v) final judgment in a material amount not discharged or stayed; (vi) any change of control; (vii) bankruptcy or insolvency; and (viii) the failure of the Farmer Bros. Co. Employee Stock Ownership Benefit Trust, created by the Company to implement the ESOP, to be duly qualified under Section 401(a) of the Code or exempt from federal income taxation, or if the ESOP engages in a material non-exempt prohibited transaction.

The New Loan Agreement replaces our existing Loan and Security Agreement, dated March 2, 2009, as amended (the "Original Loan Agreement"), among the Borrowers, Guarantors and Wells Fargo, as Lender. The Original Loan Agreement provided for a senior secured revolving credit facility of up to \$50 million, with a letter of credit sublimit of \$10 million. The original revolving line of credit provided for advances of 85% of eligible accounts receivable and 65% of eligible inventory, as defined. The Original Loan Agreement had an unused commitment fee of 0.375%. The Original Loan Agreement provided for a range of interest rates based on modified Monthly Average Excess Availability levels (as defined) with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.5% to Adjusted Eurodollar Rate + 3.0%. All outstanding obligations under the Original Loan Agreement were collateralized by the Company's assets, excluding the preferred stock held in investment accounts.

The interest rate on our outstanding borrowings under the Original Loan Agreement was 4.0% at June 30, 2011. As of June 30, 2011, we had outstanding borrowings of \$31.4 million, utilized \$3.1 million of the letters of credit sublimit, and had excess availability under the credit facility of \$15.5 million. Due to the short-term nature of the credit facility and the variable interest rate, fair value of the balance outstanding approximates carrying value. As of June 30, 2011, we were in compliance with all restrictive covenants under the Original Loan Agreement. On September 12, 2011, the Lender and the Company amended the Original Loan Agreement to reduce required minimum excess availability and required minimum total liquidity for the period from July 1, 2011 through September 30, 2011. The foregoing description of Amendment No. 5 to the Original Loan Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to Amendment No. 5 to Loan and Security Agreement which is included as Exhibit 10.11 to this Form 10-K and incorporated herein by reference. There can be no assurance that the Lender will issue a waiver or grant an amendment to the covenants in future periods, if the Company required one. As of August 31, 2011, we had outstanding borrowings of \$35.3 million, utilized \$9.0 million of the letters of credit sublimit, and had excess availability under the credit facility of \$5.7 million (before giving effect to an increase in the line of credit on September 12, 2011 pursuant to the New Loan Agreement).

### *Liquidity*

We generally finance our operations through cash flow from operations and borrowings under our revolving credit facility described above. As of June 30, 2011, we had \$6.1 million in cash and cash equivalents and \$24.9 million in short-term investments. We believe our revolving credit facility, to the extent available, in addition to our cash flows from operations and other liquid assets are sufficient to fund our working capital and capital expenditure requirements for the next 12 months.

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We generate cash from operating activities primarily from cash collections related to the sale of our products. Net cash provided by operating activities was \$33.9 million in fiscal 2011, compared with net cash used in operating activities of \$(1.0) million in fiscal 2010, and net cash provided by operating activities of \$87.2 million in fiscal 2009. The increase in net cash provided by operating activities in fiscal 2011 compared to fiscal 2010 was primarily a result of proceeds from the sale of a portion of our investments and an increase in accounts payable.

Net cash used in investing activities decreased to \$17.4 million in fiscal 2011 compared to \$28.0 million in fiscal 2010 and \$86.6 million in fiscal 2009 due to reduced levels of capital expenditures. Net cash used in investing activities in fiscal 2009 included \$48.3 million in cash used to acquire the DSD Coffee Business.

Net cash used in financing activities was \$14.6 million in fiscal 2011 compared to net cash provided by financing activities of \$13.2 in fiscal 2010 and net cash provided by financing activities of \$9.4 million in fiscal 2009. Net cash used in financing activities in fiscal 2011 included net borrowings (repayments) of \$(8.5) million on our revolving line of credit compared to \$21.0 million and \$16.2 million, respectively, in fiscal 2010 and 2009.

In fiscal 2011, we capitalized \$17.4 million in property and equipment purchases which included \$12.7 million in expenditures to replace normal wear and tear of coffee brewing equipment, \$3.7 million in building and facility improvements, including installation of the two roasters and other production equipment at our Torrance facility, \$2.4 million in expenditures for vehicles, and machinery and equipment, and \$0.6 million in information technology related expenditures. In addition, during fiscal 2011, we acquired equipment and trucks under capital leases totaling \$5.7 million.

Our expected capital expenditures for fiscal 2012 include expenditures to replace normal wear and tear of coffee brewing equipment, vehicles, and machinery and equipment and are expected to not significantly deviate from fiscal 2011 levels.

Our working capital is comprised of the following:

	June 30,	
	2011	2010
	(In thousands)	
Current assets	\$ 157,410	\$ 189,956
Current liabilities	103,462	98,546
Working capital	<u>\$ 53,948</u>	<u>\$ 91,410</u>

Liquidity Information:

	June 30,		
	2011	2010	2009
	(In thousands)		
Capital expenditures	\$ 19,416	\$ 28,484	\$ 38,901
Purchase of business	\$ —	\$ —	\$ 48,287
Dividends paid	\$ 4,657	\$ 6,939	\$ 6,631
Dividend payable	\$ —	\$ 1,849	\$ 1,849

## **Results of Operations**

*Fiscal Years Ended June 30, 2011 and 2010*

### **Overview**

Fiscal 2011 was a period of rapid commodity inflation, which impacted our cost of green coffee, sugar and cocoa and freight expense. Since we value our inventory on a last-in-first-out (“LIFO”) method of valuation rather than on a first-in-first out (“FIFO”) basis, the escalating coffee prices had a significant negative impact on our cost of goods sold and the resulting gross profit. To address the increase in freight and fuel expense, we instituted a fuel surcharge in fiscal 2011 and, to minimize gross margin erosion, we increased pricing to our customers several times in fiscal 2011 although the price increases, at times, lagged the relatively rapid and steep cost increases we incurred. In an environment of record-high costs, rising unemployment and a severe economic downturn, we were unable to fully pass along our costs to our customers.

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To address downward margin pressures, we continued to focus on streamlining our operations in fiscal 2011. Specifically, we focused on expense reductions, asset redeployment and automation intended to improve our operating results. We implemented a number of initiatives intended to reduce the cost of our operations, including headcount reduction, inventory reduction, implementation of improved collection practices of past due accounts, cost-sharing measures to address increases in employee healthcare costs, automation of certain functions, centralization of certain IT functions, and in-sourcing of certain business support functions. We have and expect to continue to improve our real-estate asset management by divesting underutilized properties and renegotiating our lease terms in response to more favorable market conditions in certain markets.

In fiscal 2011, we significantly modified our retirement-benefit program. Specifically, we amended our defined-benefit pension plan, the Farmer Bros. Salaried Employees Pension Plan, freezing the benefit for all participants effective June 30, 2011. After the plan freeze, participants do not accrue any benefits under the plan, and new hires are not eligible to participate in the plan. However, account balances continue to be credited with interest until paid out. The freeze of the defined benefit pension plan coincided with an enhanced defined contribution 401(k) plan with a discretionary Company match of the employees' annual contributions. In fiscal 2011, the Company accrued \$0.1 million towards this Company match. The pension freeze is anticipated to save over \$8 million annually in future pension expense accrual, which is expected to be offset by any discretionary Company match under the 401(k) plan.

In fiscal 2011, we also sold a portion of our investments in preferred stock in order to pay down a portion of the outstanding balance on our revolving credit facility.

### **Operations**

Net sales in fiscal 2011 increased \$13.6 million, or 3%, to \$463.9 million from \$450.3 million in fiscal 2010, primarily due to price increases we implemented in the second half of fiscal 2011. Sales dollars as well as sales volume increased in fiscal 2011 compared to fiscal 2010. The increases were primarily due to the increases in list prices of our coffee, cappuccino, cocoa and selected spice products, offset in part by the effect of a decrease in the number of customers who purchased our products as compared to the prior fiscal year.

Cost of goods sold in fiscal 2011 increased \$54.0 million, or 21%, to \$306.8 million, or 66% of sales, from \$252.8 million, or 56% of sales, in fiscal 2010 primarily due to the increase in the cost of green coffee beans. Green coffee costs increased 80% in fiscal 2011 compared to the prior fiscal year. Cost of goods sold in fiscal 2011 also included \$40.3 million in LIFO charge compared to \$1.0 million in LIFO charge in the prior fiscal year. Additionally, the cost of coffee brewing equipment and related service also contributed to the increase in cost of goods sold. Cost of coffee brewing equipment and related service in fiscal 2011 was \$27.1 million compared to \$21.5 million in fiscal 2010.

Gross profit in fiscal 2011 decreased \$40.4 million, or 20%, to \$157.2 million from \$197.6 million in fiscal 2010. Gross margin decreased to 34% in fiscal 2011 from 44% in the prior fiscal year. This decrease in gross margin is primarily due to (1) increased raw material costs including an 80% increase in the cost of green coffee beans in fiscal 2011 compared to the prior fiscal year partially offset by price increases for finished goods during the period, (2) increased coffee brewing equipment and service costs, and (3) changes in the mix of our customers and the products we sell to them.

In fiscal 2011, operating expenses decreased \$11.2 million, or 4.7%, to \$225.6 million, or 49% of sales, from \$236.8 million, or 53% of sales, in fiscal 2010. The reduction in operating expenses in fiscal 2011, as compared to the prior fiscal year, is primarily due to lower payroll and related expenses resulting from a reduction in the number of employees offset in part by higher freight and fuel costs, and severance costs associated with the reduction in headcount of approximately 200 employees in the amount of \$3.1 million.

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Operating expenses in fiscal 2011 also include \$7.8 million in write-off of intangible assets due to impairment, \$1.5 million in pension curtailment charge, and \$0.7 million in severance costs recorded pursuant to the Separation Agreement between the Company and Roger M. Lavery III, the Company's former President and Chief Executive Officer.

Loss from operations in fiscal 2011 was \$(68.4) million compared to \$(39.2) million in fiscal 2010, primarily due to decline in gross profit.

### ***Total other income (expense)***

Total other income in fiscal 2011 was \$4.9 million compared to \$12.7 million in fiscal 2010. The decrease in total other income was primarily due to lower net realized and unrealized gains on a smaller investment portfolio and higher interest expense related to borrowings under our revolving credit line in fiscal 2011 as compared to fiscal 2010.

### ***Income taxes***

In fiscal 2011, we recorded an income tax benefit of \$9.2 million compared to \$2.5 million in fiscal 2010. Income tax expense or benefit from continuing operations is generally determined without regard to other categories of earnings, such as discontinued operations and other comprehensive income. An exception is provided in ASC 740 when there is aggregate income from categories other than continuing operations and a loss from continuing operations in the current year. In this case, the tax benefit allocated to continuing operations is the amount by which the loss from continuing operations reduces the tax expenses recorded with respect to the other categories of earnings, even when a valuation allowance has been established against the deferred tax assets. In instances where a valuation allowance is established against current year losses, income from other sources, including gain from postretirement benefits recorded as a component of other comprehensive income, is considered when determining whether sufficient future taxable income exists to realize the deferred tax assets. As a result, for the year ended June 30, 2011, we recorded a tax expense of \$9.8 million in other comprehensive income related to the gain on postretirement benefits, and recorded a corresponding tax benefit of \$9.8 million in continuing operations. Income tax benefit for fiscal 2010 was primarily attributable to federal legislation allowing a five year net operating loss carryback period for net operating losses incurred in tax years that ended in 2008 and 2009. This legislation allowed us to claim additional income tax receivable and record a corresponding decrease in our deferred tax assets relating to our net operating loss carryovers, thereby reducing the valuation allowance recorded as of June 30, 2009 and resulting in income tax benefit for fiscal 2010.

### ***Net Loss***

As a result of the above operating factors, net loss increased to \$(54.3) million, or \$(3.61) per common share, in fiscal 2011 compared to a net loss of \$(24.0) million, or \$(1.61) per common share, in fiscal 2010.

### *Fiscal Years Ended June 30, 2010 and 2009*

#### ***Overview***

Fiscal 2010 was a year in which we primarily focused on integrating the DSD Coffee Business into our existing operations. We streamlined our routes and distribution logistics and consolidated our warehouses and distribution centers from 179 to 115 locations. Our net sales grew \$108.6 million, or 32%, to \$450.3 million in fiscal 2010 from \$341.7 million in fiscal 2009 primarily due to the acquisition of the DSD Coffee Business. Net sales from CBI also increased approximately 8% from the prior fiscal year. Although our net sales increased and our geographic reach widened in fiscal 2010, the weakness in the economy and reduced consumer spending negatively impacted our net sales.

### **Operations**

Net sales in fiscal 2010 increased \$108.6 million, or 32%, to \$450.3 million from \$341.7 million in fiscal 2009, primarily due to the addition of DSD Coffee Business net sales beginning on March 1, 2009. Cost of goods sold in fiscal 2010 increased \$71.2 million, or 39%, to \$252.8 million, or 56% of sales, from \$181.5 million, or 53% of sales, in fiscal 2009 primarily due to the addition of the DSD Coffee Business beginning on March 1, 2009. Additionally, the cost of coffee brewing equipment and related service included in cost of goods sold also contributed to the increase in cost of goods sold. Cost of coffee brewing equipment and related service for the fiscal year ended June 30, 2010 was \$21.5 million compared to \$13.1 million for the fiscal year ended June 30, 2009.

Gross profit in fiscal 2010 increased \$37.3 million, or 23%, to \$197.6 million from \$160.2 million in fiscal 2009. However, gross margin decreased to 44% in fiscal 2010 from 47% in the prior fiscal year. As with net sales, the increase in gross profit is directly attributable to the acquisition of the DSD Coffee Business. The decrease in gross margin is primarily due to the increase in coffee brewing equipment and related service cost in cost of goods sold in the amount of \$21.5 million in fiscal 2010 from \$13.1 million in the prior fiscal year, and the addition of a new class of DSD Coffee Business customers who require a different mix of products.

Operating expenses in fiscal 2010 increased \$61.3 million, or 35%, to \$236.8 million, or 53% of sales, from \$175.4 million, or 51% of sales, in fiscal 2009. Operating expenses in fiscal 2010 consisted of a full year of expenses related to the DSD Coffee Business compared to fiscal 2009 which included only four months of expenses related to the DSD Coffee Business. Additionally, operating expenses included \$10.1 million related to the integration of the DSD Coffee Business including expenses related to SKU optimization and streamlining of facilities and routes, \$8.5 million in higher depreciation and amortization expense, \$8.4 million in higher pension expense and \$3.2 million in higher bad debt expense compared to the prior year.

For the reasons noted above, loss from operations in fiscal 2010 increased to \$(39.2) million from \$(15.2) million in fiscal 2009.

### **Total other income (expense)**

Total other income in fiscal 2010 was \$12.7 million compared to total other expense of \$(3.8) million in fiscal 2009. This was primarily due to improved results from our preferred stock portfolio which recorded net realized and unrealized gains in fiscal 2010 compared to net realized and unrealized losses in fiscal 2009, partially offset by \$0.7 million in higher interest expense related to borrowings under our revolving credit line.

### **Net Loss**

As a result of the above operating factors, net loss decreased to \$(24.0) million, or \$(1.61) per common share, in fiscal 2010 compared to a net loss of \$(33.3) million, or \$(2.29) per common share, in fiscal 2009, which included the recognition of a valuation allowance for deferred tax assets of \$(19.7) million, or \$(1.35) per common share in fiscal 2009.

### **Non-GAAP Financial Measures**

In addition to net income (loss) determined in accordance with United States Generally Accepted Accounting Principles (GAAP), we use certain non-GAAP financial measures, such as "Net income (loss) excluding LIFO," "EBITDAE" and "Adjusted EBITDAE," in assessing our operating performance. We believe the non-GAAP measures serve as appropriate measures to be used in evaluating the performance of our business.

We define net income (loss) excluding LIFO as net income (loss) excluding the impact of LIFO charge or credit. We define EBITDAE as net income (loss) excluding the impact of income taxes, interest expense, depreciation

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and amortization, ESOP expense, stock-based compensation expense, non-cash impairment losses, and gains and losses from investment portfolio. We reference this particular non-GAAP financial measure frequently in our decision-making because it provides supplemental information that facilitates internal comparisons to the historical operating performance of prior periods. In addition, incentive compensation is based on EBITDAE and we base certain of our forward-looking estimates on EBITDAE to facilitate quantification of planned business activities and enhance subsequent follow-up with comparisons of actual to planned EBITDAE. We define Adjusted EBITDAE as EBITDAE excluding the impact of LIFO charges or credits. We believe the use of the LIFO method of inventory valuation for coffee, tea and culinary products results in a better matching of costs and revenues. Net income (loss) excluding LIFO, EBITDAE and Adjusted EBITDAE as defined by us may not be comparable to similarly titled measures reported by other companies. We do not intend for non-GAAP financial measures to be considered in isolation or as a substitute for other measures prepared in accordance with GAAP.

Set forth below is a reconciliation of reported net loss and reported basic and diluted loss per share to net loss excluding LIFO impact and basic and diluted loss per common share excluding LIFO impact, respectively:

	Year Ended June 30,		
	2011	2010	2009
	(In thousands)		
Net loss, as reported	\$ (54,317)	\$ (23,953)	\$ (33,270)
LIFO charge (credit)	\$ 40,317	\$ 1,033	\$ (13)
Net loss, excluding LIFO	\$ (14,000)	\$ (22,920)	\$ (33,283)
Weighted average common shares outstanding, basic and diluted	15,066,663	14,866,306	14,508,320
Net loss per common share, as reported	\$ (3.61)	\$ (1.61)	\$ (2.29)
Net loss per common share excluding LIFO, basic and diluted	\$ (0.93)	\$ (1.54)	\$ (2.29)

Set forth below is a reconciliation of reported net loss to EBITDAE and Adjusted EBITDAE:

	Year Ended June 30,		
	2011	2010	2009
	(In thousands)		
Net loss, as reported	\$ (54,317)	\$ (23,953)	\$ (33,270)
Income tax (benefit) expense	(9,167)	(2,529)	14,283
Interest expense	1,965	986	335
Depreciation and amortization expense	31,758	26,778	18,292
ESOP and stock-based compensation expense	3,825	4,784	5,452
Intangible assets impairment losses	7,805	—	—
Investment portfolio (gains) losses	(4,191)	(10,169)	8,248
EBITDAE	\$ (22,322)	\$ (4,103)	\$ 13,340
LIFO charge (credit) net of taxes of zero*	40,317	1,033	(13)
Adjusted EBITDAE	\$ 17,995	\$ (3,070)	\$ 13,327

\* LIFO charge (credit) had no impact on income tax (benefit) expense since we have recorded a 100% valuation allowance against deferred tax assets.



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**Contractual Obligations**

The following table contains supplemental information regarding total contractual obligations as of June 30, 2011, including capital leases:

	Payment due by period (in thousands)				
	Total	Less Than One Year	1-3 Years	3-5 Years	More Than 5 Years
<b>Contractual obligations:</b>					
Operating lease obligations	\$ 20,727	\$ 5,228	\$ 7,571	\$ 4,698	\$ 3,230
Capital lease obligations(a)	10,519	2,210	4,213	3,758	338
Pension plan obligations	73,328	5,678	12,071	13,299	42,280
Postretirement benefits other than pensions	16,944	1,148	2,522	3,092	10,182
Revolving credit facility(b)	31,362	31,362	—	—	—
	<u>\$152,880</u>	<u>\$ 45,626</u>	<u>\$26,377</u>	<u>\$24,847</u>	<u>\$ 56,030</u>

(a) Includes imputed interest of \$1,883.

(b) Revolving credit facility expires March 2, 2015.

**Off-Balance Sheet Arrangements**

We have no off-balance sheet arrangements.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk**

**Interest Rate Risk**

We are exposed to market value risk arising from changes in interest rates on our securities portfolio. Our portfolio of preferred securities has sometimes included investments in derivatives that provide a natural economic hedge of interest rate risk. We review the interest rate sensitivity of these securities and (a) may enter into “short positions” in futures contracts on U.S. Treasury securities or (b) may hold put options on such futures contracts in order to reduce the impact of certain interest rate changes on such preferred stocks. Specifically, we attempt to manage the risk arising from changes in the general level of interest rates. We do not transact in futures contracts or put options for speculative purposes. The number and type of futures and options contracts entered into depends on, among other items, the specific maturity and issuer redemption provisions for each preferred stock held, the slope of the Treasury yield curve, the expected volatility of U.S. Treasury yields, and the costs of using futures and/or options.

The following table demonstrates the impact of varying interest rate changes based on the preferred stock holdings, futures and options positions, and market yield and price relationships at June 30, 2011. This table is predicated on an instantaneous change in the general level of interest rates and assumes predictable relationships between the prices of preferred securities holdings, the yields on U.S. Treasury securities, and related futures and options. At June 30, 2011, we had no futures contracts or put options designated as interest rate risk hedges.

Interest Rate Changes	Market Value of Preferred Securities at June 30, 2011	Change in Market Value
	(In thousands)	
-150 basis points	\$ 25,043	\$ 636
-100 basis points	\$ 24,944	\$ 537
Unchanged	\$ 24,407	\$ —
+100 basis points	\$ 23,235	\$ (1,172)
+150 basis points	\$ 22,522	\$ (1,885)

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Our revolving line of credit with Wells Fargo is at a variable rate. The interest rate varies based upon line usage, borrowing base availability and market conditions. As of June 30, 2011, we had outstanding borrowings of \$31.4 million, utilized \$3.1 million of our letters of credit sublimit, and had excess availability of \$15.5 million under the credit facility. The interest rate on the outstanding borrowings at June 30, 2011 was 4.0%. The New Loan Agreement entered on September 12, 2011, provides for a senior secured revolving credit facility of up to \$85 million, with a letter of credit sublimit of \$20 million. The New Loan Agreement provides for a range of interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%. The term of the New Loan Agreement expires on March 2, 2015.

The following table demonstrates the impact of interest rate changes on our interest expense on the revolving credit facility for a full year based on the outstanding balance and interest rate as of June 30, 2011:

<u>Interest Rate Changes</u>	<u>Interest Rate</u>	<u>Annual Interest Expense</u> (In thousands)
-150 basis points	2.25%	\$ 776
-100 basis points	2.75%	\$ 949
Unchanged	3.75%	\$ 1,294
+100 basis points	4.75%	\$ 1,639
+150 basis points	5.25%	\$ 1,812

### **Commodity Price Risk**

We are exposed to commodity price risk arising from changes in the market price of green coffee. We price green coffee inventory on the last-in, first-out (LIFO) basis. In the normal course of business we hold a large green coffee inventory and enter into forward commodity purchase agreements with suppliers. We are subject to price risk resulting from the volatility of green coffee prices. Due to competition and market conditions, volatile price increases cannot always be passed on to our customers.

At times we also enter into specialized hedging transactions to purchase future coffee contracts to enable us to lock in green coffee prices within a pre-established range. For the year ended June 30, 2011 we recorded \$1.6 million in net unrealized losses related to hedging transactions. From time to time we may hold a mix of futures contracts and options to help hedge against volatility in green coffee prices. Gains and losses on these derivative instruments are realized immediately in "Other income (expense)."

The following table demonstrates the impact of changes in market value of coffee cost on market value of coffee forward purchase contracts:

<u>Coffee Cost (Decrease) Increase</u>	<u>Market Value (in thousands)</u>			<u>(Decrease) Increase in Market Value</u>	
	<u>Coffee Inventory</u>	<u>Futures &amp; Options</u>	<u>Total</u>	<u>Derivatives</u>	<u>Inventory</u>
- 10%	\$36,000	\$ (17)	\$35,983	\$ (17)	\$ (3,684)
unchanged	\$39,684	\$ 1316	\$41,000	\$ —	\$ —
10%	\$44,000	\$ 17	\$44,017	\$ 17	\$ 4,316

**Item 8. Financial Statements and Supplementary Data**

**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders of  
Farmer Bros. Co. and Subsidiaries

We have audited the accompanying consolidated balance sheets of Farmer Bros. Co. and Subsidiaries as of June 30, 2011 and 2010, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended June 30, 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Farmer Bros. Co. and Subsidiaries at June 30, 2011 and 2010, and the consolidated results of their operations and their cash flows for each of the three years in the period ended June 30, 2011, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Farmer Bros. Co. and Subsidiaries' internal control over financial reporting as of June 30, 2011, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated September 12, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Los Angeles, California  
September 12, 2011

**FARMER BROS. CO.**  
**CONSOLIDATED BALANCE SHEETS**  
**(Dollars in thousands, except share and per share data)**

	June 30, 2011	June 30, 2010
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 6,081	\$ 4,149
Short-term investments	24,874	50,942
Accounts and notes receivable, net of allowance for doubtful accounts of \$2,852 and \$3,293, respectively	43,501	42,596
Inventories	79,759	83,712
Income tax receivable	448	5,840
Deferred income taxes	—	4
Prepaid expenses	2,747	2,713
Total current assets	<u>157,410</u>	<u>189,956</u>
Property, plant and equipment, net	114,107	121,710
Goodwill and other intangible assets, net	14,639	23,904
Other assets	2,892	2,492
Deferred income taxes	1,005	1,059
Total assets	<u>\$290,053</u>	<u>\$339,121</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 42,473	\$ 34,053
Accrued payroll expenses	15,675	14,661
Short-term borrowings under revolving credit facility	31,362	37,163
Short-term obligations under capital leases	1,570	724
Deferred income taxes	500	264
Other current liabilities	11,882	11,681
Total current liabilities	<u>103,462</u>	<u>98,546</u>
Accrued postretirement benefits	23,585	22,185
Other long term liabilities—capital leases	7,066	3,137
Accrued pension liabilities	22,371	43,497
Accrued workers' compensation liabilities	3,639	4,388
Deferred income taxes	1,815	1,773
Total liabilities	<u>\$161,938</u>	<u>\$173,526</u>
Commitments and contingencies (Note 14)		
Stockholders' equity:		
Preferred stock, \$1.00 par value, 500,000 shares authorized and none issued	\$ —	\$ —
Common stock, \$1.00 par value, 25,000,000 shares authorized; 16,186,372 and 16,164,179 issued and outstanding at June 30, 2011 and 2010, respectively	16,186	16,164
Additional paid-in capital	36,470	37,468
Retained earnings	129,784	186,900
Unearned ESOP shares	(30,437)	(35,238)
Less accumulated other comprehensive loss	(23,888)	(39,699)
Total stockholders' equity	<u>\$128,115</u>	<u>\$165,595</u>
Total liabilities and stockholders' equity	<u>\$290,053</u>	<u>\$339,121</u>

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

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
**(Dollars in thousands, except share and per share data)**

	Years ended June 30,		
	2011	2010	2009
Net sales	\$ 463,945	\$ 450,318	\$ 341,724
Cost of goods sold	306,771	252,754	181,508
Gross profit	157,174	197,564	160,216
Selling expenses	170,670	187,685	138,876
Intangible assets impairment losses	7,805	—	—
General and administrative expenses	47,121	49,071	36,543
Operating expenses	225,596	236,756	175,419
Loss from operations	(68,422)	(39,192)	(15,203)
Other income (expense):			
Dividend income	2,534	3,224	3,563
Interest income	178	303	1,236
Interest expense	(1,965)	(986)	(335)
Other, net	4,191	10,169	(8,248)
Total other income (expense)	4,938	12,710	(3,784)
Loss before taxes	(63,484)	(26,482)	(18,987)
Income tax (benefit) expense	(9,167)	(2,529)	14,283
Net loss	\$ (54,317)	\$ (23,953)	\$ (33,270)
Net loss per common share, basic and diluted	\$ (3.61)	\$ (1.61)	\$ (2.29)
Weighted average common shares outstanding-basic and diluted	15,066,663	14,866,306	14,508,320
Cash dividends declared per common share	\$ 0.18	\$ 0.46	\$ 0.46

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

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Dollars in thousands)

	Years ended June 30,		
	2011	2010	2009
<b>Cash flows from operating activities:</b>			
Net loss	\$(54,317)	\$(23,953)	\$(33,270)
<b>Adjustments to reconcile net loss to net cash provided by (used in) operating activities:</b>			
Depreciation and amortization	31,758	26,778	18,292
Provision for doubtful accounts	2,024	3,188	810
Deferred income taxes	336	758	15,556
Intangible assets impairment losses	7,805	—	—
Loss (gain) on sales of assets	358	430	(46)
Share-based compensation expense	3,825	4,784	5,452
Net (gain) loss on investments	(1,387)	(9,382)	8,989
<b>Change in operating assets and liabilities:</b>			
Short-term investments	27,456	1,365	61,371
Accounts and notes receivable	(2,929)	(40)	(26,698)
Inventories	3,952	(14,751)	1,730
Income tax receivable	5,392	(1,677)	(1,283)
Prepaid expenses and other assets	(434)	179	6,518
Accounts payable	12,997	(738)	22,457
Accrued payroll, expenses and other liabilities	2,112	2,904	3,776
Accrued postretirement benefits	1,399	3,926	638
Other long term liabilities	(6,410)	5,182	2,952
<b>Net cash provided by (used in) operating activities</b>	<b>\$ 33,937</b>	<b>\$ (1,047)</b>	<b>\$ 87,244</b>
<b>Cash flows from investing activities:</b>			
Acquisition of businesses, net of cash acquired	—	—	(48,287)
Purchases of property, plant and equipment	(19,416)	(28,484)	(38,901)
Proceeds from sales of property, plant and equipment	2,021	437	605
<b>Net cash used in investing activities</b>	<b>\$ (17,395)</b>	<b>\$ (28,047)</b>	<b>\$ (86,583)</b>
<b>Cash flows from financing activities:</b>			
Proceeds from revolving line of credit	35,450	33,737	29,500
Repayments on revolving line of credit	(43,970)	(12,756)	(13,318)
Payments of capital lease obligations	(1,433)	(837)	(147)
Dividends paid	(4,657)	(6,939)	(6,631)
<b>Net cash (used in) provided by financing activities</b>	<b>\$ (14,610)</b>	<b>\$ 13,205</b>	<b>\$ 9,404</b>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>\$ 1,932</b>	<b>\$ (15,889)</b>	<b>\$ 10,065</b>
Cash and cash equivalents at beginning of year	4,149	20,038	9,973
<b>Cash and cash equivalents at end of year</b>	<b>\$ 6,081</b>	<b>\$ 4,149</b>	<b>\$ 20,038</b>
<b>Supplemental disclosure of cash flow information:</b>			
Cash paid for interest	\$ 1,339	\$ 890	\$ 812
Cash paid for income taxes	\$ —	\$ —	\$ 136
<b>Non-cash financing and investing activities:</b>			
Equipment acquired under capital leases	\$ 5,659	\$ 3,954	\$ 1,252
Dividends accrued, but not paid	\$ —	\$ 1,849	\$ 1,849

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

**FARMER BROS. CO.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(Dollars in thousands, except share and per share data)

	Common Shares	Stock Amount	Additional Paid-in Capital	Retained Earnings	Unearned ESOP Shares	Accumulated Other Comprehensive Income (Loss)	Total
Balance at June 30, 2008	16,075,080	\$16,075	\$ 30,612	\$257,693	\$(38,529)	\$ 604	\$266,455
Comprehensive income							
Net income				(33,270)			(33,270)
Retiree benefits						(35,516)	(35,516)
Total comprehensive loss							(68,786)
Dividends (\$0.46 per share)				(6,631)			(6,631)
ESOP compensation expense			(151)		4,925		4,774
Share based compensation	3,031	3	674				677
Balance at June 30, 2009	16,078,111	\$16,078	\$ 31,135	\$217,792	\$(33,604)	\$ (34,912)	\$196,489
Comprehensive income							
Net loss				(23,953)			(23,953)
Retiree benefits						(4,787)	(4,787)
Total comprehensive loss							(28,740)
Dividends (\$0.46 per share)				(6,939)			(6,939)
ESOP compensation expense, including reclassifications			5,344		(1,634)		3,710
Share based compensation	86,068	86	989				1,075
Balance at June 30, 2010	16,164,179	\$16,164	\$ 37,468	\$186,900	\$(35,238)	\$ (39,699)	\$165,595
Comprehensive income							
Net loss				(54,317)			(54,317)
Retiree benefits						15,811	15,811
Total comprehensive loss							(38,506)
Dividends (\$0.18 per share)				(2,799)			(2,799)
ESOP contributions	1,040	1	8		(9)		—
ESOP compensation expense, including reclassifications			(2,173)		4,810		2,637
Share based compensation	21,153	21	1,167				1,188
Balance at June 30, 2011	16,186,372	\$16,186	\$ 36,470	\$129,784	\$(30,437)	\$ (23,888)	\$128,115

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

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**Note 1. Summary of Significant Accounting Policies**

***Organization***

Farmer Bros. Co., a Delaware corporation (including its consolidated subsidiaries unless the context otherwise requires, the “Company,” “we,” “our” or “Farmer Bros.”) is a manufacturer, wholesaler and distributor of coffee, tea and culinary products. The Company is a direct distributor of coffee to restaurants, hotels, casinos, hospitals and other foodservice providers, and is a provider of private brand coffee programs to grocery retailers, restaurant chains, convenience stores, and independent coffee houses, nationwide. The Company was founded in 1912, was incorporated in California in 1923, and reincorporated in Delaware in 2004. The Company operates in one business segment.

The Company’s product line includes roasted coffee, liquid coffee, coffee related products such as coffee filters, sugar and creamers, assorted teas, cappuccino, cocoa, spices, gelatins and puddings, soup, gravy and sauce mixes, pancake and biscuit mixes, and jellies and preserves. Most sales are made “off-truck” by the Company to its customers at their places of business.

The Company serves its customers from six distribution centers and its distribution trucks are replenished from 114 branch warehouses located throughout the contiguous United States. The Company operates its own trucking fleet to support its long-haul distribution requirements. A portion of the Company’s products are distributed by third parties or are direct shipped via common carrier.

***Principles of Consolidation***

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries FBC Finance Company and Coffee Bean Holding Co., Inc. All inter-company balances and transactions have been eliminated.

***Financial Statement Preparation***

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

***Cash Equivalents***

The Company considers all highly liquid investments with original maturity dates of 90 days or less to be cash equivalents. Fair values of cash equivalents approximate cost due to the short period of time to maturity.

***Investments***

The Company’s investments consist of marketable debt and equity securities, money market instruments and various derivative instruments, primarily exchange traded treasury futures and options, green coffee forward purchase contracts and commodity purchase agreements. Investments are held for trading purposes and stated at fair value. All derivative instruments not designated as accounting hedges are marked to market and changes are recognized in current earnings. At June 30, 2011 and 2010, no derivative instruments were designated as accounting hedges. The fair value of derivative instruments is based upon broker quotes. The cost of investments sold is determined on the specific identification method. Dividend and interest income is accrued as earned.



**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)*****Concentration of Credit Risk***

At June 30, 2011, the financial instruments which potentially expose the Company to concentration of credit risk consist of cash in financial institutions (which exceeds federally insured limits), short-term investments, investments in the preferred stocks of other companies and trade receivables. Cash equivalents and short-term investments are not concentrated by issuer, industry or geographic area. Maturities are generally shorter than 180 days. Investments in the preferred stocks of other companies are limited to high quality issuers and are not concentrated by geographic area or issuer.

Concentration of credit risk with respect to trade receivables for the Company is limited due to the large number of customers comprising the Company's customer base and their dispersion across many different geographic areas. The trade receivables are generally short-term and all probable bad debt losses have been appropriately considered in establishing the allowance for doubtful accounts. In fiscal 2010, based on a larger customer base due to the recent Company acquisitions and in response to slower collection of the Company's accounts receivable resulting from the impact of the economic downturn on the Company's customers, the Company increased its allowance for doubtful accounts and recorded a \$2.5 million charge to bad debt expense. In fiscal 2011, due to improvements in the collection of past due accounts, the Company reduced its estimate of the allowance for doubtful accounts by \$0.4 million.

***Inventories***

Inventories are valued at the lower of cost or market. Costs of coffee, tea and culinary products for the Company are determined on the last in, first out (LIFO) basis. Costs of coffee brewing equipment manufactured are accounted for on the first in, first out (FIFO) basis. The Company regularly evaluates these inventories to determine whether market conditions are correctly reflected in the recorded carrying value.

***Property, Plant and Equipment***

Property, plant and equipment is carried at cost, less accumulated depreciation. Depreciation is computed using the straight-line method. The following useful lives are used:

Building and facilities	10 to 30 years
Machinery and equipment	3 to 5 years
Equipment under capital lease	Term of lease
Office furniture and equipment	5 years
Capitalized software	3 years

When assets are sold or retired, the asset and related accumulated depreciation are removed from the respective account balances and any gain or loss on disposal is included in operations. Maintenance and repairs are charged to expense, and betterments are capitalized.

***Coffee Brewing Equipment and Service***

The Company classifies certain expenses related to coffee brewing equipment provided to customers as cost of goods sold. These costs include the depreciation cost of the equipment as well as the cost of servicing that equipment (including service employees' salaries, cost of transportation and the cost of supplies and parts) and are considered directly attributable to the generation of revenues from its customers. Accordingly, such costs included in cost of goods sold in the accompanying financial statements for the years ended June 30, 2011, 2010 and 2009 are \$27.1 million, \$21.5 million and \$13.1 million, respectively.

**FARMER BROS. CO.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

The Company has capitalized coffee brewing equipment in the amounts of \$12.7 million and \$14.1 million in fiscal 2011 and 2010, respectively. During fiscal 2011, 2010 and 2009, the Company had depreciation expense related to the capitalized coffee brewing equipment reported as cost of goods sold in the amounts of \$9.6 million, \$6.1 million and \$1.7 million, respectively.

***Income Taxes***

Deferred income taxes are determined based on the temporary differences between the financial reporting and tax bases of assets and liabilities using enacted tax rates in effect for the year in which differences are expected to reverse. Estimating the Company's tax liabilities involves judgments related to uncertainties in the application of complex tax regulations. The Company makes certain estimates and judgments to determine tax expense for financial statement purposes as they evaluate the effect of tax credits, tax benefits and deductions, some of which result from differences in timing of recognition of revenue or expense for tax and financial statement purposes. Changes to these estimates may result in significant changes to the Company's tax provision in future periods. Each fiscal quarter the Company reevaluates their tax provision and reconsiders their estimates and their assumptions related to specific tax assets and liabilities, making adjustments as circumstances change.

***Revenue Recognition***

Most product sales are made "off-truck" to the Company's customers at their places of business by the Company's sales representatives. Revenue is recognized at the time the Company's sales representatives physically deliver products to customers and title passes or when it is accepted by the customer when shipped by third-party delivery.

In connection with the acquisition of the DSD Coffee Business in March 2009, the Company entered into an agreement with Sara Lee pursuant to which the Company performs co-packing services for Sara Lee as Sara Lee's agent. The Company recognizes revenue from this arrangement on a net basis, net of direct costs of revenue. As of June 30, 2011 and 2010, the Company had \$4.9 million and \$4.1 million, respectively, of receivables from Sara Lee recorded in accounts and notes receivable.

***Net Income (Loss) Per Common Share***

Basic earnings (loss) per share (EPS) is computed by dividing net income (loss) by the weighted average common shares outstanding (see Note 13), excluding unallocated shares held by the Company's Employee Stock Ownership Plan. Diluted EPS includes the effect of any potential shares outstanding, which for the Company consists of dilutive stock options. The dilutive effect of stock options is calculated using the treasury stock method with an offset from expected proceeds upon exercise of the stock options and unrecognized compensation expense. Diluted EPS for the years ended June 30, 2011, 2010 and 2009 does not include the dilutive effect of 467,131, 404,943 and 239,000 shares, respectively, issuable under stock options since their inclusion would be anti-dilutive. Accordingly, the consolidated financial statements present only basic net income (loss) per common share.

Effective July 1, 2009, the Company began using the "Two-Class Method" to compute EPS. The Two-Class Method considers unvested restricted stock with a right to receive non-forfeitable dividends as participating securities and allocates earnings to participating securities in the computation of EPS. The Company computed EPS using the Two-Class Method for all periods presented. The effect for the years ended June 30, 2011, 2010 and 2009 was not material.

FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

***Employee Stock Ownership Plan (“ESOP”)***

Compensation cost for the ESOP is based on the fair market value of shares released or deemed to be released for the period. Dividends on allocated shares retain the character of true dividends, but dividends on unallocated shares are considered compensation cost. As a leveraged ESOP with the Company as lender, a contra equity account is established to offset the Company’s note receivable. The contra account will change as compensation is recognized.

***Impairment of Goodwill and Intangible Assets***

The Company performs its annual goodwill and indefinite-lived intangible assets impairment test as of June 30 of each fiscal year. Goodwill and other indefinite-lived intangible assets are not amortized but instead are reviewed for impairment annually and on an interim basis if events or changes in circumstances between annual tests indicate that an asset might be impaired. Indefinite-lived intangible assets are tested for impairment by comparing their fair values to their carrying values. Testing for impairment of goodwill is a two-step process. The first step requires the Company to compare the fair value of its reporting units to the carrying value of the net assets of the respective reporting units, including goodwill. If the fair value of the reporting unit is less than the carrying value, goodwill of the reporting unit is potentially impaired and the Company then completes step two to measure the impairment loss, if any. The second step requires the calculation of the implied fair value of goodwill by deducting the fair value of all tangible and intangible net assets of the reporting unit from the fair value of the reporting unit. If the implied fair value of goodwill is less than the carrying amount of goodwill, an impairment loss is recognized equal to the difference.

In addition to an annual test, goodwill and indefinite-lived intangible assets must also be tested on an interim basis if events or circumstances indicate that the estimated fair value of such assets has decreased below their carrying value. The Company identified indicators of impairment including a decline in market capitalization and continuing losses from operations. The Company performed impairment tests to determine the recoverability of the carrying values of the assets or if impairment should be measured and concluded that as of June 30, 2011 goodwill and the indefinite-lived intangible assets were not impaired.

***Long-Lived Assets, Excluding Goodwill and Indefinite-lived Intangible Assets***

The Company reviews the recoverability of its long-lived assets whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. The estimated future cash flows are based upon, among other things, assumptions about expected future operating performance, and may differ from actual cash flows. Long-lived assets evaluated for impairment are grouped with other assets to the lowest level for which identifiable cash flows are largely independent of the cash flows of other groups of assets and liabilities. If the sum of the projected undiscounted cash flows (excluding interest) is less than the carrying value of the assets, the assets will be written down to the estimated fair value in the period in which the determination is made. In its annual test of impairment as of the end of fiscal 2011, the Company identified indicators of impairment including a decline in market capitalization and continuing losses from operations. The Company performed impairment tests to determine the recoverability of the carrying values of the assets or if impairment should be measured. The carrying value of these intangible assets was higher than the sum of each of their projected undiscounted cash flows. The Company was required to make estimates of the fair value of the intangible assets in this group, which were based on the use of the income approach. Inputs to the analysis include the projection of future cash flows which are Level 3 inputs within the fair value hierarchy. The Company determined that definite-lived intangible assets consisting of the customer relationships acquired, and the distribution agreement and co-pack agreement entered into, in connection with the DSD Coffee Business acquisition were impaired. The total impairment charge recorded in operating expenses on the consolidated statement of operations as a result of the impairment test was \$7.8 million.

**FARMER BROS. CO.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

***Shipping and Handling Costs***

The Company distributes its products directly to its customers and shipping and handling costs are recorded as Company selling expenses.

***Collective Bargaining Agreements***

Certain Company employees are subject to collective bargaining agreements. The duration of these agreements extend to 2014. Approximately 34% of the workforce is covered by such agreements.

***Reclassifications***

Certain reclassifications have been made to prior year balances to conform to the current year presentation.

***Recently Adopted Accounting Standards***

In October 2009, the multiple-element arrangements guidance codified in ASC 605-25, "Revenue Recognition—Multiple Element Arrangements," was modified by the Financial Accounting Standards Board ("FASB") as a result of the final consensus reached on EITF Issue No. 08-1, "Revenue Arrangements with Multiple Deliverables," which was codified by Accounting Standards Update ("ASU") No. 2009-13. The guidance in ASU No. 2009-13 supersedes the existing guidance on such arrangements and is effective for the first annual reporting period after June 15, 2010 and was effective for the Company beginning on July 1, 2010. Adoption of ASU No. 2009-13 did not materially affect the results of operations, financial condition or cash flows of the Company.

***New Accounting Pronouncements***

In June 2011, the FASB issued ASU No. 2011-05, "Comprehensive Income (Topic 220), Presentation of Comprehensive Income" ("ASU 2011-05"). The new US GAAP guidance gives companies two choices of how to present items of net income, items of other comprehensive income ("OCI") and total comprehensive income: Companies can create one continuous statement of comprehensive income or two separate consecutive statements. Companies will no longer be allowed to present OCI in the statement of stockholders' equity. Earnings per share would continue to be based on net income. Although existing guidance related to items that must be presented in OCI has not changed, companies will be required to display reclassification adjustments for each component of OCI in both net income and OCI. Also, companies will need to present the components of OCI in their interim and annual financial statements. The amendments in the ASU should be applied retrospectively. For public entities, the amendments are effective for fiscal years, and interim periods within those years, beginning after December 15, 2011 and, for the Company, the amendments are effective beginning July 1, 2013. The Company believes that adoption of ASU 2011-05 will not impact the results of operations, financial position or cash flows of the Company.

In May 2011, the FASB issued ASU No. 2011-04, "Fair Value Measurement (Topic 820), Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs" ("ASU 2011-04"). The ASU amends the fair value measurement and disclosure guidance in ASC 820, "Fair Value Measurement," to converge US GAAP and International Financial Reporting Standards requirements for measuring amounts at fair value as well as disclosures about these measurements. Many of the amendments clarify existing concepts and are generally not expected to result in significant changes to how many companies currently apply the fair value principles. In certain instances, however, the FASB changed a principle to achieve convergence, and while limited, these amendments have the potential to significantly change practice for some

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

companies. For public entities, the amendments are effective during interim and annual periods beginning after December 15, 2011 and, for the Company, the amendments are effective beginning in July 1, 2013. The Company believes that adoption of ASU 2011-04 will not impact the results of operations, financial position or cash flows of the Company.

**Note 2. Investments and Derivative Instruments**

The Company purchases various derivative instruments as investments or to create economic hedges of its interest rate risk and commodity price risk. At June 30, 2011 and 2010, derivative instruments were not designated as accounting hedges as defined by ASC 815, "Accounting for Derivative Instruments and Hedging Activities." The fair value of derivative instruments is based upon broker quotes. The Company records unrealized gains and losses on trading securities and changes in the market value of certain coffee contracts meeting the definition of derivatives in Other, net.

The Company adopted ASC 820, "Fair Value Measurements" ("ASC 820") on July 1, 2008. ASC 820 defines fair value and expands disclosure for each major asset and liability category measured at fair value on either a recurring or nonrecurring basis. Under ASC 820, the Company groups its assets and liabilities at fair value in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value. These levels are:

- Level 1—Valuation is based upon quoted prices for identical instruments traded in active markets.
- Level 2—Valuation is based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market.
- Level 3—Valuation is generated from model-based techniques that use significant assumptions not observable in the market. These unobservable assumptions reflect estimates of assumptions that market participants would use in pricing the asset or liability. Valuation techniques include use of option pricing models, discounted cash flow models and similar techniques.

Assets and liabilities measured and recorded at fair value on a recurring basis were as follows (in thousands):

<u>As of June 30, 2011</u>	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Preferred stock(1)	\$24,407	\$ 7,181	\$17,226	\$ —
Futures, options and other derivative assets(1)	\$ 467	\$ —	\$ 467	\$ —
Derivative liabilities(2)	\$ 1,647	\$ —	\$ 1,647	\$ —
<u>As of June 30, 2010</u>	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Preferred stock(1)	\$50,684	\$11,946	\$38,738	\$ —
Futures, options and other derivatives(1)	\$ 258	\$ 258	\$ —	\$ —

(1) Included in short-term investments on the consolidated balance sheet.

(2) Included in other current liabilities on the consolidated balance sheet.

There were no significant transfers of securities between Level 1 and Level 2.

FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Gains and losses, both realized and unrealized, are included in Other, net. Net realized and unrealized gains and losses are as follows:

	June 30,		
	2011	2010	2009
	(In thousands)		
<b>Investments</b>			
Unrealized gains	\$ 865	\$ 9,647	\$ —
Unrealized losses	—	—	(3,584)
Realized gains	447	—	238
Realized losses	—	(265)	(5,643)
Net realized and unrealized gains (losses)	1,312	9,382	(8,989)
Net gains from sales of assets	1,359	201	475
Other gains, net	1,520	586	266
Other, net	<u>\$4,191</u>	<u>\$10,169</u>	<u>\$(8,248)</u>

Preferred stock investments as of June 30, 2011 consisted of securities with a fair value of \$18.1 million in an unrealized gain position and securities with a fair value of \$6.3 million in an unrealized loss position. Preferred stock investments as of June 30, 2010 consisted of securities with a fair value of \$36.3 million in an unrealized gain position and securities with a fair value of \$14.4 million in an unrealized loss position. The following tables show gross unrealized losses (although such losses have been recognized in the statements of operations) and fair value for those investments that were in an unrealized loss position as of June 30, 2011 and 2010, aggregated by the length of time those investments have been in a continuous loss position:

(In thousands)	June 30, 2011			
	Less than 12 Months		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Preferred stock	\$ 319	\$ (3)	\$ 6,326	\$ (1,122)

(In thousands)	June 30, 2010			
	Less than 12 Months		Total	
	Fair Value	Unrealized Loss	Fair Value	Unrealized Loss
Preferred stock	\$ 1,889	\$ (97)	\$ 14,358	\$ (6,044)

**Note 3. Accounts and Notes Receivable, net**

	June 30,	
	2011	2010
	(In thousands)	
Trade receivables	\$40,716	\$39,600
Other receivables	5,637	6,289
Allowance for doubtful accounts	(2,852)	(3,293)
	<u>\$43,501</u>	<u>\$42,596</u>

In fiscal 2010, based on a larger customer base due to recent Company acquisitions and in response to slower collection of the Company's accounts receivable resulting from the impact of the economic downturn on the Company's customers, the Company increased its allowance for doubtful accounts, and recorded a \$2.5

## FARMER BROS. CO.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

million charge to bad debt expense. In fiscal 2011, due to improvements in the collection of past due accounts, the Company reduced its estimate of the allowance for doubtful accounts by \$0.4 million.

Allowance for doubtful accounts (in thousands):

Balance at June 30, 2008	\$ (494)
Additions	(810)
Write-offs	131
Balance at June 30, 2009	(1,173)
Additions	(3,188)
Write-offs	1,068
Balance at June 30, 2010	(3,293)
Additions	(2,024)
Write-offs	2,465
Balance at June 30, 2011	<u>\$ (2,852)</u>

**Note 4. Inventories**

<u>June 30, 2011</u>	<u>Processed</u>	<u>Unprocessed</u>	<u>Total</u>
		(In thousands)	
Coffee	\$22,464	\$ 17,220	\$39,684
Tea and culinary products	25,469	4,100	29,569
Coffee brewing equipment	3,930	6,576	10,506
	<u>\$51,863</u>	<u>\$ 27,896</u>	<u>\$79,759</u>
<u>June 30, 2010</u>	<u>Processed</u>	<u>Unprocessed</u>	<u>Total</u>
		(In thousands)	
Coffee	\$22,230	\$ 16,765	\$38,995
Tea and culinary products	28,833	3,145	31,978
Coffee brewing equipment	5,849	6,890	12,739
	<u>\$56,912</u>	<u>\$ 26,800</u>	<u>\$83,712</u>

Current cost of coffee, tea and culinary inventories exceeds the LIFO cost by (in thousands):

	<u>June 30,</u>	
	<u>2011</u>	<u>2010</u>
Coffee	\$62,870	\$24,432
Tea and culinary products	6,695	4,816
Total	<u>\$69,565</u>	<u>\$29,248</u>

The change in the Company's green coffee, tea and culinary product inventories during fiscal 2011, 2010 and 2009 resulted in LIFO (increments) decrements which resulted in a net increase (decrease) in gross profit for those years by \$(40.3) million, \$(0.7) million and \$(1.5) million, respectively.

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

At times the Company enters into specialized hedging transactions to purchase future coffee contracts to enable the Company to lock in green coffee prices within a pre-established range. For the year ended June 30, 2011 the Company recorded \$1.6 million in net unrealized losses related to hedging transactions. From time to time the Company may hold a mix of futures contracts and options to help hedge against volatility in green coffee prices. Gains and losses on these derivative instruments are realized immediately in "Other income (expense)."

In fiscal 2011 and 2010, certain inventory quantities were reduced. This reduction resulted in a liquidation of LIFO inventory quantities carried at lower costs prevailing in prior years as compared with the current year cost in fiscal 2011. The effect of this liquidation was to reduce net loss for fiscal 2011 and 2010 by \$1.1 million and \$0.8 million, respectively. There was no liquidation of LIFO quantities in fiscal 2009.

**Note 5. Property, Plant and Equipment**

	June 30,	
	2011	2010
	(In thousands)	
Buildings and facilities	\$ 80,352	\$ 79,312
Machinery and equipment	119,209	109,738
Equipment under capital leases	10,675	7,192
Capitalized software costs	18,294	18,749
Office furniture and equipment	16,839	15,583
	<u>\$ 245,369</u>	<u>\$ 230,574</u>
Accumulated depreciation	(140,996)	(118,810)
Land	9,734	9,946
Property, plant and equipment, net	<u>\$ 114,107</u>	<u>\$ 121,710</u>

Capital leases consist mainly of vehicle leases at June 30, 2011 and 2010.

The Company has capitalized coffee brewing equipment in the amounts of \$12.7 million, \$14.1 million and \$5.4 million in fiscal years 2011, 2010 and 2009, respectively. Depreciation expense related to the capitalized coffee brewing equipment reported as cost of goods sold was \$9.6 million, \$6.1 million and \$1.7 million in fiscal years 2011, 2010 and 2009, respectively. Depreciation and amortization expense includes amortization expense for assets recorded under capitalized leases.

Maintenance and repairs to property, plant and equipment charged to expense for the years ended June 30, 2011, 2010 and 2009 were \$10.3 million, \$15.0 million and \$15.2 million, respectively.



FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

**Note 6. Goodwill and Intangible Assets**

The following is a summary of the Company's amortized and unamortized intangible assets other than goodwill, along with amortization expense on these intangible assets for the past three fiscal years and estimated aggregate amortization expense for each of the next five fiscal years:

	2011		2010	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
(In thousands)				
<b>Amortized intangible assets:</b>				
Customer relationships	\$ 10,460	\$ (7,291)	\$18,216	\$ (8,485)
Distribution agreement	—	—	2,452	(327)
Co-pack agreement	—	—	743	(165)
Total amortized intangible assets	<u>\$ 10,460</u>	<u>\$ (7,291)</u>	<u>\$21,411</u>	<u>\$ (8,977)</u>
<b>Unamortized intangible assets:</b>				
Tradenames with indefinite lives	\$ 4,080	\$ —	\$ 4,080	\$ —
Trademarks with indefinite lives	2,080	—	2,080	—
CBI Goodwill	5,310	—	5,310	—
Total unamortized intangible assets	<u>\$ 11,470</u>	<u>\$ —</u>	<u>\$11,470</u>	<u>\$ —</u>
Total intangible assets	<u>\$ 21,930</u>	<u>\$ (7,291)</u>	<u>\$32,881</u>	<u>\$ (8,977)</u>
<b>Aggregate amortization expense for the past three fiscal years:</b>				
For the year ended June 30, 2011	\$ 2,948			
For the year ended June 30, 2010	\$ 2,849			
For the year ended June 30, 2009	\$ 2,159			
<b>Estimated amortization expense for each of the next five fiscal years:</b>				
For the year ended June 30, 2012	\$ 1,454			
For the year ended June 30, 2013	\$ 1,249			
For the year ended June 30, 2014	\$ 466			
For the year ended June 30, 2015	\$ —			
For the year ended June 30, 2016	\$ —			
The remaining weighted average amortization periods for intangible assets with finite lives are as follows:				
Customer relationships	2.4 years			
The following is a summary of the changes in the carrying value of goodwill:				
Balance at July 1, 2009	\$ 5,310			
Acquisitions during year	—			
Balance at June 30, 2010	\$ 5,310			
Acquisitions during year	—			
Balance at June 30, 2011	\$ 5,310			

**FARMER BROS. CO.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**Note 7. Employee Benefit Plans**

The Company provides pension plans for most full time employees. Generally the plans provide benefits based on years of service and/or a combination of years of service and earnings. Certain retirees are also eligible for medical, dental and vision benefits.

The Company is required to recognize the funded status of a benefit plan in its balance sheet. The Company is also required to recognize in other comprehensive income certain gains and losses that arise during the period but are deferred under pension accounting rules.

***Union Pension Plans***

The Company contributes to several multi-employer defined benefit pension plans for certain union employees. The contributions to these multi-employer pension plans were approximately \$3.1 million, \$4.0 million, and \$2.8 million for the fiscal years ended June 30, 2011, 2010 and 2009, respectively.

***Company Pension Plans***

The Company has a defined benefit pension plan, the Farmer Bros. Salaried Employees Pension Plan, for the majority of its employees who are not covered under a collective bargaining agreement (“Farmer Bros. Plan”) and two defined benefit pensions plan for certain hourly employees covered under a collective bargaining agreement (the “Brewmatic Plan” and the “Hourly Employees’ Plan”). All assets and benefit obligations were determined using a measurement date of June 30.

The Company amended the Farmer Bros. Plan, freezing the benefit for all participants effective June 30, 2011. After the plan freeze, participants do not accrue any benefits under the plan, and new hires are not eligible to participate in the plan. As a result, the Company recorded \$1.5 million in curtailment charge in the fourth quarter ended June 30, 2011.

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**Obligations and Funded Status**

	Farmer Bros. Plan June 30,		Brewmatic Plan June 30,		Hourly Employees' Plan June 30,	
	2011	2010	2011	2010	2011	2010
	(In thousands)		(In thousands)		(In thousands)	
<b>Change in projected benefit obligation</b>						
Benefit obligation at the beginning of the year	\$ 110,449	\$ 96,652	\$ 3,707	\$ 3,476	\$ 578	\$ —
Service cost	4,609	4,340	57	48	409	519
Interest cost	5,999	5,900	199	208	32	—
Plan participant contributions	1,005	732	—	—	—	—
Actuarial (gain)/loss	(1,409)	7,410	(24)	241	39	59
Benefits paid	(5,022)	(4,585)	(284)	(266)	(3)	—
Effect of curtailment	(8,560)	—	7	—	—	—
Projected benefit obligation at the end of the year	<u>\$ 107,071</u>	<u>\$ 110,449</u>	<u>\$ 3,662</u>	<u>\$ 3,707</u>	<u>\$ 1,055</u>	<u>\$ 578</u>
<b>Change in plan assets</b>						
Fair value of plan assets at the beginning of the year	63,462	59,266	2,490	2,395	—	—
Actual return on plan assets	16,619	8,049	635	333	11	—
Employer contributions	4,383	—	30	28	413	—
Plan participant contributions	1,005	732	—	—	—	—
Benefits paid	(5,022)	(4,585)	(284)	(266)	(3)	—
Fair value of plan assets at the end of the year	<u>\$ 80,447</u>	<u>\$ 63,462</u>	<u>\$ 2,871</u>	<u>\$ 2,490</u>	<u>\$ 421</u>	<u>\$ —</u>
<b>Funded status at end of year (underfunded)/overfunded</b>	<u>\$ (26,624)</u>	<u>\$ (46,987)</u>	<u>\$ (791)</u>	<u>\$ (1,217)</u>	<u>\$ (634)</u>	<u>\$ (578)</u>
<b>Amounts recognized in balance sheet</b>						
Noncurrent assets	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
Current liabilities	(5,360)	(4,970)	(310)	(310)	(8)	(5)
Noncurrent liabilities	(21,264)	(42,017)	(481)	(907)	(626)	(573)
Total	<u>\$ (26,624)</u>	<u>\$ (46,987)</u>	<u>\$ (791)</u>	<u>\$ (1,217)</u>	<u>\$ (634)</u>	<u>\$ (578)</u>
<b>Amounts recognized in balance sheet</b>						
Total net (gain)/loss	\$ 25,900	\$ 50,037	\$ 1,587	\$ 2,186	\$ 96	\$ 59
Transition (asset)/obligation	—	—	—	—	—	—
Prior service cost/(credit)	—	1,577	71	82	—	—
Total accumulated OCI (not adjusted for applicable tax)	<u>\$ 25,900</u>	<u>\$ 51,614</u>	<u>\$ 1,658</u>	<u>\$ 2,268</u>	<u>\$ 96</u>	<u>\$ 59</u>
<b>Weighted average assumptions used to determine benefit obligations</b>						
Discount rate	5.60%	5.60%	5.60%	5.60%	5.60%	6.25%
Rate of compensation increase	—	3.00%	—	—	3.00%	3.00%

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**Components of Net Periodic Benefit Cost and  
Other Changes Recognized in Other Comprehensive Income (OCI)**

	Farmer Bros. Plan June 30,		Brewmatic Plan June 30,		Hourly Employees' Plan June 30,	
	2011	2010	2011	2010	2011	2010
	(In thousands)		(In thousands)		(In thousands)	
<b>Components of net periodic benefit cost</b>						
Service cost	\$ 4,609	\$ 4,340	\$ 57	\$ 48	\$ 409	\$ 519
Interest cost	5,999	5,899	199	208	32	—
Expected return on plan assets	(5,323)	(4,642)	(179)	(175)	(9)	—
Amortization of net (gain)/loss	2,871	3,291	119	131	—	—
Amortization of prior service cost/(credit)	122	146	18	19	—	—
Amount recognized due to special event (curtailment)	1,456	—	—	—	—	—
Net periodic benefit cost	<u>\$ 9,734</u>	<u>\$ 9,034</u>	<u>\$ 214</u>	<u>\$ 231</u>	<u>\$ 432</u>	<u>\$ 519</u>
<b>Other changes recognized in OCI</b>						
Net (gain)/loss	\$(12,705)	\$ 4,003	\$(480)	\$ 82	\$ 37	\$ 59
Prior service cost/(credit)	—	—	7	—	—	—
Amortization of net gain/(loss)	(2,871)	(3,291)	(119)	(131)	—	—
Amortization of transition asset/ (obligation)	—	—	—	—	—	—
Amortization of prior service (cost)/credit	(122)	(146)	(18)	(19)	—	—
Amount recognized due to special event (curtailment)	<u>(10,016)</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
Total recognized in other comprehensive income	<u>\$(25,714)</u>	<u>\$ 566</u>	<u>\$(610)</u>	<u>\$ (68)</u>	<u>\$ 37</u>	<u>\$ 59</u>
Total recognized in net periodic benefit cost and OCI	<u>\$(15,980)</u>	<u>\$ 9,600</u>	<u>\$(396)</u>	<u>\$ 163</u>	<u>\$ 469</u>	<u>\$ 578</u>
<b>Weighted-average assumptions used to determine net periodic benefit cost</b>						
Discount rate	5.60%	6.25%	5.60%	6.25%	5.60%	6.25%
Expected long-term return on plan assets	8.25%	8.25%	8.25%	8.25%	8.25%	8.25%
Rate of compensation increase	—	3.00%	—	—	3.00%	3.00%

All qualifying employees of the DSD Coffee Business who accepted the Company's offer of employment were allowed to enroll in the Farmer Bros. Plan during March 2009. Those who enrolled in the Farmer Bros. Plan were granted full service credit for plan vesting and eligibility but not for purposes of benefit accruals.

**Basis Used to Determine Expected Long-term Return on Plan Assets**

Historical and future projected returns of multiple asset classes were analyzed to develop a risk-free real rate of return and risk premiums for each asset class. The overall rate for each asset class was developed by combining a long-term inflation component, the risk-free real rate of return, and the associated risk premium. A weighted average rate was developed based on those overall rates and the target asset allocations of the plans.

**Description of Investment Policy**

The Company's investment strategy is to build an efficient, well-diversified portfolio based on a long-term, strategic outlook of the investment markets. The investment markets outlook utilizes both the historical-based

FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

and forward-looking return forecasts to establish future return expectations for various asset classes. These return expectations are used to develop a core asset allocation based on the specific needs of each plan. The core asset allocation utilizes investment portfolios of various asset classes and multiple investment managers in order to maximize the plan's return while providing multiple layers of diversification to help minimize risk.

Additional Disclosures

	Farmer Bros. Plan June 30,		Brewmatic Plan June 30,		Hourly Employees' Plan June 30,	
	2011	2010	2011	2010	2011	2010
	(\$ In thousands)		(\$ In thousands)		(\$ In thousands)	
<b>Comparison of obligations to plan assets</b>						
Projected benefit obligation	\$ 107,071	\$ 110,449	\$ 3,662	\$ 3,707	\$ 1,055	\$ 578
Accumulated benefit obligation	\$ 107,071	\$ 101,280	\$ 3,662	\$ 3,707	\$ 1,035	\$ 574
Fair value of plan assets at measurement date	\$ 80,447	\$ 63,462	\$ 2,871	\$ 2,490	\$ 421	\$ —
<b>Plan assets by category</b>						
Equity securities	\$ 56,791	\$ 44,398	\$ 2,016	\$ 1,675	\$ 297	\$ —
Debt securities	18,945	15,917	688	683	99	—
Real estate	4,711	3,147	167	132	\$ 25	—
Total	<u>\$ 80,447</u>	<u>\$ 63,462</u>	<u>\$ 2,871</u>	<u>\$ 2,490</u>	<u>\$ 421</u>	<u>\$ —</u>
<b>Plan assets by category</b>						
Equity securities	70%	70%	70%	67%	70%	—
Debt securities	24%	25%	24%	28%	24%	—
Real estate	6%	5%	6%	5%	6%	—
Total	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>—</u>

As of June 30, 2011, fair values of plan assets were as follows (in thousands):

	Total	Level 1	Level 2	Level 3
Farmer Bros. Plan	\$80,447	\$ —	\$75,736	\$4,711
Brewmatic Plan	\$ 2,871	\$ —	\$ 2,704	\$ 167
Hourly Employees' Plan	\$ 421	\$ —	\$ 396	\$ 25

As of June 30, 2010, fair values of plan assets were as follows (in thousands):

	Total	Level 1	Level 2	Level 3
Farmer Bros. Plan	\$63,462	\$ —	\$60,315	\$3,147
Brewmatic Plan	\$ 2,490	\$ —	\$ 2,358	\$ 132
Hourly Employees' Plan	\$ —	\$ —	\$ —	\$ —

As of June 30, 2011 and 2010, approximately 94% and 95%, respectively, of the assets in each of the Farmer Bros. Plan and the Brewmatic Plan and, as of June 30, 2011, approximately 94% of the assets of the Hourly Employees' Plan were invested in pooled separate accounts which did not have publicly quoted prices. The pooled separate accounts invest in publicly traded mutual funds. The fair values of the mutual funds were publicly quoted pricing input (Level 1) and were used to determine the net asset value of the pooled separate accounts. Therefore, these assets have Level 2 pricing inputs.

FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

As of June 30, 2011 and 2010, approximately 6% and 5%, respectively, of the assets in each of the Farmer Bros. Plan and the Brewmatic Plan and, as of June 30, 2011, approximately 6% of assets of the Hourly Employee's Plan were invested in commercial real estate and include mortgage loans which are backed by the associated properties. These underlying real estate investments have unobservable Level 3 pricing inputs. The fair value of the underlying real estate is estimated using discounted cash flow valuation models that utilize public real estate market data inputs such as transaction prices, market rents, vacancy levels, leasing absorption, market capitalization rates and discount rates. In addition, each property is appraised annually by an independent appraiser. The amounts and types of investments within plan assets did not change significantly from June 30, 2010.

The following is a reconciliation of asset balances with Level 3 input pricing:

**As of June 30, 2011:**

<u>Plan</u>	<u>Beginning Balance</u>	<u>Total Gains or Losses</u>	<u>Settlements</u>	<u>Ending Balance</u>	<u>Unrealized Gains or Losses</u>
Farmer Bros. Plan	\$ 3,147	\$ 652	\$ 912	\$ 4,711	\$ 652
Brewmatic Plan	\$ 132	\$ 28	\$ 7	\$ 167	\$ 28
Hourly Employees' Plan	—	\$ —	\$ 25	\$ 25	\$ —

**As of June 30, 2010:**

<u>Plan</u>	<u>Beginning Balance</u>	<u>Total Gains or Losses</u>	<u>Settlements</u>	<u>Ending Balance</u>	<u>Unrealized Gains or Losses</u>
Farmer Bros. Plan	\$ 3,458	\$ (311)	\$ —	\$ 3,147	\$ (311)
Brewmatic Plan	\$ 145	\$ (13)	\$ —	\$ 132	\$ (13)
Hourly Employees' Plan	—	—	—	—	—

**Target Plan Asset Allocation for Farmer Bros. Plan and Brewmatic Plan**

	<u>Fiscal 2012</u>
U.S. large cap equity securities	40.6%
U.S. small cap equity securities	10.0%
International equity securities	16.9%
Debt securities	24.0%
Real estate	8.5%
Total	<u>100.0%</u>

**Estimated Amounts in Other Comprehensive Income Expected To Be Recognized**

In fiscal 2012, the Company expects to recognize \$1.3 million as a component of net periodic benefit cost for the Farmer Bros. Plan, \$87,000 for the Brewmatic Plan, and \$0 for the Hourly Employees' Plan.

**Estimated Future Contributions and Refunds**

In fiscal 2012, the Company expects to contribute \$6.7 million to the Farmer Bros. Plan, \$0.2 million to the Brewmatic Plan, and \$0.7 million to the Hourly Employees' Plan. The Company is not aware of any refunds expected from postretirement plans.

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**Estimated Future Benefit Payments**

The following benefit payments are expected to be paid over the next 10 fiscal years:

**Estimated future benefit payments**

<u>Year ending</u>	<u>Farmer Bros. Plan</u>	<u>Brewmatic Plan</u>	<u>Hourly Employees' Plan</u>
	(In thousands)		
June 30, 2012	\$ 5,360	\$ 310	\$ 8
June 30, 2013	\$ 5,640	\$ 300	\$ 17
June 30, 2014	\$ 5,790	\$ 290	\$ 34
June 30, 2015	\$ 6,130	\$ 290	\$ 49
June 30, 2016	\$ 6,470	\$ 290	\$ 70
June 30, 2017 – June 30, 2021	\$ 40,180	\$ 1,420	\$ 680

These amounts are based on current data and assumptions and reflect expected future service, as appropriate.

**Defined Contribution Plans**

The Company also has defined contribution plans for all its eligible employees. No Company contributions have been made nor were any required to be made to these defined contribution plans during the years ended June 30, 2011, 2010 or 2009.

The Company amended its defined contribution 401(k) plan effective June 30, 2011, to provide for a discretionary Company match of the employees' annual contribution. As of June 30, 2011, the Company accrued \$0.1 million towards this Company match.

**Postretirement Benefits**

The Company sponsors an unfunded postretirement medical, dental and vision plan that covers qualified non-union retirees and certain qualified union retirees. Under this postretirement plan, the Company's contributions toward premiums for retiree medical, dental and vision coverage for participants and dependents are scaled based on length of service, with greater Company contributions for retirees with greater length of service, but subject to a maximum monthly Company contribution.

## FARMER BROS. CO.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table shows the components of net periodic postretirement benefit cost for the fiscal years ended June 30, 2011 and 2010. Fiscal 2011 postretirement cost/(income) was based on employee census information as of July 1, 2010 and asset information as of June 30, 2011.

<u>Components of Net Periodic Postretirement Benefit Cost</u>	<u>June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Service cost	\$ 1,564	\$ 1,490
Interest cost	1,205	1,239
Expected return on plan assets	—	—
Amortization of unrecognized net gain	(802)	(1,032)
Amortization of unrecognized transition (asset)/obligation	—	—
Amortization of unrecognized prior service cost/(credit)	(230)	(230)
Net periodic benefit cost	<u>\$ 1,737</u>	<u>\$ 1,467</u>

The difference between the assets and the Accumulated Postretirement Benefit Obligation (APBO) at the adoption of ASC 715-60 was established as a transition (asset)/obligation and is amortized over the average expected future service for active employees as measured at the date of adoption. Any plan amendments that retroactively increase benefits create prior service cost. The increase in the APBO due to any plan amendment is established as a base and amortized over the average remaining years of service to the full eligibility date of active participants who are not yet fully eligible for benefits at the plan amendment date. Gains and losses due to experience different than that assumed or from changes in actuarial assumptions are not immediately recognized. The tables below show the remaining bases for the transition (asset)/obligation, prior service cost/(credit), and the calculation of the amortizable gain or loss.

Amortization ScheduleTransition (Asset)/Obligation:

The transition (asset)/obligations have been fully amortized.

Prior Service Cost/(Credit) (dollars in thousands):

<u>Date Established</u>	<u>Balance at July 1, 2010</u>	<u>Annual Amortization</u>	<u>Years Remaining</u>	<u>Curtailment</u>	<u>Balance at June 30, 2011</u>
January 1, 2008	\$ (2,114)	\$ 230	9.18	0	\$ (1,884)

Amortization of Net (Gain)/Loss (dollars in thousands):

Net (gain)/loss as of July 1, 2010	\$(13,374)
Asset (gains)/losses not yet recognized in market related value of assets	—
Net (gain)/loss subject to amortization	\$(13,374)
Corridor (10% of greater of APBO or assets)	2,239
Net (gain)/loss in excess of corridor	\$(11,135)
Amortization years	13.89
Amortization of net (gain)/loss for the year	\$ (802)



**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

The following tables provide a reconciliation of the benefit obligation and plan assets:

<u>Change in Benefit Obligation</u>	<u>Year Ended June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Projected benefit obligation at beginning of year	\$23,261	\$19,222
Service cost	1,564	1,490
Interest cost	1,205	1,239
Participant contributions	1,103	—
(Gains) losses	(379)	2,969
Benefits paid	(2,022)	(1,659)
Projected benefit obligation at end of year	<u>\$24,732</u>	<u>\$23,261</u>

<u>Change in Plan Assets</u>	<u>Year Ended June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Fair value of plan assets at beginning of year	\$ —	\$ —
Actual return on assets	—	—
Employer contributions	919	1,659
Participant contributions	1,103	—
Benefits paid	(2,022)	(1,659)
Fair value of plan assets at end of year	\$ —	\$ —
Funded status of plan	<u>\$ (24,732)</u>	<u>\$ (23,261)</u>

<u>Amounts Recognized in the Balance Sheet Consist of:</u>	<u>As of June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Noncurrent assets	\$ —	\$ —
Current liabilities	1,148	1,076
Noncurrent liabilities	23,584	22,185
Total	<u>\$24,732</u>	<u>\$23,261</u>

<u>Amounts Recognized in Accumulated Other Comprehensive Income Consist of:</u>	<u>Year Ended June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Net gain	\$(12,086)	\$(12,509)
Transition obligation	—	—
Prior service credit	(1,884)	(2,114)
Total accumulated other comprehensive income	<u>\$(13,970)</u>	<u>\$(14,623)</u>

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

<u>Other Changes in Plan Assets and Benefit Obligations Recognized in Other Comprehensive Income</u>	<u>Year Ended June 30,</u>	
	<u>2011</u>	<u>2010</u>
	(In thousands)	
Unrecognized actuarial loss/(gain)	\$ (379)	\$ 2,969
Unrecognized transition (asset)/obligation	—	—
Unrecognized prior service cost	—	—
Amortization of net loss	802	1,032
Amortization of prior service cost	230	230
Total recognized in other comprehensive income	653	4,231
Net periodic benefit cost	1,737	1,467
Total recognized in other comprehensive income and net periodic benefit cost	<u>\$ 2,390</u>	<u>\$ 5,698</u>

The estimated net gain and prior service cost credit that will be amortized from accumulated other comprehensive income into net periodic benefit cost in fiscal 2012 are \$0.8 million and \$0.2 million, respectively.

<u>Estimated Future Benefit Payments (in thousands)</u>	
Fiscal 2012	\$ 1,148
Fiscal 2013	\$ 1,232
Fiscal 2014	\$ 1,290
Fiscal 2015	\$ 1,486
Fiscal 2016	\$ 1,606
Fiscal 2017-2021	\$10,182
<u>Expected Contributions for the Year Ending June 30, 2012 (in thousands)</u>	
Fiscal 2012	\$ 1,148

**Sensitivity in Fiscal 2011 Results**

Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plan. A one percentage point change in assumed health care cost trend rates would have the following effects in fiscal 2011 (in thousands):

	<u>1-Percentage Point</u>	
	<u>Increase</u>	<u>Decrease</u>
Effect on total of service and interest cost components	\$ 81	\$ (89)
Effect on accumulated postretirement benefit obligation	\$ 794	\$ (924)

**Note 8. Bank Loan**

On September 12, 2011, the Company entered into an Amended and Restated Loan and Security Agreement (the “New Loan Agreement”) among the Company and CBI, as Borrowers, certain of the Company’s other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent. The New Loan Agreement provides for a senior secured revolving credit facility of up to \$85 million, with a letter of credit sublimit of \$20 million. The new revolving line of credit provides for advances of 85% of eligible

**FARMER BROS. CO.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

accounts receivable and 75% of eligible inventory (subject to a \$60 million inventory loan limit), as defined. The New Loan Agreement provides for a range of interest rates based on modified Monthly Average Excess Availability levels with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.0% to Adjusted Eurodollar Rate + 2.5%. The New Loan Agreement has an amendment fee of 0.375% and an unused line fee of 0.25%. Outstanding obligations under the New Loan Agreement are collateralized by all of the Borrowers' assets, including the Company's preferred stock portfolio. The term of the New Loan Agreement expires on March 2, 2015.

The New Loan Agreement contains a variety of affirmative and negative covenants of types customary in an asset-based lending facility, including those relating to reporting requirements, maintenance of records, properties and corporate existence, compliance with laws, incurrence of other indebtedness and liens, limitations on certain payments, including the payment of dividends and capital expenditures, and transactions and extraordinary corporate events. The New Loan Agreement allows the Company to pay dividends, subject to certain liquidity requirements. The New Loan Agreement also contains financial covenants requiring the Borrowers to maintain minimum Excess Availability and Total Liquidity levels. The New Loan Agreement allows the Lender to establish reserve requirements, which may reduce the amount of credit otherwise available to the Company, to reflect events, conditions, or risks that would have a reasonable likelihood of adversely affecting the Lender's collateral or the Company's assets, including the Company's green coffee inventory.

The New Loan Agreement replaces the Company's existing Loan and Security Agreement, dated March 2, 2009, as amended (the "Original Loan Agreement"), among the Borrowers, Guarantors and Wells Fargo, as Lender. The Original Loan Agreement provided for a senior secured revolving credit facility of up to \$50 million, with a letter of credit sublimit of \$10 million. The original revolving line of credit provided for advances of 85% of eligible accounts receivable and 65% of eligible inventory, as defined. The Original Loan Agreement had an unused commitment fee of 0.375%. The Original Loan Agreement provided for a range of interest rates based on modified Monthly Average Excess Availability levels (as defined) with a range of PRIME + 0.25% to PRIME + 0.75% or Adjusted Eurodollar Rate + 2.5% to Adjusted Eurodollar Rate + 3.0%. All outstanding obligations under the Original Loan Agreement were collateralized by the Company's assets, excluding the preferred stock held in investment accounts.

The interest rate on the Company's outstanding borrowings under the Original Loan Agreement was 4.0% at June 30, 2011. As of June 30, 2011, the Company had outstanding borrowings of \$31.4 million, utilized \$3.1 million of the letters of credit sublimit, and had excess availability under the credit facility of \$15.5 million. Due to the short-term nature of the credit facility and the variable interest rate, fair value of the balance outstanding approximates carrying value. As of June 30, 2011, the Company was in compliance with all restrictive covenants under the Original Loan Agreement. On September 12, 2011, the Lender and the Company amended the Original Loan Agreement to reduce required minimum excess availability and required minimum total liquidity for the period from July 1, 2011 through September 30, 2011. There can be no assurance that the Lender will issue a waiver or grant an amendment to the covenants in future periods, if the Company required one.

**Note 9. Employee Stock Ownership Plan**

The Company's ESOP was established in 2000 to provide benefits to all employees. The plan is a leveraged ESOP in which the Company is the lender. The loans will be repaid from the Company's discretionary plan contributions over the original fifteen year terms with a variable rate of interest. The annual interest rate was 1.68% at June 30, 2011, which is updated on a quarterly basis.

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

	As of and for the years ended		
	June 30,		
	2011	2010	2009
Loan amount (in thousands)	\$30,437	\$35,238	\$40,039
Shares purchased	—	—	—

Shares are held by the plan trustee for allocation among participants as the loan is repaid. The unencumbered shares are allocated to participants using a compensation-based formula. Subject to vesting requirements, allocated shares are owned by participants and shares are held by the plan trustee until the participant retires.

In fiscal 2011, fiscal 2010 and fiscal 2009, the Company used \$1.3 million, \$0.7 million and \$1.0 million of dividends on ESOP shares to pay down the loans, and allocated to the ESOP participants shares equivalent to the fair market value of the dividends they would have received. In fiscal 2011, the Company issued 1,040 shares of common stock to the ESOP to compensate for a shortfall in unallocated, uncommitted shares.

The Company reports compensation expense equal to the fair market value of shares committed to be released to employees in the period in which they are committed. The cost of shares purchased by the ESOP which have not been committed to be released or allocated to participants are shown as a contra-equity account "Unearned ESOP Shares" and are excluded from earnings per share calculations.

During the fiscal years ended June 30, 2011, 2010 and 2009, the Company charged \$2.6 million, \$3.7 million and \$4.9 million to compensation expense related to the ESOP. The difference between cost and fair market value of committed to be released shares, which was \$(1.4) million, \$(0.2) million and \$(0.2) million for the years ended June 30, 2011, 2010 and 2009, respectively, is recorded as additional paid-in capital.

	June 30,	
	2011	2010
Allocated shares	1,533,578	1,488,724
Committed to be released shares	186,582	192,069
Unallocated shares	1,097,136	1,283,719
Total ESOP shares	2,817,296	2,964,512
	(In thousands)	
Fair value of ESOP shares	\$ 28,567	\$ 44,632

**Note 10. Share-based Compensation**

On August 23, 2007, the Company's Board of Directors approved the Omnibus Plan, which was approved by stockholders on December 6, 2007. Prior to adoption of the Omnibus Plan the Company had no share-based compensation plan. Awards issued under the Omnibus Plan may take the form of stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalents, performance-based awards, stock payments, cash-based awards or other incentives payable in cash or shares of stock, or any combination thereof. Each award will be set forth in a separate agreement with the person receiving the award and will indicate the type, terms and conditions of the award. The maximum number of shares of common stock as to which awards may be granted under the Plan is 1,000,000, subject to adjustment as provided in the Omnibus Plan.

The Company measures and recognizes compensation expense for all share-based payment awards made under the Omnibus Plan based on estimated fair values.

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****Stock Options**

The Company estimates the fair value of share-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service period in the Company's consolidated statement of operations. Prior to fiscal 2008, the Company did not have share-based compensation.

Share-based compensation expense recognized during the period is based on the value of the portion of share-based payment awards that is ultimately expected to vest during the period. Compensation expense recognized for all stock option awards granted is recognized using the straight-line method over the vesting period. The options generally vest ratably over a period of three years. Fiscal 2011 grants include nonqualified options granted in May 2011 ("May Grant") to purchase 50,000 shares each to Jeffrey A. Wahba and Patrick G. Criteser, and an option to purchase 20,000 shares to Mark A. Harding. The options under the May Grant vest ratably over one year from the date of grant with an exercise price of \$9.63 per share. The share-based compensation expense recognized in the Company's consolidated statement of operations for the fiscal years ended June 30, 2011, 2010 and 2009 is based on awards ultimately expected to vest. Currently, management estimates a forfeiture rate of 6.5% based on the Company's historical turnover. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates.

The Company uses the Black-Scholes option valuation model, which requires management to make certain assumptions for estimating the fair value of stock options at the date of the grant. The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions including the expected stock price volatility. Because the Company's stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimates, in management's opinion the existing models may not necessarily provide a reliable single measure of the fair value of the Company's stock options. Although the fair value of stock options is determined using an option valuation model that value may not be indicative of the fair value observed in a willing buyer/willing seller market transaction.

The following are the weighted average assumptions used in the Black-Scholes valuation model:

	Year Ended June 30,		
	2011	2010	2009
Average fair value of options	\$ 7.05	\$ 6.09	\$ 6.68
Forfeiture rate	6.50%	6.50%	—
Risk-free interest rate	2.70%	2.59%	5.45%
Dividend yield	1.27%	2.50%	2.20%
Average expected life	6 years	6 years	5 years
Expected stock price volatility	54.68%	41.20%	32.38%

The Company's assumption regarding expected stock price volatility is based on the historical volatility of the Company's stock price. The risk-free interest rate is based on U.S. Treasury zero-coupon issues at the date of grant with a remaining term equal to the expected life of the stock options.

FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following tables summarize stock option activity from adoption of the Omnibus Plan through June 30, 2011:

**Outstanding Stock Options**

	Number of Stock Options	Weighted Average Exercise Price	Weighted Average Grant Date Fair Value	Weighted Average Remaining Life (Years)	Aggregate Intrinsic Value (In thousands)
Outstanding at June 30, 2008	117,500	\$ 22.62	\$ 6.16	6.6	\$ —
Granted	121,500	\$ 21.76	\$ 6.68	—	\$ 2
Outstanding at June 30, 2009	239,000	\$ 22.22	\$ 6.41	6.1	\$ 60
Granted	220,789	\$ 18.25	\$ 6.09	—	\$ —
Cancelled/Forfeited	(54,846)	\$ 21.65	\$ 6.87	—	\$ —
Outstanding at June 30, 2010	404,943	\$ 20.17	\$ 6.25	5.8	\$ —
Granted	327,656	\$ 14.95	\$ 7.05	—	\$ —
Cancelled/Forfeited	(234,789)	\$ 19.21	\$ 6.97	—	\$ —
Outstanding at June 30, 2011	497,810	\$ 17.19	\$ 6.44	5.7	\$ 61
Vested and exercisable, June 30, 2011	174,941	\$ 21.20	\$ 6.32	4.4	\$ —
Vested and expected to vest, June 30, 2011	467,131	\$ 17.26	\$ 6.40	5.6	\$ 58

**Nonvested Stock Options**

	Number of Stock Options	Weighted Average Exercise Price	Weighted Average Grant Date Fair Value	Weighted Average Remaining Amortization Period (Years)
Outstanding at June 30, 2008	117,500	\$ 22.62	\$ 6.16	—
Granted	121,500	\$ 21.76	\$ 6.68	—
Vested	(40,490)	\$ 22.66	\$ 6.16	—
Outstanding at June 30, 2009	198,510	\$ 22.13	\$ 6.46	2.1
Granted	220,789	\$ 18.25	\$ 6.09	—
Vested	(68,990)	\$ 22.20	\$ 6.43	—
Cancelled/Forfeited	(49,515)	\$ 21.21	\$ 6.35	—
Outstanding at June 30, 2010	300,794	\$ 19.42	\$ 6.22	2.1
Granted	327,656	\$ 14.95	\$ 7.05	—
Vested	(105,458)	\$ 20.29	\$ 6.30	—
Cancelled/Forfeited	(200,123)	\$ 18.74	\$ 7.09	—
Outstanding at June 30, 2011	322,869	\$ 15.02	\$ 6.50	1.7

**FARMER BROS. CO.**
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

The aggregate intrinsic values in the table above represent the total pretax intrinsic value, based on the Company's closing stock price of \$10.14 at June 30, 2011, \$15.09 at June 30, 2010 and \$22.88 at June 30, 2009, representing the last trading day of the respective years, which would have been received by award holders had all award holders exercised their awards that were in-the-money as of those dates. As of June 30, 2011, June 30, 2010 and June 30, 2009, respectively, there was approximately \$1.5 million, \$1.4 million, and \$1.0 million of unrecognized compensation cost related to stock options. Compensation expense recognized in general and administrative expense was \$0.7 million, \$0.6 million and \$0.4 million for fiscal 2011, 2010 and 2009, respectively.

**Restricted Stock**

During each of fiscal 2011, 2010 and 2009 the Company granted a total of 63,979 shares, 48,722 shares and 26,100 shares of restricted stock, respectively, with a weighted average grant date fair value of \$16.67, \$18.31 and \$21.76 per share, respectively, to eligible employees, officers and directors under the Omnibus Plan. Shares of restricted stock generally vest at the end of three years for eligible employees and officers who are employees. The fiscal 2011 grant of 63,979 shares include 10,384 shares of restricted stock granted to Patrick G. Criteser, the Company's Interim Co-CEO, which shares vest at one year from the date of grant. Shares of restricted stock generally vest ratably over a period of three years for directors and officers who are not employees. Compensation expense is recognized on a straight-line basis over the service period based on the estimated fair value of the restricted stock. Compensation expense recognized in general and administrative expense was \$0.5 million, \$0.4 million and \$0.3 million, respectively, for the fiscal years ended June 30, 2011, 2010 and 2009. As of June 30, 2011, 2010 and 2009, there was approximately \$0.9 million, \$0.9 million and \$0.8 million, respectively, of unrecognized compensation cost related to restricted stock. The following tables summarize restricted stock activity from adoption of the Omnibus Plan through June 30, 2011:

**Outstanding Restricted Stock Awards**

	Shares Awarded	Weighted Average Grant Date Fair Value	Weighted Average Remaining Life (Years)	Aggregate Intrinsic Value (In thousands)
Outstanding June 30, 2008	25,600	\$ 22.67	—	\$ 545.3
Granted	26,100	\$ 21.76	—	\$ 568.2
Exercised/Released	(3,031)	\$ 22.70	—	\$ 57.5
Cancelled/Forfeited	(500)	\$ 21.76	—	\$ 11.4
Outstanding at June 30, 2009	48,169	\$ 22.19	2.1	\$ 1,072.2
Granted	48,722	\$ 18.31	—	\$ 892.0
Exercised/Released	(5,860)	\$ 22.18	—	\$ 105.0
Cancelled/Forfeited	(10,823)	\$ 21.79	—	\$ 235.0
Outstanding at June 30, 2010	80,208	\$ 19.91	2.0	\$ 1,210.0
Granted	63,979	\$ 16.67	—	\$ 1,066.0
Exercised/Released	(20,674)	\$ 21.52	—	\$ 332.0
Cancelled/Forfeited	(42,826)	\$ 19.19	—	\$ 497.0
Outstanding June 30, 2011	80,687	\$ 17.31	2.6	\$ 818.0
Vested and exercisable, June 30, 2011	—			
Vested and expected to vest, June 30, 2011	73,063	\$ 17.30	2.6	\$ 740.0

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**Nonvested Restricted Stock Awards**

	Shares Awarded	Weighted Average Grant Date Fair Value
Outstanding at June 30, 2008	25,600	\$ 22.67
Granted	26,100	\$ 21.76
Vested	(3,031)	\$ 22.70
Cancelled/Forfeited	(500)	\$ 21.76
Outstanding at June 30, 2009	48,169	\$ 22.19
Granted	48,722	\$ 18.31
Vested	(5,860)	\$ 22.18
Cancelled/Forfeited	(10,823)	\$ 21.49
Outstanding at June 30, 2010	80,208	\$ 19.91
Granted	63,979	\$ 16.67
Vested	(20,674)	\$ 21.52
Cancelled/Forfeited	(42,826)	\$ 19.19
Outstanding at June 30, 2011	<u>80,687</u>	<u>\$ 17.31</u>

**Note 11. Other Current Liabilities**

Other current liabilities consist of the following:

	June 30,	
	2011	2010
	(In thousands)	
Accrued workers' compensation liabilities	\$ 1,320	\$ 1,293
Dividends payable	9	1,849
Postretirement medical liability	1,148	1,076
Accrued pension liabilities	5,678	5,285
Other (including net taxes payable)	3,727	2,178
	<u>\$ 11,882</u>	<u>\$ 11,681</u>

**Note 12. Income Taxes**

The current and deferred components of the provision for income taxes consist of the following:

	June 30,		
	2011	2010	2009
	(In thousands)		
<b>Current:</b>			
Federal	\$ (4)	\$(3,514)	\$(1,433)
State	324	227	(5)
Total current income tax benefit	320	(3,287)	(1,439)
<b>Deferred:</b>			
Federal	(7,867)	629	11,916
State	(1,620)	129	3,805
Total deferred income tax expense (benefit)	(9,487)	758	15,721
Income tax (benefit) expense	<u>\$(9,167)</u>	<u>\$(2,529)</u>	<u>\$14,283</u>



FARMER BROS. CO.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Income tax expense or benefit from continuing operations is generally determined without regard to other categories of earnings, such as discontinued operations and other comprehensive income. An exception is provided in ASC 740 when there is aggregate income from categories other than continuing operations and a loss from continuing operations in the current year. In this case, the tax benefit allocated to continuing operations is the amount by which the loss from continuing operations reduces the tax expenses recorded with respect to the other categories of earnings, even when a valuation allowance has been established against the deferred tax assets. In instances where a valuation allowance is established against current year losses, income from other sources, including gain from post retirement benefits recorded as a component of other comprehensive income, is considered when determining whether sufficient future taxable income exists to realize the deferred tax assets. As a result, for the year ended June 30, 2011, the Company recorded a tax expense of \$9.8 million in other comprehensive income related to the gain on post retirement benefits, and recorded a corresponding tax benefit of \$9.8 million in continuing operations.

A reconciliation of income tax (benefit) expense to the federal statutory tax rate is as follows:

	June 30, 2011	June 30, 2010	June 30, 2009
Statutory tax rate	34%	34%	34%
	(In thousands)		
Income tax benefit at statutory rate	\$(21,585)	\$(9,004)	\$ (6,456)
State income tax (net of federal tax benefit)	(2,765)	(1,238)	(985)
Dividend income exclusion	(532)	(765)	(840)
Valuation allowance	16,529	8,752	19,663
Change in contingency reserve (net)	(1,308)	7	3,578
Research tax credit (net)	(16)	(66)	(97)
Other (net)	510	(215)	(580)
Income tax (benefit) expense	<u>\$ (9,167)</u>	<u>\$ (2,529)</u>	<u>\$ 14,283</u>

The primary components of the temporary differences which give rise to the Company's net deferred tax assets are as follows:

	2011	June 30, 2010	2009
	(In thousands)		
Deferred tax assets:			
Postretirement benefits	\$ 20,226	\$ 27,589	\$ 22,110
Accrued liabilities	4,138	4,376	4,594
Capital loss carryforward	2,945	1,971	2,757
Net operating loss carryforward	37,170	17,261	5,564
Other	4,328	2,464	6,362
Total deferred tax assets	<u>68,807</u>	<u>53,661</u>	<u>41,387</u>
Deferred tax liabilities:			
Fixed assets	(7,881)	(5,551)	(5,056)
Intangible assets	(1,032)	(4,498)	(2,725)
Other	(814)	(726)	(545)
Total deferred tax liabilities	<u>(9,727)</u>	<u>(10,775)</u>	<u>(8,326)</u>
Valuation allowance	<u>(60,390)</u>	<u>(43,860)</u>	<u>(33,278)</u>
Net deferred tax (liability) asset	<u>\$ (1,310)</u>	<u>\$ (974)</u>	<u>\$ (217)</u>

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

The Company has approximately \$96.1 million and \$104.3 million of federal and state net operating loss carryforwards that will begin to expire in the years ending June 30, 2025 and June 30, 2020, respectively. The Company also has approximately \$7.8 million and \$7.0 million of federal and state capital loss carryforwards, respectively, that may only be used to offset capital gains that begin expiring in June 30, 2012.

At June 30, 2011, the Company had total deferred tax assets of \$68.8 million and a net deferred tax asset before valuation allowance of \$59.1 million. The Company considered whether a valuation allowance should be recorded against deferred tax assets based on the likelihood that the benefits of the deferred tax assets would or would not ultimately be realized in future periods. In making such assessment, significant weight was given to evidence that could be objectively verified such as recent operating results and less consideration was given to less objective indicators such as future earnings projections.

After consideration of positive and negative evidence, including the recent history of losses, the Company cannot conclude that it is more likely than not to generate future earnings sufficient to realize the Company's deferred tax assets as of June 30, 2011. Accordingly, a valuation allowance of \$60.4 million has been recorded to offset this deferred tax asset. The valuation allowance increased by \$16.5 million, \$10.6 million and \$33.3 million in fiscal years ended June 30, 2011, 2010 and 2009, respectively.

The "Worker, Homeownership, and Business Assistance Act of 2009," which was signed into law on November 6, 2009, extended the carryback period for certain net operating losses from two years to five years. As a result of the extended carryback period, the Company recorded a tax benefit of \$3.5 million in fiscal 2010.

A tabular reconciliation of the total amounts (in absolute values) of unrecognized tax benefits is as follows (in thousands):

	Year Ended June 30,		
	2011	2010	2009
Unrecognized tax benefits at beginning of year	\$ 5,218	\$4,382	\$ 807
Increases in tax positions for prior years	—	—	4,005
(Decreases) increases in tax positions for current year	(1,316)	836	—
Settlements	—	—	(430)
Lapse in statute of limitations	—	—	—
Unrecognized tax benefits at end of year	<u>\$ 3,902</u>	<u>\$5,218</u>	<u>\$4,382</u>

At June 30, 2011 and 2010, the Company has approximately \$3.6 million and \$5.0 million, respectively, of unrecognized tax benefits that, if recognized, would affect the effective tax rate, subject to the valuation allowance.

The Internal Revenue Service completed an audit of the Company's open tax years in December 2010. The Company is currently appealing the result of this audit. The State of California is currently conducting a examinations of the Company's tax returns for the years ended June 20, 2006 and 2007. The Company believes it is reasonably possible that a portion of its total unrecognized tax benefits will decrease in the next twelve months upon the conclusion of these examinations. However, it is premature to assess the range or the nature of the reasonably possible changes to the Company's unrecognized tax benefits.

The Company files income tax returns in the U.S. and in various state jurisdictions with varying statutes of limitations. The Company is no longer subject to U.S. income tax examinations for the fiscal years prior to June 30, 2003.

**FARMER BROS. CO.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

The Company's policy is to recognize interest expense and penalties related to income tax matters as a component of income tax expense. As of June 30, 2011 and 2010, the Company recorded \$47,000 and \$36,000, respectively, in accrued interest and penalties associated with uncertain tax positions. Additionally, the Company recorded (income)/expense of \$12,000, \$10,000 and (\$38,000) related to interest and penalties on uncertain tax positions in the years ended June 30, 2011, 2010 and 2009, respectively.

**Note 13. Earnings (Loss) Per Share**

<u>(In thousands, except share and per share amounts)</u>	<u>Year ended June 30,</u>		
	<u>2011</u>	<u>2010</u>	<u>2009</u>
Net loss attributable to common stockholders-basic	\$ (53,897)	\$ (23,847)	\$ (33,160)
Net loss attributable to unvested restricted stockholders	(420)	(106)	(110)
Total net loss	<u>\$ (54,317)</u>	<u>\$ (23,953)</u>	<u>\$ (33,270)</u>

<u>(In thousands, except share and per share amounts)</u>	<u>Year ended June 30,</u>		
	<u>2011</u>	<u>2010</u>	<u>2009</u>
Weighted average shares outstanding-basic	15,066,663	14,866,306	14,508,320
Effect of dilutive securities:			
Shares issuable under stock options	—	—	—
Weighted average shares outstanding-diluted	<u>15,066,663</u>	<u>14,866,306</u>	<u>14,508,320</u>
Basic and diluted net loss per common share	<u>\$ (3.61)</u>	<u>\$ (1.61)</u>	<u>\$ (2.29)</u>

**Note 14. Commitments and Contingencies**

With the acquisition of the DSD Coffee Business in the fiscal year ended June 30, 2009, the Company assumed some of the operating lease obligations associated with the acquired vehicles. The Company also refinanced some of the existing leases and entered into new capital leases for certain vehicles. The terms of the capital leases vary from 13 months to 26 months with varying expiration dates through 2011. The Company is obligated under operating leases for branch warehouses. Some operating leases have renewal options that allow the Company, as lessee, to extend the leases. The Company has one operating lease with a term greater than five years that expires in 2018 and has a 10 year renewal option, and operating leases for computer hardware with terms that do not exceed four years. Rent expense for the fiscal years ended June 30, 2011, 2010 and 2009 was \$6.3 million, \$6.6 million and \$3.2 million, respectively.

In May 2011, the Company did not meet the minimum credit rating criteria for participation in the alternative security program for California self-insurers. As a result, the Company was required to post a \$5.9 million letter of credit as a security deposit to the State of California Department of Industrial Relations Self-Insurance Plans. The Company posted the security deposit in June 2011.

**FARMER BROS. CO.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

Contractual obligations for future fiscal years are as follows (in thousands):

Year Ended June 30,	Contractual Obligations			
	Capital Lease Obligations	Operating Lease Obligations	Pension Plan Obligations	Postretirement Benefits Other Than Pensions
2012	\$ 2,210	\$ 5,228	\$ 5,678	\$ 1,148
2013	2,171	4,125	5,957	1,232
2014	2,042	3,446	6,114	1,290
2015	1,994	2,833	6,469	1,486
2016	1,764	1,865	6,830	1,606
Thereafter	338	3,230	42,280	10,182
		<u>\$ 20,727</u>	<u>\$ 73,328</u>	<u>\$ 16,944</u>
Total minimum lease payments	\$ 10,519			
Less: imputed interest (6.30% to 13.60%)	<u>(1,883)</u>			
Present value of future minimum lease payments	\$ 8,636			
Less: current portion	<u>1,570</u>			
Long-term capital lease obligation	<u>\$ 7,066</u>			

The Company is a party to various pending legal and administrative proceedings. It is management's opinion that the outcome of such proceedings will not have a material impact on the Company's financial position, results of operations, or cash flows.

**Note 15. Quarterly Financial Data (Unaudited)**

	September 30, 2010	December 31, 2010	March 31, 2011	June 30, 2011
	(In thousands, except share data)			
Net sales	\$ 108,743	\$ 119,227	\$ 116,732	\$ 119,243
Gross profit	\$ 43,945	\$ 45,016	\$ 41,861	\$ 26,352
Loss from operations	\$ (12,019)	\$ (10,543)	\$ (14,463)	\$ (31,397)
Net loss	\$ (9,873)	\$ (8,912)	\$ (13,196)	\$ (22,336)
Net loss per common share	\$ (0.66)	\$ (0.59)	\$ (0.87)	\$ (1.47)
	September 30, 2009	December 31, 2009	March 31, 2010	June 30, 2010
	(In thousands, except share data)			
Net sales	\$ 112,127	\$ 120,225	\$ 111,002	\$ 106,964
Gross profit	\$ 54,304	\$ 51,092	\$ 49,261	\$ 42,907
Loss from operations	\$ (2,499)	\$ (5,102)	\$ (9,288)	\$ (22,303)
Net income (loss)	\$ 2,199	\$ 1,417	\$ (6,575)	\$ (20,994)
Net income (loss) per common share	\$ 0.15	\$ 0.10	\$ (0.44)	\$ (1.40)

During the fourth quarter and for the fiscal year ended June 30, 2011, the Company recorded \$40.3 million in LIFO charge in cost of goods sold and an impairment loss of \$7.8 million related to the write-off of definite-lived intangible assets that the Company acquired or entered into during the DSD Coffee Business acquisition. During the fourth quarter of fiscal 2011, the Company also recorded \$9.2 million in income tax benefit (see Note 12).

**FARMER BROS. CO.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

During the fourth quarter and for the fiscal year ended June 30, 2010, the Company identified two errors in its consolidated financial statements. The first error was an understatement of coffee brewing equipment parts inventory and an overstatement of cost of sales by \$1.8 million, of which \$1.5 million related to fiscal year 2009 and \$0.3 million related to the first three quarters of fiscal 2010. The error resulted from the Company charging the cost of coffee brewing equipment at one recently acquired location to cost of sales upon receipt rather than accounting for parts on hand as inventory. The second error was an understatement of accrued liabilities and operating expense by \$1.8 million, of which \$0.5 million related to fiscal year 2009 and \$1.3 million related to the first three quarters of fiscal 2010. This error resulted from a misapplication of a system configuration at a recently acquired location. In accordance with relevant guidance, management evaluated the materiality of these errors from a qualitative and quantitative perspective both individually and in the aggregate. Based on such evaluation, the Company concluded that correcting the cumulative errors would be immaterial to the expected full year results for fiscal 2010 and correcting the error would not have had a material impact to any of the individual prior period financial statements or affect the trend of financial results. Accordingly, the Company recorded an adjustment during the fourth quarter of fiscal 2010 to increase total inventory and reduce cost of sales by \$1.8 million and to increase accrued liabilities and operating expense by \$1.8 million.

**Note 16. Subsequent Events**

On September 12, 2011, the Lender and the Company amended the Original Loan Agreement to reduce required minimum excess availability and required minimum total liquidity for the period from July 1, 2011 through September 30, 2011. See Note 8.

On September 12, 2011, the Company entered into an Amended and Restated Loan and Security Agreement among the Company and CBI, as Borrowers, certain of the Company's other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent. See Note 8.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures**

***Disclosure Controls and Procedures***

Disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), are controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information we are required to disclose in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer (including our Interim Co-Chief Executive Officers) and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosures.

As of June 30, 2011, our management, with the participation of our Interim Co-Chief Executive Officers and Chief Financial Officer, carried out an evaluation of the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15(e) promulgated under the Exchange Act. Based upon this evaluation, our Interim Co-Chief Executive Officers and our Chief Financial Officer concluded that, as of June 30, 2011, our disclosure controls and procedures were effective.

***Management Report on Internal Control Over Financial Reporting***

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). With the participation of the Interim Co-Chief Executive Officers and Chief Financial Officer, our management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework and criteria established in Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management has concluded that our internal control over financial reporting was effective as of June 30, 2011.

Ernst & Young LLP, an independent registered public accounting firm, issued an attestation report on the Company’s internal control over financial reporting as of June 30, 2011, as stated in their report which is included herein.

***Changes in Internal Control Over Financial Reporting***

There has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act) during our fiscal quarter ended June 30, 2011, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

During the fiscal quarter ended March 31, 2009, the Company entered into a transition services agreement with Sara Lee to host, maintain and support the IT infrastructure of the DSD Coffee Business for up to eighteen months. This agreement was scaled back in February 2010 to include only IT infrastructure support and terminated on August 31, 2010.

## Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of  
Farmer Bros. Co. and Subsidiaries

We have audited Farmer Bros. Co. and Subsidiaries' internal control over financial reporting as of June 30, 2011, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Farmer Bros. Co. and Subsidiaries' management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying "Management Report on Internal Control over Financial Reporting." Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Farmer Bros. Co. and Subsidiaries maintained, in all material respects, effective internal control over financial reporting as of June 30, 2011, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Farmer Bros. Co. and Subsidiaries as of June 30, 2011 and 2010, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended June 30, 2011 of Farmer Bros. Co. and Subsidiaries and our report dated September 12, 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Los Angeles, California  
September 12, 2011

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**Item 9A(T). Controls and Procedures**

Not applicable.

**Item 9B. Other Information**

On September 12, 2011, the Lender and the Company amended the Original Loan Agreement to reduce required minimum excess availability and required minimum total liquidity for the period from July 1, 2011 through September 30, 2011. The foregoing description of Amendment No. 5 to the Original Loan Agreement does not purport to be complete and is subject to, and qualified in its entirety by, reference to Amendment No. 5 to Loan and Security Agreement which is included as Exhibit 10.11 to this Form 10-K and incorporated herein by reference.

On September 12, 2011, we entered into an Amended and Restated Loan and Security Agreement among the Company and CBI, as Borrowers, certain of the Company's other subsidiaries, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent. A description of the material terms and conditions of the Loan Agreement are set forth in Part II, Item 7 of this Annual Report on Form 10-K under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility" and incorporated herein by reference.



**PART III****Item 10. Directors, Executive Officers and Corporate Governance**

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

To the Company's knowledge, based solely on a review of the copies of such reports furnished to the Company and written representations that no other reports were required during the fiscal year ended June 30, 2011, its officers, directors and ten percent shareholders complied with all applicable Section 16(a) filing requirements, with the exception of those filings listed in the Registrant's Proxy Statement expected to be dated and filed with the SEC on or before October 28, 2011.

**Item 11. Executive Compensation**

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

**Equity Compensation Plan Information**

Information about our equity compensation plans at June 30, 2011 that were either approved or not approved by our stockholders was as follows:

<u>Plan Category</u>	<u>Number of Shares to be Issued Upon Exercise of Outstanding Options</u>	<u>Weighted Average Exercise Price of Outstanding Options</u>	<u>Number of Shares Remaining Available for Future Issuance(b)</u>
Equity compensation plans approved by stockholders(a)	497,810	\$ 17.19	391,938
Equity compensation plans not approved by stockholders	—	—	—
<b>Total</b>	<b>497,810</b>	<b>\$ 17.19</b>	<b>391,938</b>

(a) Includes the Omnibus Plan.

(b) Shares available for future issuance under the Omnibus Plan may be awarded in the form of stock options, stock appreciation rights, restricted stock, restricted stock units, dividend equivalents, performance-based awards, stock payments, or other incentives payable in shares of stock, or any combination thereof. Shares covered by an award will be counted as used at the time the award is granted to a participant. If any award lapses, expires, terminates or is canceled prior to the issuance of shares thereunder or if shares are issued under the Omnibus Plan to a participant and are thereafter reacquired by the Company, the shares subject to such awards and the reacquired shares shall again be available for issuance under the Omnibus Plan. In addition to the shares that are actually issued to a participant, the following items will be counted against the total number of shares available for issuance under the Omnibus Plan: (i) shares subject to an award that are not delivered to a participant because the award is exercised through a reduction of shares subject to the award (i.e., "net exercised"); (ii) shares subject to an award that are not delivered to a participant because such shares are withheld in satisfaction of the withholding of taxes incurred in connection with the exercise of or issuance of shares under certain types of awards; and (iii) shares that are tendered to the Company to pay the exercise price of any stock award. The following items will not be counted against the total number of shares available for issuance under the Omnibus Plan: (A) the payment in cash of dividends or dividend equivalents; and (B) any award that is settled in cash rather than by issuance of stock.

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**Item 13. Certain Relationships and Related Transactions, and Director Independence**

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

**Item 14. Principal Accountant Fees and Services**

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

**PART IV**

**Item 15. Exhibits and Financial Statement Schedules**

(a) List of Financial Statements and Financial Statement Schedules:

1. Financial Statements included in Item 8:

<a href="#">Consolidated Balance Sheets as of June 30, 2011 and 2010</a>	34
<a href="#">Consolidated Statements of Operations for the Years Ended June 30, 2011, 2010 and 2009</a>	35
<a href="#">Consolidated Statements of Cash Flows for the Years Ended June 30, 2011, 2010 and 2009</a>	36
<a href="#">Consolidated Statements of Stockholders' Equity for the Years Ended June 30, 2011, 2010, and 2009</a>	37
<a href="#">Notes to Consolidated Financial Statements</a>	38

2. Financial Statement Schedules: Financial Statement Schedules are omitted as they are not applicable, or the required information is given in the consolidated financial statements and notes thereto.

3. The exhibits to this Annual Report on Form 10-K are listed on the accompanying index to exhibits and are incorporated herein by reference or are filed as part of the Annual Report on Form 10-K. Each management contract or compensation plan required to be filed as an exhibit is identified by an asterisk (\*).

(b) Exhibits: See Exhibit Index.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) 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.

FARMER BROS. CO.

By:    /S/ JEFFREY A. WAHBA  
**Jeffrey A. Wahba**  
*Interim Co-Chief Executive Officer,*  
*Treasurer and Chief Financial Officer*  
*(co-chief executive officer, principal financial and accounting officer)*  
Date: September 12, 2011

By:    /S/ PATRICK G. CRITESER  
**Patrick G. Criteser**  
*Interim Co-Chief Executive Officer*  
*(co-chief executive officer)*  
Date: September 12, 2011

By:    /S/ HORTENSIA GÓMEZ  
**Hortensia Gómez**  
*Vice President and Controller*  
*(controller)*  
Date: September 12, 2011

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>  </u> /S/ GUENTER W. BERGER <b>Guenter W. Berger</b>	Chairman of the Board and Director	September 12, 2011
<u>  </u> /S/ MARTIN A. LYNCH <b>Martin A. Lynch</b>	Director	September 12, 2011
<u>  </u> /S/ THOMAS A. MALOOF <b>Thomas A. Maloof</b>	Director	September 12, 2011
<u>  </u> /S/ JAMES J. MCGARRY <b>James J. McGarry</b>	Director	September 12, 2011
<u>  </u> /S/ JOHN H. MERRELL <b>John H. Merrell</b>	Director	September 12, 2011
<u>  </u> /S/ JEFFREY A. WAHBA <b>Jeffrey A. Wahba</b>	Director	September 12, 2011
<u>  </u> <b>Jeanne Farmer Grossman</b>	Director	

**EXHIBIT INDEX**

- 3.1 Certificate of Incorporation (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2009 filed with the SEC on May 11, 2009 and incorporated herein by reference).
- 3.2 Amended and Restated Bylaws (filed as Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the SEC on April 25, 2011 and incorporated herein by reference).
- 4.1 Certificate of Designation, Preferences and Rights of Series A Junior Participating Preferred Stock (filed as Exhibit 4.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed with the SEC on May 10, 2010 and incorporated herein by reference).
- 4.2 Rights Agreement, dated March 17, 2005, by and between Farmer Bros. Co. and Wells Fargo Bank, N.A., as Rights Agent (filed as Exhibit 4.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed with the SEC on May 10, 2010 and incorporated herein by reference).
- 4.3 Specimen Stock Certificate (filed as Exhibit 4.1 to the Company's Form 8-A/A filed with the SEC on February 6, 2009 and incorporated herein by reference).
- 10.1 Asset Purchase Agreement dated as of December 2, 2008, by and among Sara Lee Corporation, Saramar, LLC and Farmer Bros. Co. (filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2008 filed with the SEC on February 10, 2009 and incorporated herein by reference).
- 10.2 Amendment No. 1 to Asset Purchase Agreement, dated February 27, 2009, by and among Sara Lee Corporation, Saramar, LLC and Farmer Bros. Co. (filed as Exhibit 10.2 to the Company's Annual Report on Form 10-K/A for the fiscal year ended June 30, 2009 filed with the SEC on September 15, 2009 and incorporated herein by reference).
- 10.3 Second Amendment to Asset Purchase Agreement, dated December 17, 2009, by and among Sara Lee Corporation, Saramar, LLC and Farmer Bros. Co. (filed as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2009 filed with the SEC on February 9, 2010 and incorporated herein by reference).
- 10.4 Stock Purchase Agreement, dated April 27, 2007, by and among Farmer Bros. Co., Coffee Bean Holding Co., Inc., and the Stockholders of Coffee Bean Holding Co., Inc. (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on May 1, 2007 and incorporated herein by reference).
- 10.5 Loan and Security Agreement, dated March 2, 2009, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc., FBC Finance Company and SL Realty, LLC, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 10, 2009 and incorporated herein by reference).
- 10.6 Amendment No. 1 to Loan and Security Agreement and Consent, dated March 2, 2009, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.5 to the Company's Annual Report on Form 10-K/A for the fiscal year ended June 30, 2009 filed with the SEC on September 15, 2009 and incorporated herein by reference).

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- 10.7 Amendment No. 2 to Loan and Security Agreement and Consent, dated July 27, 2009, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2009 filed with the SEC on November 9, 2009 and incorporated herein by reference).
- 10.8 Amendment No. 3 to Loan and Security Agreement, dated November 20, 2009, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2009 filed with the SEC on February 9, 2010 and incorporated herein by reference).
- 10.9 Amendment No. 4 to Loan and Security Agreement and Consent, dated August 31, 2010, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.9 to the Company's Annual Report on Form 10-K/A for the year ended June 30, 2010 filed with the SEC on September 14, 2010 and incorporated herein by reference).
- 10.10 Letter Agreement regarding Waiver of Event of Default dated May 7, 2010, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed as Exhibit 10.9 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 filed with the SEC on May 10, 2010 and incorporated herein by reference).
- 10.11 Amendment No. 5 to Loan and Security Agreement, dated September 12, 2011, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, and Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, as Lender (filed herewith).
- 10.12 Amended and Restated Loan and Security Agreement, dated September 12, 2011, by and among Farmer Bros. Co. and Coffee Bean International, Inc., as Borrowers, Coffee Bean Holding Co., Inc. and FBC Finance Company, as Guarantors, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent (filed herewith).
- 10.13 Farmer Bros. Co. Pension Plan for Salaried Employees (filed as Exhibit 10.1 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2007 filed with the SEC on September 13, 2007 and incorporated herein by reference).\*
- 10.14 Amendment No. 1 to Farmer Bros. Co. Retirement Plan effective June 30, 2011 (filed herewith).\*
- 10.15 Farmer Bros. Co. 2005 Incentive Compensation Plan (Amended and Restated as of December 31, 2008) (filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2008 filed with the SEC on February 10, 2009 and incorporated herein by reference).\*
- 10.16 Farmer Bros. Co. Amended and Restated Employee Stock Ownership Plan, as adopted by the Board of Directors on December 9, 2010 and effective as of January 1, 2010 (filed as Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).\*

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- 10.17 ESOP Loan Agreement including ESOP Pledge Agreement and Promissory Note, dated March 28, 2000, between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).
- 10.18 Amendment No. 1 to ESOP Loan Agreement, dated June 30, 2003, between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).
- 10.19 ESOP Loan Agreement No. 2 including ESOP Pledge Agreement and Promissory Note, dated July 21, 2003 between Farmer Bros. Co. and Wells Fargo Bank, N.A., Trustee for the Farmer Bros Co. Employee Stock Ownership Plan (filed as Exhibit 10.15 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2010 filed with the SEC on February 9, 2011 and incorporated herein by reference).
- 10.20 Employment Agreement, dated as of June 2, 2006, by and between Farmer Bros. Co. and Roger M. Lavery III (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on June 8, 2006 and incorporated herein by reference).\*
- 10.21 Amendment No. 1 to Employment Agreement, dated as of December 5, 2007, by and between Farmer Bros. Co. and Roger M. Lavery III (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K/A filed with the SEC on December 11, 2007 and incorporated herein by reference).\*
- 10.22 Amendment No. 2 to Employment Agreement, dated as of December 31, 2008, by and between Farmer Bros. Co. and Roger M. Lavery III (filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2008 filed with the SEC on February 10, 2009 and incorporated herein by reference).\*
- 10.23 Separation Agreement, dated as of April 1, 2011, by and between Farmer Bros. Co. and Roger M. Lavery III (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on April 6, 2011 and incorporated herein by reference).\*
- 10.24 Employment Agreement, dated as of February 25, 2010, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on March 3, 2010 and incorporated herein by reference).\*
- 10.25 Amended and Restated Employment Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.26 Amendment No. 1 to Amended and Restated Employment Agreement, dated as of August 30, 2011, by and between Farmer Bros. Co. and Jeffrey A. Wahba (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 2, 2011 and incorporated herein by reference).\*
- 10.27 Employment Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Patrick G. Criteser (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.28 Letter Agreement, effective as of April 19, 2011, by and between Farmer Bros. Co. and Mark A. Harding (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on May 23, 2011 and incorporated herein by reference).\*
- 10.29 Employment Agreement, dated as of December 1, 2010, by and between Farmer Bros. Co. and Larry B. Garrett (filed herewith).\*

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10.30	Consulting Agreement, dated as of March 2, 2009, by and between Farmer Bros. Co. and Michael J. King (filed as Exhibit 10.16 to the Company's Annual Report on Form 10-K/A for the fiscal year ended June 30, 2009 filed with the SEC on September 15, 2009 and incorporated herein by reference).*
10.31	Interim Services Agreement, dated as of December 17, 2009, by and between Farmer Bros. Co. and Tatum, LLC (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 10, 2010 and incorporated herein by reference).*
10.32	2007 Omnibus Plan (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on August 29, 2007 and incorporated herein by reference).*
10.33	Form of 2007 Omnibus Plan Stock Option Grant Notice and Stock Option Agreement (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).*
10.34	Form of 2007 Omnibus Plan Restricted Stock Award Grant Notice and Restricted Stock Award Agreement (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).*
10.35	Stock Ownership Guidelines for Directors and Executive Officers (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on February 26, 2008 and incorporated herein by reference).*
10.36	Form of Target Award Notification Letter (Fiscal 2011) under Farmer Bros. Co. 2005 Incentive Compensation Plan (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on September 30, 2010 and incorporated herein by reference).*
10.37	Form of Target Award Notification Letter (Fiscal 2010) under Farmer Bros. Co. 2005 Incentive Compensation Plan (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on December 16, 2009 and incorporated herein by reference).*
10.38	Form of Change in Control Severance Agreement for Executive Officers of the Company (with schedule of executive officers attached) (filed as Exhibit 10.28 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2011 filed with the SEC on May 10, 2011 and incorporated herein by reference).*
10.39	Form of Indemnification Agreement for Directors and Officers of the Company, as adopted on May 18, 2006 and as amended on December 31, 2008 (with schedule of indemnitees attached) (filed as Exhibit 10.29 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2011 filed with the SEC on May 10, 2011 and incorporated herein by reference).*
14.1	Farmer Bros. Co. Code of Conduct and Ethics adopted on August 26, 2010 (filed as Exhibit 14.1 to the Company's Current Report on Form 8-K filed with the SEC on September 1, 2010 and incorporated herein by reference).
21.1	List of all Subsidiaries of Farmer Bros. Co. (filed herewith).
23.1	Consent of Independent Registered Accounting Firm (filed herewith).
31.1	Principal Executive Officer and Principal Financial and Accounting Officer Certification Pursuant to Securities Exchange Act Rules 13a-14 and 15d-14 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
31.2	Principal Executive Officer Certification Pursuant to Securities Exchange Act Rules 13a-14 and 15d-14 as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.1	Principal Executive Officer and Principal Financial and Accounting Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
32.2	Principal Executive Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
99.1	Properties List (filed herewith).

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\* Management contract or compensatory plan or arrangement.



AMENDMENT NO. 5  
TO  
LOAN AND SECURITY AGREEMENT

THIS AMENDMENT NO. 5 TO LOAN AND SECURITY AGREEMENT (this "Amendment No. 5"), dated as of September 12, 2011, is by and among Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, a national banking association ("Lender"), Farmer Bros. Co., a Delaware corporation (as surviving corporation of the merger with FBC Realty, LLC formerly known as SL Realty, LLC, a Delaware limited liability company, "Farmer") and Coffee Bean International, Inc., an Oregon corporation ("CBI" and together with Farmer, each individually a "Borrower" and collectively, "Borrowers"), Coffee Bean Holding Co., Inc., a Delaware corporation ("Coffee Holding"), FBC Finance Company, a California corporation ("Finance" and together with Coffee Holding, each individually a "Guarantor" and collectively, "Guarantors").

W I T N E S S E T H :

WHEREAS, Lender, Borrowers and Guarantors have entered into financing arrangements pursuant to which Lender has made, and may make, loans and advances and provide other financial accommodations to Borrowers as set forth in the Loan and Security Agreement, dated as of March 2, 2009, by and among Lender, Borrowers and Guarantors, the "Loan Agreement", as amended by Amendment No. 1 to Loan and Security Agreement, dated as of March 2, 2009, by and among Lender, Borrowers and Guarantors, Amendment No. 2 to Loan and Security Agreement and Consent, dated as of July 27, 2009, by and among Lender, Borrowers and Guarantors, Amendment No. 3 to Loan and Security Agreement and Waiver, dated as of November 20, 2009, by and among Lender, Borrowers and Guarantors and Amendment No. 4 to Loan and Security Agreement, dated as of August 31, 2010 (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement", and together with all agreements, documents and instruments at any time executed and/or delivered in connection therewith or related thereto, as from time to time amended, modified, supplemented, extended, renewed, restated, or replaced, collectively, the "Financing Agreements");

WHEREAS, Borrowers and Guarantors have requested that Lender agree to make certain amendments to the Loan Agreement, and Lender is willing to agree, subject to the terms and conditions set forth herein, to make such amendments, as more specifically set forth herein; and

WHEREAS, by this Amendment No. 5, Lender, Borrowers and Guarantors desire and intend to evidence such amendments;

NOW THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, the parties hereto agree as follows:

1. Definitions.

(a) Additional Definitions. As used herein, the following terms shall have the meanings given to them below and the Loan Agreement and the other Financing Agreements are hereby amended to include, in addition and not in limitation, the following definitions:

(i) "Amendment No. 5" shall mean Amendment No. 5 to Loan and Security Agreement, dated as of July 1, 2011, by and among Lender, Borrowers and Guarantors, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(ii) "Amendment No. 5 Effective Date" shall mean July 1, 2011.

(b) Interpretation. All capitalized terms used herein shall have the meanings assigned thereto in the Loan Agreement, unless otherwise defined herein. All references to the plural herein shall also mean the singular and all references to the singular herein shall also mean the plural, in each case unless otherwise required by the context of the use thereof.

2. Financial Covenants. Section 9.18 of the Loan Agreement is hereby amended by deleting such Section in its entirety and replacing it with the following:

"9.18 Minimum Excess Availability; Minimum Total Liquidity. Borrowers shall (a) maintain Excess Availability (i) at all times from July 1, 2011 through and including September 30, 2011 of not less than \$4,250,000 and (ii) of not less than \$7,500,000 at all other times and (b) maintain Total Liquidity (i) at all times from July 1, 2011 through and including September 30, 2011 of not less than \$20,000,000 and (ii) of not less than \$35,000,000 at all other times."

3. Additional Representations, Warranties and Covenants. Borrowers and Guarantors represent, warrant and covenant with and to Lender as follows, which representations, warranties and covenants, together with the representations, warranties and covenants in the other Financing Agreements, are continuing and shall survive the execution and delivery hereof, and the truth and accuracy of, or compliance with each, being a continuing condition of the making of Loans by Lender to Borrowers:

(a) No action of, or filing with, or consent of any Governmental Authority, and no approval or consent of any other Person, is or will be required to authorize, or is or will be otherwise required in connection with, the execution, delivery and performance by Borrowers and Guarantors of this Amendment No. 5.

(b) This Amendment No. 5 and each other agreement, document or instrument to be executed and delivered by any Borrower or Guarantor in connection therewith or herewith has been duly authorized, executed and delivered by all necessary action on the part of such Borrower or Guarantor, and Amendment No. 5 and each other agreement, document or instrument to be executed and delivered by Borrowers and Guarantors in connection therewith or herewith is in full force and effect as of the date of Amendment No. 5 and the agreements and

obligations of Borrowers and Guarantors contained herein and therein constitute legal, valid and binding obligations of Borrowers and Guarantors enforceable against Borrowers and Guarantors in accordance with their respective terms.

(c) Neither the execution and delivery of this Amendment No. 5 or the documents, agreements or instruments executed or delivered in connection therewith or related thereto, nor the consummation of the transactions herein or therein contemplated, nor compliance with the provisions hereof or thereof is in contravention of any law or regulation or any order or decree of any court or Governmental Authority applicable to Borrowers and Guarantors in any respect, or conflicts with or result in the breach of, or constitutes a default in any respect under any mortgage, deed of trust, security agreement, agreement or instrument to which any Borrower or Guarantor is a party or may be bound, or violates any provision of the formation or other organizational documents of any Borrower or Guarantor.

(d) No Event of Default or act, condition or event which with notice or passage of time or both would constitute an Event of Default exists or has occurred and is continuing on the date of Amendment No. 5.

4. Conditions Precedent. The amendments contained herein shall be effective as of the Amendment No. 5 Effective Date, subject to the receipt by Lender of each of the following, in form and substance satisfactory to Lender:

(a) an original of this Amendment No. 5, duly authorized, executed and delivered by the parties hereto; and

(b) a true and correct copy of any consent, waiver or approval to or of this Amendment No. 5, which any Borrower or Guarantor is required to obtain from any other Person.

5. Effect of this Amendment. Except as expressly set forth herein, no other amendments, consents, changes or modifications to the Financing Agreements are intended or implied, and in all other respects the Financing Agreements are hereby specifically ratified, restated and confirmed by all parties hereto as of the effective date of this Amendment No. 5 and Borrowers and Guarantors shall not be entitled to any other or further amendment or waiver by virtue of the provisions of this Amendment No. 5 or with respect to the subject matter of this Amendment No. 5. To the extent of conflict between the terms of this Amendment No. 5 and the other Financing Agreements, the terms of this Amendment No. 5 shall control. The Loan Agreement and this Amendment No. 5 shall be read and construed as one agreement.

6. Further Assurances. The parties hereto shall execute and deliver such additional documents and take such additional action as may be necessary or desirable to effectuate the provisions and purposes of this Amendment No. 5.

7. Governing Law. The validity, interpretation and enforcement of this Amendment No. 5 and the other Financing Agreements and any dispute arising out of the relationship between the parties hereto whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of California but excluding any principles of conflict of laws or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of California.

8. Waiver, Modification, Etc. No provision or term hereof may be modified, altered, waived, discharged or terminated orally, but only by an instrument in writing executed by the party against whom such modification, alteration, waiver, discharge or termination is sought to be enforced.

9. Entire Agreement. This Amendment No. 5 represents the entire agreement and understanding concerning the subject matter hereof among the parties hereto, and supersedes all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written.

10. Binding Effect. This Amendment No. 5 shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

11. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confirmed to the provision so held to be invalid or unenforceable.

12. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Amendment No. 5.

13. Counterparts. This Amendment No. 5 may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and-the same agreement. Delivery of an executed counterpart of this Amendment No. 5 by telefacsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Amendment No. 5. Any party delivering an executed counterpart of this Amendment No. 5 by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart of this Amendment No. 5, but the failure to do so shall not affect the validity, enforceability or binding effect of such agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 5 to be duly executed and delivered by their authorized officers as of the day and year first above written.

LENDER

WELLS FARGO BANK, NATIONAL ASSOCIATION, successor by merger to Wachovia Bank, National Association

By: /s/ Dennis A. King  
Name: Dennis A. King  
Title: Vice President

BORROWERS

FARMER BROS. CO.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Interim Co-Chief Executive Officer

COFFEE BEAN INTERNATIONAL, INC.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Assistant Treasurer and Director

GUARANTORS

COFFEE BEAN HOLDING CO., INC.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer and CFO

FBC FINANCE COMPANY

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer

AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

by and among

FARMER BROS. CO.  
COFFEE BEAN INTERNATIONAL, INC.  
as Borrowers  
and  
COFFEE BEAN HOLDING CO., INC.  
FBC FINANCE COMPANY  
as Guarantors

THE LENDERS AND ISSUING BANK FROM TIME TO TIME PARTY HERETO

WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Administrative Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Sole Lead Arranger, Manager and Bookrunner

Dated: September 12, 2011

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**AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT**

This Amended and Restated Loan and Security Agreement dated September 12, 2011 is entered into by and among Farmer Bros. Co., a Delaware corporation ("Farmer") and Coffee Bean International, Inc., an Oregon corporation ("CBI" and together with Farmer, each individually a "Borrower" and collectively, "Borrowers" as hereinafter further defined), Coffee Bean Holding Co., Inc., a Delaware corporation ("Coffee Holding"), FBC Finance Company, a California corporation ("Finance" and together with Coffee Holding, each individually a "Guarantor" and collectively, "Guarantors" as hereinafter further defined), the parties hereto from time to time as lenders, whether by execution of this Agreement or an Assignment and Acceptance (each individually, a "Lender" and collectively, "Lenders" as hereinafter further defined) and Wells Fargo Bank, National Association, a national banking association, in its capacity as agent for Lenders (in such capacity, "Agent" as hereinafter further defined).

**W I T N E S S E T H:**

WHEREAS, Borrowers and Guarantors have entered into a Loan and Security Agreement dated March 2, 2009 among Wells Fargo Bank, National Association ("Existing Lender"), Borrowers and Guarantors (as heretofore amended and in effect immediately prior to the effectiveness hereof, the "Existing Loan Agreement") pursuant to which Existing Lender has made loans and advances and provided other financial accommodations to Borrowers (the "Existing Loans");

WHEREAS, Borrowers and Guarantors have requested that the Existing Loan Agreement be amended and restated, pursuant to and in accordance with the terms and conditions set forth herein; and

WHEREAS, in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Existing Loan Agreement is hereby amended and restated on the terms and conditions set forth herein and Agent is willing to act as agent for Lenders on the terms and conditions set forth herein and the other Financing Agreements;

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**SECTION 1. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the respective meanings given to them below:

1.1 "Accounts" shall mean, as to each Borrower and Guarantor, all present and future rights of such Borrower and Guarantor to payment of a monetary obligation, whether or not earned by performance, which is not evidenced by chattel paper or an instrument, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, (c) for a secondary obligation incurred or to be incurred,

or (d) arising out of the use of a credit or charge card or information contained on or for use with the card.

1.2 "Acquisition" shall mean the purchase by Farmer of all of the Purchased Assets pursuant to the Purchase Agreements.

1.3 "Adjusted Eurodollar Rate" shall mean, with respect to each Interest Period for any Eurodollar Rate Loan comprising part of the same borrowing (including conversions, extensions and renewals), the rate per annum determined by dividing (a) the London Interbank Offered Rate for such Interest Period by (b) a percentage equal to: (i) one (1) minus (ii) the Reserve Percentage. For purposes hereof, "Reserve Percentage" shall mean for any day, that percentage (expressed as a decimal) which is in effect from time to time under Regulation D of the Board of Governors of the Federal Reserve System (or any successor), as such regulation may be amended from time to time or any successor regulation, as the maximum reserve requirement (including, without limitation, any basic, supplemental, emergency, special, or marginal reserves) applicable with respect to Eurocurrency liabilities as that term is defined in Regulation D (or against any other category of liabilities that includes deposits by reference to which the interest rate of Eurodollar Rate Loans is determined), whether or not any Lender has any Eurocurrency liabilities subject to such reserve requirement at that time. Eurodollar Rate Loans shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credits for proration, exceptions or offsets that may be available from time to time to a Lender. The Adjusted Eurodollar Rate shall be adjusted automatically on and as of the effective date of any change in the Reserve Percentage.

1.4 "Administrative Borrower" shall mean Farmer Bros. Co., a Delaware corporation, in its capacity as Administrative Borrower on behalf of itself and the other Borrowers pursuant to Section 6.8 hereof and its successors and assigns in such capacity.

1.5 "Affiliate" shall mean, with respect to a specified Person, any other Person which directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such Person, and without limiting the generality of the foregoing, includes (a) any Person which beneficially owns or holds five (5%) percent or more of any class of Voting Stock of such Person or other equity interests in such Person, (b) any Person of which such Person beneficially owns or holds five (5%) percent or more of any class of Voting Stock or in which such Person beneficially owns or holds five (5%) percent or more of the equity interests and (c) any director or executive officer of such Person. For the purposes of this definition, the term "control" (including with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by agreement or otherwise.

1.6 "Agent" shall mean Wells Fargo Bank, National Association, in its capacity as agent on behalf of Lenders pursuant to the terms hereof and any replacement or successor agent hereunder.

1.7 "Agent Payment Account" shall mean account no. 5000000030266 of Agent at Wells Fargo, or such other account of Agent as Agent may from time to time designate to

Administrative Borrower as the Agent Payment Account for purposes of this Agreement and the other Financing Agreements.

1.8 “Applicable Margin” shall mean, with respect to Prime Rate Loans and Eurodollar Rate Loans, subject to the provisions below, the applicable percentage (on a per annum basis) set forth below if the Monthly Average Excess Availability for the immediately preceding calendar month is at or within the amounts indicated for such percentage as of the last day of the immediately preceding calendar month:

Tier	Monthly Average Excess Availability	Applicable Margin with respect to Eurodollar Rate Loans	Applicable Margin with respect to Prime Rate Loans
1	Greater than \$30,000,000	2.00%	.25%
2	Less than or equal to \$30,000,000 and greater than \$17,500,000	2.25%	.50%
3	Less than or equal to \$17,500,000	2.50%	.75%

provided, that, (i) the Applicable Margin shall be calculated and established once each calendar month (commencing with the month beginning October 1, 2011) based on the Monthly Average Excess Availability and shall remain in effect until adjusted thereafter after the end of the next calendar month, (ii) each adjustment of the Applicable Margin shall be effective as of the first day of each such calendar month based on the Monthly Average Excess Availability for the immediately preceding calendar month, and (iii) in the event that Borrowers fail to provide any Borrowing Base Certificate or other information with respect thereto for any period on the date required hereunder, effective as of the date on which such Borrowing Base Certificate or other information was otherwise required, at Agent’s option, the Applicable Margin shall be based on the highest rate above until the next Business Day after the Borrowing Base Certificate or other information is provided for the applicable period at which time the Applicable Margin shall be adjusted as otherwise provided herein. In the event that at any time after the end of any calendar month the Monthly Average Excess Availability for such calendar month used for the determination of the Applicable Margin was greater than the actual amount of the Monthly Average Excess Availability for such calendar month as a result of the inaccuracy of information provided by or on behalf of Borrowers to Agent for the calculation of Excess Availability, the Applicable Margin for such prior period shall be adjusted to the applicable percentage based on such actual Monthly Average Excess Availability and any additional interest for the applicable period as a result of such recalculation shall be promptly paid to Agent. The foregoing shall not be construed to limit the rights of Agent with respect to the amount of interest payable after a Default or Event of Default whether based on such recalculated percentage or otherwise.

1.9 “Asset Purchase Agreement” shall mean the Asset Purchase Agreement, dated December 2, 2008, between Farmer and Sellers, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.10 "Assignment and Acceptance" shall mean an Assignment and Acceptance substantially in the form of Exhibit A attached hereto (with blanks appropriately completed) delivered to Agent in connection with an assignment of a Lender's interest hereunder in accordance with the provisions of Section 13.7 hereof.

1.11 "Bank Product Providers" shall mean Wells Fargo and any of its Affiliates and any Lender and any of its Affiliates that may, from time to time, provide any Bank Products to any Borrower, any Guarantor or any of their respective Subsidiaries; provided, that, as to any Lender or any of its Affiliates, such Lender or Affiliate shall have been approved as a Bank Product Provider by Agent in writing.

1.12 "Bank Products" shall mean any one or more of the following types or services or facilities provided to any Borrower or any Guarantor by Wells Fargo or any Affiliate of Wells Fargo: (a) credit cards, procurement cards, debit cards or stored value cards or the processing of credit card sales or receipts, (b) cash management or related services, including (i) the automated clearinghouse transfer of funds for the account of any Borrower or any Guarantor pursuant to agreement or overdraft for any accounts of any Borrower or any Guarantor maintained at Wells Fargo or any Affiliate of Wells Fargo, and (ii) controlled disbursement services and (c) Hedge Agreements if and to the extent permitted hereunder.

1.13 "Borrowers" shall mean, collectively, the following (together with their respective successors and assigns): (a) Farmer Bros. Co., a Delaware corporation; (b) Coffee Bean International, Inc., an Oregon corporation; and (c) any other Person that at any time after the date hereof becomes a Borrower; each sometimes being referred to herein individually as a "Borrower".

1.14 "Borrowing Base" shall mean, at any time, the amount equal to:

(a) the amount equal to: (i) eighty-five (85%) percent of the Eligible Accounts, plus (ii) the lesser of (A) the Inventory Loan Limit or (B) the sum of (1) the lesser of seventy-five (75%) percent multiplied by the Value of the Eligible Inventory consisting of finished goods or eighty-five (85%) percent of the Net Recovery Percentage multiplied by the Value of such Eligible Inventory and (2) the lesser of seventy-five (75%) percent multiplied by the Value of the Eligible Inventory consisting of raw materials or eighty-five (85%) percent of the Net Recovery Percentage multiplied by the Value of such Eligible Inventory, minus

(b) Reserves.

For purposes only of applying the Inventory Loan Limit, Agent may treat the then undrawn amounts of outstanding Letters of Credit for the purpose of purchasing Eligible Inventory as Revolving Loans to the extent Agent is in effect basing the issuance of the Letter of Credit on the Value of the Eligible Inventory being purchased with such Letter of Credit. In determining the actual amounts of such Letter of Credit to be so treated for purposes of the sublimit, the outstanding Revolving Loans and Reserves shall be attributed first to any components of the lending formulas set forth above that are not subject to such sublimit, before being attributed to the components of the lending formulas subject to such sublimit. The amounts of Eligible

Inventory of any Borrower shall, at Agent's option, be determined based on the lesser of the amount of Inventory set forth in the general ledger of such Borrower or the perpetual inventory record maintained by such Borrower.

1.15 "Borrowing Base Certificate" shall mean a certificate by the chief financial officer, vice president of finance, treasurer or controller of Administrative Borrower, substantially in the form of Exhibit B (or another form reasonably acceptable to Agent) setting forth the calculation of the Borrowing Base, including a calculation of each component thereof, all in such detail as shall be reasonably satisfactory to Agent. All calculations of the Borrowing Base in connection with the preparation of any Borrowing Base Certificate shall originally be made by Borrowers and certified to Agent; provided, that, Agent shall have the right to review and adjust any such calculation to the extent that Agent determines that such calculation is not in accordance with this Agreement.

1.16 "Business Day" shall mean any day other than a Saturday, Sunday, or other day on which commercial banks are authorized or required to close under the laws of the State of California or the State of North Carolina, and a day on which Agent is open for the transaction of business, except that if a determination of a Business Day shall relate to any Eurodollar Rate Loans, the term Business Day shall also exclude any day on which banks are closed for dealings in dollar deposits in the London interbank market or other applicable Eurodollar Rate market.

1.17 "Capital Expenditures" shall mean with respect to any Person for any period the aggregate of all expenditures by such Person and its Subsidiaries made during such period that in accordance with GAAP are or should be included in "property, plant and equipment" or in a similar fixed asset account on its balance sheet, whether such expenditures are paid in cash or financed and including all obligations under Capital Leases paid or payable during such period. Notwithstanding the foregoing Capital Expenditures shall not include, without duplication, (a) expenditures for assets made in connection with the replacement, substitution, restoration or repair of assets to the extent (i) financed with insurance proceeds paid on account of the loss of or damage to the assets being replaced, repaired, restored or substituted therefor, (ii) expressly permitted to be so applied in accordance with this Agreement, and (b) expenditures to the extent paid for with the proceeds of any disposition permitted under this Agreement consisting of a sale of like Equipment or like Real Property.

1.18 "Capital Leases" shall mean, as applied to any Person, any lease of (or any agreement conveying the right to use) any property (whether real, personal or mixed) by such Person as lessee which in accordance with GAAP, is required to be reflected as a liability on the balance sheet of such Person.

1.19 "Capital Stock" shall mean, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of such Person's capital stock or partnership, limited liability company or other equity interests at any time outstanding, and any and all rights, warrants or options exchangeable for or convertible into such capital stock or other interests (but excluding any debt security that is exchangeable for or convertible into such capital stock).



1.20 “Cash Dominion Event” shall mean (a) an Event of Default exists or has occurred and is continuing, or (b) Excess Availability is less than \$15,000,000 on any day.

1.21 “Cash Equivalents” shall mean, at any time, (a) any evidence of Indebtedness with a maturity date of ninety (90) days or less issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof; provided, that, the full faith and credit of the United States of America is pledged in support thereof; (b) certificates of deposit or bankers’ acceptances with a maturity of ninety (90) days or less of any financial institution that is a member of the Federal Reserve System having combined capital and surplus and undivided profits of not less than \$1,000,000,000; (c) commercial paper (including variable rate demand notes) with a maturity of ninety (90) days or less issued by a corporation (except an Affiliate of any Borrower or Guarantor) organized under the laws of any State of the United States of America or the District of Columbia and rated at least A-1 by Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, Inc. or at least P-1 by Moody’s Investors Service, Inc.; (d) repurchase obligations with a term of not more than thirty (30) days for underlying securities of the types described in clause (a) above entered into with any financial institution having combined capital and surplus and undivided profits of not less than \$1,000,000,000; (e) repurchase agreements and reverse repurchase agreements relating to marketable direct obligations issued or unconditionally guaranteed by the United States of America or issued by any governmental agency thereof and backed by the full faith and credit of the United States of America, in each case maturing within ninety (90) days or less from the date of acquisition; provided, that, the terms of such agreements comply with the guidelines set forth in the Federal Financial Agreements of Depository Institutions with Securities Dealers and Others, as adopted by the Comptroller of the Currency on October 31, 1985; and (f) investments in money market funds and mutual funds which invest substantially all of their assets in securities of the types described in clauses (a) through (e) above.

1.22 “Cash Investment Accounts” shall mean, collectively, deposit or investment accounts (other than Cash Management Accounts and Concentration Accounts) as may be established and maintained from time to time by Parent with Wells Fargo containing solely cash and Cash Equivalents.

1.23 “Cash Management Accounts” shall have the meaning set forth in Section 6.3(a).

1.24 “Change of Control” shall mean (a) the transfer (in one transaction or a series of transactions) of all or substantially all of the assets of any Borrower or Guarantor to any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act), other than as permitted in Section 9.7 hereof; (b) the liquidation or dissolution of any Borrower or Guarantor or the adoption of a plan by the stockholders of any Borrower or Guarantor relating to the dissolution or liquidation of such Borrower or Guarantor, other than as permitted in Section 9.7 hereof; (c) the acquisition by any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act), except for one or more Permitted Holders, of beneficial ownership, directly or indirectly, of more than fifty (50%) percent of the voting power of the total outstanding Voting Stock of Parent; (d) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the Board of Directors of Parent (together with any new directors who have been appointed by any Permitted Holder, or whose nomination for election by the stockholders of Parent was approved by a vote of at least sixty-six and two-thirds (66 2/3%)

percent of the nominating committee members who were either nominating committee members at the beginning of such period or whose election or nomination for election or direction was previously so approved) cease for any reason to constitute a majority of the Board of Directors of Parent then still in office; or (e) the failure of Parent to own directly or indirectly one hundred (100%) percent of the voting power of the total outstanding Voting Stock of any other Borrower or Guarantor.

1.25 "Code" shall mean the Internal Revenue Code of 1986, as the same now exists or may from time to time hereafter be amended, modified, recodified or supplemented, together with all rules, regulations and interpretations thereunder or related thereto.

1.26 "Coffee Brewing Equipment" shall mean brewed and liquid coffee equipment, including coffee brewers and grinders, cocoa and cappuccino dispensing machines, and similar machines, and all spare parts relating to any of the foregoing.

1.27 "Collateral" shall have the meaning set forth in Section 5 hereof.

1.28 "Collateral Access Agreement" shall mean an agreement in writing, in form and substance reasonably satisfactory to Agent, from any lessor of premises to any Borrower or Guarantor, or any other person to whom any Collateral is consigned or who has custody, control or possession of any such Collateral or is otherwise the owner or operator of any premises on which any of such Collateral is located, in favor of Agent with respect to the Collateral at such premises or otherwise in the custody, control or possession of such lessor, consignee or other person.

1.29 "Commitment" shall mean, at any time, as to each Lender, the principal amount set forth below such Lender's signature on the signatures pages hereto designated as the Commitment or on Schedule 1 to the Assignment and Acceptance Agreement pursuant to which such Lender became a Lender hereunder in accordance with the provisions of Section 13.7 hereof, as the same may be adjusted from time to time in accordance with the terms hereof; sometimes being collectively referred to herein as "Commitments".

1.30 "Concentration Accounts" shall mean, collectively, the deposit accounts of Borrowers identified on Schedule 8.10 of the Information Certificate as the concentration accounts and such other accounts as may be established after the date of this Agreement in accordance with the terms hereof used to receive funds from the Cash Management Accounts; sometimes being referred to herein individually as a "Concentration Account".

1.31 "Credit Facility" shall mean the Loans and Letters of Credit provided to or for the benefit of any Borrower pursuant to Sections 2.1 and 2.2 hereof.

1.32 "Default" shall mean an act, condition or event which with notice or passage of time or both would constitute an Event of Default.

1.33 "Defaulting Lender" shall have the meaning set forth in Section 6.11 hereof.

1.34 "Deposit Account Control Agreement" shall mean an agreement in writing, in form and substance reasonably satisfactory to Agent, by and among Agent, the Borrower or

Guarantor with a deposit account at any bank and the bank at which such deposit account is at any time maintained which provides that such bank will comply with instructions originated by Agent directing disposition of the funds in the deposit account without further consent by such Borrower or Guarantor and has such other terms and conditions as Agent may reasonably require.

1.35 "Eligible Accounts" shall mean Accounts created by a Borrower that in each case satisfy the criteria set forth below as determined by Agent.

(a) In general, Accounts shall be Eligible Accounts if:

(i) such Accounts arise from the actual and bona fide sale and delivery of goods by such Borrower in the ordinary course of its business which transactions are completed in accordance with the terms and provisions contained in any documents related thereto;

(ii) such Accounts are not unpaid more than ninety (90) days after the date of the original invoice for them or more than sixty (60) days after the original due date for them;

(iii) such Accounts comply with the terms and conditions contained in Section 7.2(b) of this Agreement;

(iv) such Accounts do not arise from sales on consignment, guaranteed sale, sale and return, sale on approval, or other terms under which payment by the account debtor may be conditional or contingent;

(v) the chief executive office of the account debtor with respect to such Accounts is located in the United States of America or Canada (provided, that, at any time promptly upon Agent's request, such Borrower shall execute and deliver, or cause to be executed and delivered, such other agreements, documents and instruments as may be reasonably required by Agent to perfect the security interests of Agent in those Accounts of an account debtor with its chief executive office or principal place of business in Canada in accordance with the applicable laws of the Province of Canada in which such chief executive office or principal place of business is located and take or cause to be taken such other and further actions as Agent may reasonably request to enable Agent as secured party with respect thereto to collect such Accounts under the applicable Federal or Provincial laws of Canada) or, at Agent's option, if the chief executive office and principal place of business of the account debtor with respect to such Accounts is located other than in the United States of America or Canada, then if either: (A) the account debtor has delivered to such Borrower an irrevocable letter of credit issued or confirmed by a bank reasonably satisfactory to Agent and payable only in the United States of America and in U.S. dollars, sufficient to cover such Account, in form and substance reasonably satisfactory to Agent and if reasonably required by Agent, the original of such letter of credit has been delivered to Agent or Agent's agent and the issuer thereof, and such Borrower has complied with the terms of Section 5.2(f) hereof with respect to the assignment of the proceeds of such letter of credit to Agent or naming Agent as transferee beneficiary thereunder, as Agent may specify, or (B) such Account is subject to credit insurance payable to Agent issued by an insurer and on terms and in an amount reasonably acceptable to Agent, or (C) such Account is otherwise

acceptable in all respects to Agent (subject to such lending formula with respect thereto as Agent may reasonably determine);

(vi) such Accounts do not consist of progress billings (such that the obligation of the account debtors with respect to such Accounts is conditioned upon such Borrower's satisfactory completion of any further performance under the agreement giving rise thereto), bill and hold invoices or retainage invoices, except as to bill and hold invoices, if Agent shall have received an agreement in writing from the account debtor, in form and substance reasonably satisfactory to Agent, confirming the unconditional obligation of the account debtor to take the goods related thereto and pay such invoice;

(vii) the account debtor with respect to such Accounts has not asserted a counterclaim, defense or dispute and is not owed or does not claim to be owed any amounts that may give rise to any right of setoff or recoupment against such Accounts (but the portion of the Accounts of such account debtor in excess of the amount at any time and from time to time owed by such Borrower to such account debtor or claimed owed by such account debtor may be deemed Eligible Accounts);

(viii) there are no facts, events or occurrences which would impair the validity, enforceability or collectability of such Accounts or reduce the amount payable or delay payment thereunder;

(ix) such Accounts are subject to the first priority, valid and perfected security interest of Agent and any goods giving rise thereto are not, and were not at the time of the sale thereof, subject to any liens except those permitted in this Agreement that are subject to an intercreditor agreement in form and substance satisfactory to Agent between the holder of such security interest or lien and Agent;

(x) neither the account debtor nor any officer or employee of the account debtor with respect to such Accounts is an officer, employee, agent or other Affiliate of any Borrower or Guarantor;

(xi) the account debtors with respect to such Accounts are not any foreign government, the United States of America, any State, political subdivision, department, agency or instrumentality thereof, unless, if the account debtor is the United States of America, any State, political subdivision, department, agency or instrumentality thereof, upon Agent's request, the Federal Assignment of Claims Act of 1940, as amended or any similar State or local law, if applicable, has been complied with in a manner reasonably satisfactory to Agent;

(xii) there are no proceedings or actions which are threatened or pending against the account debtors with respect to such Accounts which might result in any material adverse change in any such account debtor's financial condition (including, without limitation, any bankruptcy, dissolution, liquidation, reorganization or similar proceeding);

(xiii) the aggregate amount of such Accounts owing by a single account debtor do not constitute more than twenty (20%) percent of the aggregate amount of all otherwise Eligible Accounts (but the portion of the Accounts not in excess of the applicable percentages may be deemed Eligible Accounts);

(xiv) such Accounts are not owed by an account debtor who has Accounts unpaid more than ninety (90) days after the original invoice date for them or more than sixty (60) days after the original due date for them which constitute more than fifty (50%) percent of the total Accounts of such account debtor;

(xv) the account debtor is not located in a state requiring the filing of a Notice of Business Activities Report or similar report in order to permit such Borrower to seek judicial enforcement in such State of payment of such Account, unless such Borrower has qualified to do business in such state or has filed a Notice of Business Activities Report or equivalent report for the then current year or such failure to file and inability to seek judicial enforcement is capable of being remedied without any material delay or material cost;

(xvi) such Accounts are owed by account debtors whose total indebtedness to such Borrower does not exceed the credit limit with respect to such account debtors as determined by such Borrower from time to time, to the extent such credit limit as to any account debtor is established consistent with the current practices of such Borrower as of the date hereof and such credit limit is acceptable to Agent (but the portion of the Accounts not in excess of such credit limit may be deemed Eligible Accounts); and

(xvii) such Accounts do not arise from servicing coffee equipment or from rentals or sales of coffee equipment to any account debtor;

(xviii) such Accounts are owed by account debtors deemed creditworthy at all times by Agent in good faith.

(b) The criteria for Eligible Accounts set forth above may only be changed and any new criteria for Eligible Accounts may only be established by Agent in good faith based on either: (i) an event, condition or other circumstance arising after the date hereof, or (ii) an event, condition or other circumstance existing on the date hereof to the extent Agent has no written notice thereof from a Borrower prior to the date hereof, in either case under clause (i) or (ii) which adversely affects or could reasonably be expected to adversely affect the Accounts in the good faith determination of Agent. Any Accounts that are not Eligible Accounts shall nevertheless be part of the Collateral.

1.36 "Eligible Domestic In-Transit Inventory" shall mean Inventory (other than Eligible Route Sales Inventory) that would otherwise be Eligible Inventory (other than for its location) that has been shipped from (a) any manufacturing facility or distribution center of any Borrower or Guarantor within the United States of America for receipt at a branch location of any Borrower or Guarantor within the United States of America and permitted hereunder, (b) any branch location of any Borrower or Guarantor within the United States of America for receipt at another branch location of any Borrower or Guarantor within the United States of America and permitted hereunder, or (c) any supplier of any Borrower or Guarantor on a vehicle of any Borrower or Guarantor for receipt at a manufacturing facility or distribution center of any Borrower or Guarantor within the United States of America and permitted hereunder, in each case within five (5) days of shipment, but in any case, which has not yet been received at such manufacturing facility or distribution center and which is insured in accordance with the terms of this Agreement; provided, that, the aggregate amount of Inventory constituting Eligible

Domestic In-Transit Inventory for purposes of the calculation of the Borrowing Base at any time will not exceed \$3,000,000.

1.37 "Eligible Inventory" shall mean, as to each Borrower, Inventory of such Borrower consisting of finished goods held for resale in the ordinary course of the business of such Borrower and raw materials for such finished goods, that in each case satisfy the criteria set forth below as determined by Agent. In general, Eligible Inventory shall not include: (a) work-in-process; (b) components which are not part of finished goods; (c) spare parts for equipment; (d) packaging and shipping materials; (e) supplies used or consumed in such Borrower's business; (f) any Inventory that is not located at premises owned or leased and controlled by any Borrower, except (i) for Eligible Domestic In-Transit Inventory, (ii) for Eligible Route Sales Inventory and (iii) Inventory which would otherwise be deemed Eligible Inventory that is not located at premises owned and operated by such Borrower may nevertheless be considered Eligible Inventory: (A) as to locations which are leased by any Borrower, if Agent shall have received a Collateral Access Agreement from the owner and lessor of such location, duly authorized, executed and delivered by such owner and lessor or, if Agent shall not have received such Collateral Access Agreement (or Agent shall determine to accept a Collateral Access Agreement that does not include all required provisions or provisions in the form otherwise required by Agent), Agent may, at its option, nevertheless consider Inventory at such location to be Eligible Inventory to the extent Agent shall have established such Reserves in respect of amounts at any time payable by such Borrower to the owner and lessor thereof as Agent shall determine in good faith, (B) as to locations owned and operated by a third person, (1) if Agent shall have received a Collateral Access Agreement from such owner and operator with respect to such location, duly authorized, executed and delivered by such owner and operator or if Agent shall not have received such Collateral Access Agreement (or Agent shall determine to accept a Collateral Access Agreement that does not include all required provisions or provisions in the form otherwise required by Agent), Agent may, at its option, nevertheless consider Inventory at such location to be Eligible Inventory to the extent Agent shall have established such Reserves in respect of amounts at any time payable by such Borrower to the owner and operator thereof as Agent shall determine, and (2) in addition, if required by Agent, if Agent shall have received: (x) UCC financing statements between the owner and operator, as consignee or bailee and such Borrower, as consignor or bailor, in form and substance satisfactory to Agent, which are duly assigned to Agent and (y) a written notice to any Agent to the owner and operator of the first priority security interest in such Inventory of Agent; (g) Inventory subject to a security interest or lien in favor of any Person other than Agent except those permitted in this Agreement that are subject to an intercreditor agreement in form and substance satisfactory to Agent between the holder of such security interest or lien and Agent; (h) bill and hold goods; (i) unserviceable, obsolete or slow moving Inventory; (j) Inventory that is not subject to the first priority, valid and perfected security interest of Agent; (k) returned Inventory which is not held for sale in the ordinary course of business, or damaged and/or defective Inventory; (l) Inventory purchased or sold on consignment; (m) Inventory located outside the United States of America, (n) any Inventory that contains or bears any intellectual property rights licensed to such Borrower unless Agent is satisfied that it may sell or otherwise dispose of such Inventory without (i) infringing the rights of such licensor, (ii) violating any contract with such licensor, or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement, (o) Inventory located at any owned or leased locations of any Borrower at which

Inventory with a net book value of less than \$100,000 is stored, (p) Inventory of such Borrower associated with “Brewmatic” division, (q) any Inventory consisting of equipment, including Coffee Brewing Equipment, and (r) any Inventory that has not been subject to at least one periodic cycle count or wall to wall counts during the previous fiscal year. The criteria for Eligible Inventory set forth above may only be changed and any new criteria for Eligible Inventory may only be established by Agent in good faith based on either: (i) an event, condition or other circumstance arising after the date hereof, or (ii) an event, condition or other circumstance existing on the date hereof to the extent Agent has no written notice thereof from a Borrower prior to the date hereof, in either case under clause (i) or (ii) which adversely affects or could reasonably be expected to adversely affect the Inventory in the good faith determination of Agent. Any Inventory that is not Eligible Inventory shall nevertheless be part of the Collateral.

1.38 “Eligible Route Sales Inventory” shall mean Inventory (other than Eligible Domestic In-Transit Inventory) that would otherwise be Eligible Inventory (other than for its location) that has been shipped from a branch location of any Borrower or Guarantor within the United States of America and is located on vehicles making route sales in the ordinary course of business; provided, that, the aggregate amount of Inventory constituting Eligible Route Sales Inventory for purposes of the calculation of the Borrowing Base at any time will not exceed \$5,000,000.

1.39 “Eligible Transferee” shall mean (a) any Lender; (b) the parent company of any Lender and/or any Affiliate of such Lender which is at least fifty (50%) percent owned by such Lender or its parent company; (c) any person (whether a corporation, partnership, trust or otherwise) that is engaged in the business of making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Lender or with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor, and in each case is approved by Agent; and (d) any other commercial bank, financial institution or “accredited investor” (as defined in Regulation D under the Securities Act of 1933) approved by Agent, provided, that, (i) neither any Borrower nor any Guarantor or any Affiliate of any Borrower or Guarantor shall qualify as an Eligible Transferee and (ii) no Person to whom any Indebtedness which is in any way subordinated in right of payment to any other Indebtedness of any Borrower or Guarantor shall qualify as an Eligible Transferee, except as Agent may otherwise specifically agree.

1.40 “Environmental Laws” shall mean all foreign, Federal, State and local laws (including common law), legislation, rules, codes, licenses, permits (including any conditions imposed therein), authorizations, judicial or administrative decisions, injunctions or agreements between any Borrower or Guarantor and any Governmental Authority, (a) relating to pollution and the protection, preservation or restoration of the environment (including air, water vapor, surface water, ground water, drinking water, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource), or to human health or safety, (b) relating to the exposure to, or the use, storage, recycling, treatment, generation, manufacture, processing, distribution, transportation, handling, labeling, production, release or disposal, or threatened release, of Hazardous Materials, or (c) relating to all laws with regard to recordkeeping, notification, disclosure and reporting requirements respecting Hazardous

Materials. The term "Environmental Laws" includes (i) the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Superfund Amendments and Reauthorization Act, the Federal Water Pollution Control Act of 1972, the Federal Clean Water Act, the Federal Clean Air Act, the Federal Resource Conservation and Recovery Act of 1976 (including the Hazardous and Solid Waste Amendments thereto), the Federal Solid Waste Disposal and the Federal Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, and the Federal Safe Drinking Water Act of 1974, (ii) applicable state counterparts to such laws and (iii) any common law or equitable doctrine that may impose liability or obligations for injuries or damages due to, or threatened as a result of, the presence of or exposure to any Hazardous Materials.

1.41 "Equipment" shall mean, as to each Borrower and Guarantor, all of such Borrower's and Guarantor's now owned and hereafter acquired equipment, wherever located, including machinery, data processing and computer equipment (whether owned or licensed and including embedded software), vehicles, tools, furniture, fixtures, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located.

1.42 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, together with all rules, regulations and interpretations thereunder or related thereto.

1.43 "ERISA Affiliate" shall mean any person required to be aggregated with any Borrower, any Guarantor or any of its or their respective Subsidiaries under Sections 414(b), 414(c), 414(m) or 414(o) of the Code.

1.44 "ERISA Event" shall mean (a) any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan, other than events as to which the requirement of notice has been waived in regulations by the Pension Benefit Guaranty Corporation; (b) the adoption of any amendment to a Pension Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA; (c) a complete or partial withdrawal by any Borrower, Guarantor or any ERISA Affiliate from a Multiemployer Plan or a cessation of operations which is treated as such a withdrawal or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the Pension Benefit Guaranty Corporation to terminate a Pension Plan; (e) an event or condition which could reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (f) the imposition of any liability under Title IV of ERISA, other than the Pension Benefit Guaranty Corporation premiums due but not delinquent under Section 4007 of ERISA, upon any Borrower, Guarantor or any ERISA Affiliate in excess of \$250,000 and (g) any other event or condition with respect to a Plan including any Pension Plan subject to Title IV of ERISA maintained, or contributed to, by any ERISA Affiliate that could reasonably be expected to result in liability of any Borrower in excess of \$250,000.

1.45 "ESOP" shall mean Farmer Bros. Co. Amended and Restated Employee Stock Ownership Plan, effective January 1, 2000, as the same now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.



1.46 "ESOP Documents" shall mean, collectively, the ESOP, the ESOT Trust Agreement and all other agreements, documents and instruments executed and/or delivered in connection with any of the foregoing, as each of the foregoing now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.47 "ESOP Indebtedness" shall mean the Indebtedness owing by the ESOP to Parent pursuant to the ESOP Loan Documents and all interest, fees, reimbursement obligations, expenses, indemnification and other obligations with respect thereto.

1.48 "ESOP Loan Agreements" shall mean the (a) ESOP Loan Agreement, dated as of March 28, 2000, between Parent, as lender and the ESOT and (b) ESOP Loan Agreement No. 2, dated as of July 21, 2003, between Parent, as lender, and the ESOT, in each case as the same now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.49 "ESOP Loan Documents" shall mean, collectively, the ESOP Loan Agreements, the ESOP Notes and all other agreements, documents and instruments executed and/or delivered in connection with any of the foregoing, as each of the foregoing now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced

1.50 "ESOP Notes" means the (a) Promissory Note, dated March 28, 2000 and (b) Promissory Note, dated July 21, 2003, in each case payable by the ESOT to Parent, as the same now exists and may hereafter be amended, modified, supplemented, executed, renewed, restated or replaced.

1.51 "ESOP Shares" shall mean Company Stock, as defined in the ESOP as in effect on the date of this Agreement.

1.52 "ESOT" shall mean Farmer Bros. Co. Employee Stock Ownership Benefit Trust, created by Borrower pursuant to the ESOT Trust Agreement to implement the ESOP, as the same now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.53 "ESOT Trust Agreement" shall mean the Farmer Bros. Co. Employee Stock Ownership Trust Agreement, dated September 28, 2005, between Parent and the ESOT Trustee, as the same now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.54 "ESOT Trustee" shall mean Greatbanc Trust Company and any successors in such capacity.

1.55 "Eurodollar Rate Loans" shall mean any Loans or portion thereof on which interest is payable based on the Adjusted Eurodollar Rate in accordance with the terms hereof.

1.56 "Event of Default" shall mean the occurrence or existence of any event or condition described in Section 10.1 hereof.

1.57 "Excess Availability" shall mean the amount, as determined by Agent, calculated at any date of determination in accordance with the terms hereof, equal to: (a) the lesser of: (i) the Borrowing Base and (ii) the Maximum Credit (in each case under (i) or (ii) after giving effect to any Reserves other than any Reserves in respect of Letter of Credit Obligations, minus (b) the sum of: (i) the amount of all then outstanding and unpaid Obligations (but not including for this purpose Obligations of a Borrower arising pursuant to any guarantees in favor of Agent of the Obligations of the other Borrowers or any outstanding Letter of Credit Obligations), plus (ii) the amount of all Reserves then established in respect of Letter of Credit Obligations, plus (iii) the aggregate amount of all then outstanding and unpaid trade payables and other obligations of such Borrower which are outstanding more than thirty (30) days past due as of the end of the immediately preceding month (other than trade payables or other obligations being contested or disputed by such Borrower in good faith), plus (iv) without duplication, the amount of checks issued by such Borrower to pay trade payables and other obligations which are more than thirty (30) days past due as of the end of the immediately preceding month (other than trade payables or other obligations being contested or disputed by such Borrower in good faith), but not yet sent<sup>1</sup>.

1.58 "Exchange Act" shall mean the Securities Exchange Act of 1934, together with all rules, regulations and interpretations thereunder or related thereto.

1.59 "Excluded Property" shall mean:

- (a) motor vehicles subject to certificates of title in accordance with applicable State law;
- (b) Real Property owned by Borrowers and Guarantors on the date hereof; and

(c) any rights or interests in any contract, lease, permit, license, charter or license agreement covering real or personal property, as such, if under the terms of such contract, lease, permit, license, charter or license agreement, or applicable law with respect thereto, the valid grant of a security interest or lien therein to Agent is prohibited and such prohibition has not been or is not waived or the consent of the other party to such contract, lease, permit, license, charter or license agreement has not been or is not otherwise obtained or under applicable law such prohibition cannot be waived; provided, that, the foregoing exclusion shall in no way be construed (i) to apply if any such prohibition is unenforceable under Sections 9-406, 9-407 or 9-408 of the UCC or other applicable law or (ii) so as to limit, impair or otherwise affect Agent's unconditional continuing security interests in and liens upon any rights or interests of a Borrower in or to monies due or to become due under any such contract, lease, permit, license, charter or license agreement (including any Receivables).

1.60 "Existing Financing Agreements" shall mean, individually and collectively, each and all of the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Existing Loan Agreement, and

(b) all other agreements, documents and instruments related thereto and executed or delivered prior to the date hereof.

1.61 "Existing Information Certificate" shall mean the Information Certificate of Borrowers and Guarantors dated March 2, 2009 provided by or on behalf of Borrowers and Guarantors to Wells Fargo in connection with the preparation of the Existing Loan Agreement and the other Existing Financing Agreements and the financing arrangements provided for therein.

1.62 "Existing Lender" shall have the meaning specified therefor in the Recitals.

1.63 "Existing Letters of Credit" shall mean, collectively, each of the letters of credit outstanding on the date hereof and issued by Wells Fargo for the account of any Borrower set forth on Schedule 1.63 hereto.

1.64 "Existing Loan Agreement" shall have the meaning specified therefor in the Recitals.

1.65 "Existing Loans" shall have the meaning specified therefor in the Recitals.

1.66 "Fee Letter" shall mean the amended and restated letter agreement, dated of even date herewith, by and among Borrowers, Guarantors and Agent, setting forth certain fees payable by Borrowers to Agent for the benefit of itself and Lenders, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.67 "Financing Agreements" shall mean, collectively, this Agreement and all notes, guarantees, security agreements, deposit account control agreements, investment property control agreements, intercreditor agreements and all other agreements, documents and instruments now or at any time hereafter executed and/or delivered by any Borrower or Guarantor in connection with this Agreement; provided, that, in no event shall the term Financing Agreements be deemed to include any Hedge Agreement.

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

1.69 "Funding Bank" shall have the meaning given to such term in Section 3.5 hereof.

1.70 "GAAP" shall mean generally accepted accounting principles in the United States of America as in effect from time to time as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board which are applicable to the circumstances as of the date of determination consistently applied, except that, for purposes of Section 9.18 hereof, GAAP shall be determined

on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements delivered to Agent prior to the date hereof.

1.71 "Governmental Authority" shall mean any nation or government, any state, province, or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

1.72 "Guarantors" shall mean, collectively, the following (together with their respective successors and assigns): (a) Coffee Bean Holding Co., Inc., a Delaware corporation; (b) FBC Finance Company, a California corporation; and (c) any other Person that at any time after the date hereof becomes party to a guarantee in favor of Agent or otherwise liable on or with respect to the Obligations or who is the owner of any property which is security for the Obligations (other than Borrowers); each sometimes being referred to herein individually as a "Guarantor".

1.73 "Hazardous Materials" shall mean any hazardous, toxic or dangerous substances, materials and wastes, including hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, biological substances, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, industrial slag, solvents and/or any other similar substances, materials, or wastes and including any other substances, materials or wastes that are or become regulated under any Environmental Law (including any that are or become classified as hazardous or toxic under any Environmental Law).

1.74 "Hedge Agreement" shall mean an agreement between any Borrower and Agent or any Affiliate of Agent that is a swap agreement as such term is defined in 11 U.S.C. Section 101, and including any rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, spot foreign exchange agreement, rate cap agreement rate, floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing or a master agreement for any the foregoing together with all supplements thereto) for the purpose of protecting against or managing exposure to fluctuations in interest or exchange rates, currency valuations or commodity prices; sometimes being collectively referred to herein as "Hedge Agreements".

1.75 "Inactive Subsidiary" shall mean Sierra Herb Company, Inc., a California corporation.

1.76 "Indebtedness" shall mean, with respect to any Person, any liability, whether or not contingent, (a) in respect of borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof) or evidenced by bonds, notes, debentures or similar instruments; (b) representing the balance deferred and unpaid of the purchase price of property or services purchased by such Person which are due six (6) months or more from the date after such property is acquired or such

services are completed, and including, without limitation, customary indemnification, adjustment of purchase price or similar obligations, earn-outs or other similar obligations, in each case, incurred in connection with the Acquisition, any acquisition permitted under Section 9.10(i) of this Agreement (but excluding trade debt and accrued expenses incurred in the ordinary course of business on normal trade terms and not overdue by more than ninety (90) days) which would appear as liabilities on a balance sheet of such Person in accordance with GAAP, (c) all obligations as lessee under leases which have been, or should be, in accordance with GAAP recorded as Capital Leases; (d) any contractual obligation, contingent or otherwise, of such Person to pay or be liable for the payment of any indebtedness described in this definition of another Person, including, without limitation, any such indebtedness, directly or indirectly guaranteed, or any agreement to purchase, repurchase, or otherwise acquire such indebtedness, obligation or liability or any security therefor, or to provide funds for the payment or discharge thereof, or to maintain solvency, assets, level of income, or other financial condition; (e) all obligations with respect to redeemable stock and redemption or repurchase obligations under any Capital Stock or other equity securities issued by such Person; (f) all reimbursement obligations and other liabilities of such Person with respect to surety bonds (whether bid, performance or otherwise), letters of credit, banker's acceptances, drafts or similar documents or instruments issued for such Person's account; (g) all indebtedness of such Person in respect of indebtedness of another Person for borrowed money or indebtedness of another Person otherwise described in this definition which is secured by any consensual lien, security interest, collateral assignment, conditional sale, mortgage, deed of trust, or other encumbrance on any asset of such Person, whether or not such obligations, liabilities or indebtedness are assumed by or are a personal liability of such Person, all as of such time; (h) all obligations, liabilities and indebtedness of such Person (marked to market) arising under swap agreements, cap agreements and collar agreements and other agreements or arrangements designed to protect such person against fluctuations in interest rates or currency or commodity values; (i) all obligations owed by such Person under License Agreements with respect to non-refundable, advance or minimum guarantee royalty payments; (j) indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer to the extent such Person is liable therefor as a result of such Person's ownership interest in such entity, except to the extent that the terms of such indebtedness expressly provide that such Person is not liable therefor or such Person has no liability therefor as a matter of law and (k) the principal and interest portions of all rental obligations of such Person under any synthetic lease or similar off-balance sheet financing where such transaction is considered to be borrowed money for tax purposes but is classified as an operating lease in accordance with GAAP.

1.77 "Information Certificate" shall mean, collectively, the Information Certificates of Borrowers and Guarantors constituting Exhibit C hereto containing material information with respect to Borrowers and Guarantors, their respective businesses and assets provided by or on behalf of Borrowers and Guarantors to Agent in connection with the preparation of this Agreement and the other Financing Agreements and the financing arrangements provided for herein.

1.78 "Intellectual Property" shall mean, as to each Borrower and Guarantor, such Borrower's and Guarantor's now owned and hereafter arising or acquired: patents, patent rights, patent applications, copyrights, works which are the subject matter of copyrights, copyright applications, copyright registrations, trademarks, servicemarks, trade

names, trade styles, trademark and service mark applications, and licenses and rights to use any of the foregoing and all applications, registrations and recordings relating to any of the foregoing as may be filed in the United States Copyright Office, the United States Patent and Trademark Office or in any similar office or agency of the United States of America, any State thereof, any political subdivision thereof or in any other country or jurisdiction, together with all rights and privileges arising under applicable law with respect to any Borrower's or Guarantor's use of any of the foregoing; all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing; all rights to sue for past, present and future infringement of any of the foregoing; inventions, trade secrets, formulae, processes, compounds, drawings, designs, blueprints, surveys, reports, manuals, and operating standards; goodwill (including any goodwill associated with any trademark or servicemark, or the license of any trademark or servicemark); customer and other lists in whatever form maintained; delivery routes; trade secret rights, copyright rights, rights in works of authorship, domain names and domain name registrations; software and contract rights relating to computer software programs, in whatever form created or maintained.

1.79 "Interest Period" shall mean for any Eurodollar Rate Loan, a period of approximately one (1), two (2), or three (3) months duration as any Borrower (or Administrative Borrower on behalf of such Borrower) may elect, the exact duration to be determined in accordance with the customary practice in the applicable Eurodollar Rate market; provided, that, such Borrower (or Administrative Borrower on behalf of such Borrower) may not elect an Interest Period which will end after the last day of the then-current term of this Agreement.

1.80 "Interest Rate" shall mean,

(a) Subject to clause (b) of this definition below:

(i) as to Prime Rate Loans, a rate equal to the then Applicable Margin for Prime Rate Loans on a per annum basis plus the Prime Rate, and

(ii) as to Eurodollar Rate Loans, a rate equal to the then Applicable Margin for Eurodollar Rate Loans on a per annum basis plus the Adjusted Eurodollar Rate.

(b) Notwithstanding anything to the contrary contained herein,

(i) Agent may, at its option, increase the Applicable Margin otherwise used to calculate the Interest Rate for Prime Rate Loans and Eurodollar Rate Loans in each case to the highest percentage set forth in the definition of the term Applicable Margin for each category of Loans (without regard to the amount of Monthly Average Excess Availability) plus two (2%) percent per annum, for the period from and after the date of the occurrence of an Event of Default but only for so long as such Event of Default is continuing; and

(ii) Agent may, at its option, increase the Applicable Margin otherwise used to calculate the Interest Rate for Prime Rate Loans and Eurodollar Rate Loans, in each case to the highest percentage set forth in the definition of the term Applicable Margin for each category of Loans (without regard to the amount of Monthly Average Excess Availability) plus two (2%) percent per annum, on Revolving Loans at any time outstanding in the aggregate in excess of the Borrowing Base (in each case whether or not such excess(es) arise or are made

with or without the knowledge or consent of Agent and whether made before or after an Event of Default).

1.81 "Inventory" shall mean, as to each Borrower and Guarantor, all of such Borrower's and Guarantor's now owned and hereafter existing or acquired goods, wherever located, which (a) are leased by such Borrower or Guarantor as lessor; (b) are held by such Borrower for sale or lease or to be furnished under a contract of service; (c) are furnished by such Borrower or Guarantor under a contract of service; or (d) consist of raw materials, work in process, finished goods or materials used or consumed in its business.

1.82 "Inventory Loan Limit" shall mean the amount equal to \$60,000,000.

1.83 "Investment Property Control Agreement" shall mean an agreement in writing, in form and substance reasonably satisfactory to Agent, by and among Agent, any Borrower or Guarantor (as the case may be) and any securities intermediary, commodity intermediary or other person who has custody, control or possession of any investment property of such Borrower or Guarantor acknowledging that such securities intermediary, commodity intermediary or other person has custody, control or possession of such investment property on behalf of Agent, that it will comply with entitlement orders originated by Agent with respect to such investment property, or other instructions of Agent, and has such other terms and conditions as Agent may reasonably require.

1.84 "Issuing Bank" shall mean Wells Fargo or any Lender that is approved by Agent that shall issue a Letter of Credit for the account of a Borrower and have agreed in a manner satisfactory to Agent to be subject to the terms hereof as an Issuing Bank.

1.85 "Lenders" shall mean the financial institutions who are signatories hereto as Lenders and other persons made a party to this Agreement as a Lender in accordance with Section 13.7 hereof, and their respective successors and assigns; each sometimes being referred to herein individually as a "Lender".

1.86 "Letter of Credit Documents" shall mean, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (a) the rights and obligations of the parties concerned or at risk or (b) any collateral security for such obligations.

1.87 "Letter of Credit Limit" shall mean \$20,000,000.

1.88 "Letter of Credit Obligations" shall mean, at any time, the sum of (a) the aggregate undrawn amount of all Letters of Credit outstanding at such time, plus (b) the aggregate amount of all drawings under Letters of Credit for which Issuing Bank has not at such time been reimbursed, plus (c) without duplication, the aggregate amount of all payments made by each Lender to Issuing Bank with respect to such Lender's participation in Letters of Credit as provided in Section 2.2 for which Borrowers have not at such time reimbursed the Lenders, whether by way of a Revolving Loan or otherwise.

1.89 "Letters of Credit" shall mean (a) all letters of credit (whether documentary or stand-by and whether for the purchase of inventory, equipment or otherwise) issued by an Issuing Bank for the account of any Borrower pursuant to this Agreement, and all amendments, renewals, extensions or replacements thereof and (b) the Existing Letters of Credit.

1.90 "License Agreements" shall have the meaning set forth in Section 8.11 hereof.

1.91 "Loans" shall mean the Revolving Loans.

1.92 "London Interbank Offered Rate" shall mean, with respect to any Eurodollar Rate Loan for the Interest Period applicable thereto, the rate appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by Agent from time to time for purposes of providing quotations of interest rates applicable to eurodollar deposits in dollars in the London interbank market) at approximately 11:00 A.M. (London time) two (2) Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period; provided, that, if more than one rate is specified on such Page for such comparable period, the applicable rate shall be the arithmetic mean of all such rates. In the event that such rate is not available at such time for any reason, then the term "London Interbank Offered Rate" shall mean, with respect to any Eurodollar Rate Loan for the Interest Period applicable thereto, the rate of interest per annum at which dollar deposits of \$5,000,000 and for a term comparable to such Interest Period are offered by the principal London office of Agent in immediately available funds in the London interbank market at approximately 11:00 a.m. London time two (2) Business Days prior to the commencement of such Interest Period.

1.93 "Material Adverse Effect" shall mean a material adverse effect on (a) the financial condition, business, performance or operations of any Borrower or of Borrowers and Guarantors (taken as a whole) (b) the legality, validity or enforceability of this Agreement or any of the other Financing Agreements; (c) the legality, validity, enforceability, perfection or priority of the security interests and liens of Agent upon the Collateral; (d) the Collateral or its value; (e) the ability of Borrowers and Guarantors (taken as a whole) to repay the Obligations or of any Borrower to perform its obligations under this Agreement or any of the other Financing Agreements as and when to be performed; or (f) the ability of Agent to enforce the Obligations or realize upon the Collateral or otherwise with respect to the rights and remedies of Agent under this Agreement or any of the other Financing Agreements.

1.94 "Material Contract" shall mean: (a) the Asset Purchase Agreement, (b) each of the Operational Agreements (as defined in the Asset Purchase Agreement as in effect on the date hereof), (c) the Option Agreement; (d) any contract or other agreement (other than the Financing Agreements), written or oral, of any Borrower or Guarantor involving monetary liability of or to any Person in an amount in excess of \$500,000 in any fiscal year and (e) any other contract or other agreement (other than the Financing Agreements), whether written or oral, to which any Borrower or Guarantor is a party as to which the breach, nonperformance, cancellation or failure to renew by any party thereto would have a Material Adverse Effect.



1.95 “Maturity Date” shall have the meaning set forth in Section 13.1 hereof.

1.96 “Maximum Credit” shall mean the amount of \$85,000,000.

1.97 “Monthly Average Excess Availability” shall mean, at any time, the daily average of the Excess Availability for the immediately preceding calendar month as calculated by Agent.

1.98 “Multiemployer Plan” shall mean a “multi-employer plan” as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding six (6) years contributed to by any Borrower, Guarantor or any ERISA Affiliate or with respect to which any Borrower, Guarantor or any ERISA Affiliate may incur any liability.

1.99 “Net Cash Proceeds” shall mean the aggregate cash proceeds payable to Parent or any of its Subsidiaries in respect of any sale, lease, transfer or other disposition of any assets or properties, or interest in assets and properties or as proceeds of any loans or other financial accommodations provided to it or as proceeds from the issuance and/or sale of any Capital Stock, in each case net of the reasonable and customary direct costs relating to such sale, lease, transfer or other disposition or loans or other financial accommodation or issuance and/or sale (including, without limitation, legal, accounting and investment banking fees, and sales commissions) and taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements), and amounts applied to the repayment of indebtedness secured by a valid and enforceable lien on the asset or assets that are the subject of such sale or other disposition required to be repaid in connection with such transaction.

1.100 “Net Recovery Percentage” shall mean the fraction, expressed as a percentage, (a) the numerator of which is the amount equal to the amount of the recovery in respect of the Inventory at such time on a “net orderly liquidation value” basis as set forth in the most recent acceptable appraisal of Inventory received by Agent in accordance with Section 7.3, net of operating expenses, liquidation expenses and commissions, and (b) the denominator of which is the applicable original cost of the aggregate amount of the Inventory subject to such appraisal.

1.101 “Obligations” shall mean (a) any and all Loans, Letter of Credit Obligations and all other obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers or Guarantors to Agent or any Lender and/or any of their Affiliates or any Issuing Bank, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under this Agreement or any of the other Financing Agreements or on account of any Letter of Credit and all other Letter of Credit Obligations, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any case with respect to such Borrower under the United States Bankruptcy Code or any similar statute (including the payment of interest and other amounts which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case), whether direct or

indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured and (b) or purposes only of Section 5.1 hereof and the Security Provisions and subject to the priority set forth in Section 6.4 hereof, all obligations, liabilities and indebtedness of every kind, nature and description owing by any Borrower and/or Guarantor to any Bank Product Provider arising under or pursuant to any Bank Products, whether now existing or hereafter arising, provided, that, in no event shall the approval of any Bank Product Provider be required in connection with the release or termination of any security interest or lien of Agent.

1.102 "OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control.

1.103 "Option Agreement" shall mean the Right of First Offer and Purchase Option Agreement, dated March 2, 2009, by and between Sara Lee Corporation and Farmer.

1.104 "Other Taxes" shall have the meaning given to such term in Section 6.5 hereof.

1.105 "Parent" shall mean Farmer Bros. Co., a Delaware corporation, and its successors and assigns.

1.106 "Participant" shall mean any financial institution that acquires and holds a participation in the interest of any Lender in any of the Loans and Letters of Credit in conformity with the provisions of Section 13.7 of this Agreement governing participations.

1.107 "Permitted Holders" shall mean the persons listed on Schedule 1.107 hereto.

1.108 "Person" or "person" shall mean any individual, sole proprietorship, partnership, corporation (including any corporation which elects subchapter S status under the Code), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock corporation, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

1.109 "Pension Plan" shall mean a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which any Borrower or Guarantor sponsors, maintains, or to which any Borrower, Guarantor or ERISA Affiliate makes, is making, or is obligated to make contributions, other than a Multiemployer Plan.

1.110 "Plan" shall mean an employee benefit plan (as defined in Section 3(3) of ERISA) which any Borrower or Guarantor sponsors, maintains, or to which it makes, is making, or is obligated to make contributions, or in the case of a Multiemployer Plan has made contributions at any time during the immediately preceding six (6) plan years or with respect to which any Borrower or Guarantor may incur liability.

1.111 "Preferred Stock Portfolio" shall mean investment property owned by Parent consisting of preferred stock in publicly filed companies (other than Parent) to the extent such preferred stock is held in the Specified Investment Account.

1.112 "Prime Rate" shall mean, on any date, the greatest of (a) the rate from time to time publicly announced by Agent, or its successors, as its prime rate, whether or not such announced rate is the best rate available at such bank, (b) the Federal Funds Effective Rate in effect on such day plus one-half (1/2%) percent, and (c) the Adjusted Eurodollar Rate for a one month Interest Period on such day plus one (1%) percent. The term "Federal Funds Effective Rate" shall mean, for any period, a fluctuating interest rate per annum equal, for each day during such period, to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not published for any day that is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal Funds brokers of recognized standing selected by it.

1.113 "Prime Rate Loans" shall mean any Loans or portion thereof on which interest is payable based on the Prime Rate in accordance with the terms thereof.

1.114 "Pro Rata Share" shall mean as to any Lender, the fraction (expressed as a percentage) the numerator of which is such Lender's Commitment and the denominator of which is the aggregate amount of all of the Commitments of Lenders, as adjusted from time to time in accordance with the provisions of Section 13.7 hereof; provided, that, if the Commitments have been terminated, the numerator shall be the unpaid amount of such Lender's Loans and its interest in the Letters of Credit and the denominator shall be the aggregate amount of all unpaid Loans and Letters of Credit.

1.115 "Property Loss Event" means (a) any loss of or damage to any assets or property of any Borrower or Guarantor that results in a claim to proceeds of insurance or (b) any condemnation or other taking of any assets or property of any Borrower or Guarantor.

1.116 "Provision for Taxes" shall mean an amount equal to all taxes imposed on or measured by, or determined by reference to, net income, whether Federal, State, Provincial, county or local, and whether foreign or domestic, that are paid or payable by any Person in respect of any period in accordance with GAAP.

1.117 "Purchase Agreements" shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Asset Purchase Agreement, (b) each of the Operational Agreements (as defined in the Asset Purchase Agreement as in effect on the date hereof), (c) the Option Agreement, and (d) all other agreements of transfer as are referred to therein and all side letters with respect thereto, and all agreements, documents and instruments executed and/or delivered in connection with any of the foregoing; in each case sometimes being referred to herein individually as a "Purchase Agreement".

1.118 "Purchased Assets" shall mean all of the assets and properties acquired by Farmer from Sellers pursuant to the Purchase Agreements.

1.119 "Real Property" shall mean all now owned and hereafter acquired real property of each Borrower and Guarantor, including leasehold interests, together with all

buildings, structures, and other improvements located thereon and all licenses, easements and appurtenances relating thereto, wherever located.

1.120 "Receivables" shall mean all of the following now owned or hereafter arising or acquired property of each Borrower and Guarantor: (a) all Accounts; (b) all interest, fees, late charges, penalties, collection fees and other amounts due or to become due or otherwise payable in connection with any Account; (c) all payment intangibles of such Borrower or Guarantor; (d) letters of credit, indemnities, guarantees, security or other deposits and proceeds thereof issued payable to any Borrower or Guarantor or otherwise in favor of or delivered to any Borrower or Guarantor in connection with any Account; or (e) all other accounts, contract rights, chattel paper, instruments, notes, general intangibles and other forms of obligations owing to any Borrower or Guarantor, whether from the sale and lease of goods or other property, licensing of any property (including Intellectual Property or other general intangibles), rendition of services or from loans or advances by any Borrower or Guarantor or to or for the benefit of any third person (including loans or advances to any Affiliates or Subsidiaries of any Borrower or Guarantor) or otherwise associated with any Accounts, Inventory or general intangibles of any Borrower or Guarantor (including, without limitation, choses in action, causes of action, tax refunds, tax refund claims, any funds which may become payable to any Borrower or Guarantor in connection with the termination of any Plan or other employee benefit plan and any other amounts payable to any Borrower or Guarantor from any Plan or other employee benefit plan, rights and claims against carriers and shippers, rights to indemnification, business interruption insurance and proceeds thereof, casualty or any similar types of insurance and any proceeds thereof and proceeds of insurance covering the lives of employees on which any Borrower or Guarantor is a beneficiary).

1.121 "Records" shall mean, as to each Borrower and Guarantor, all of such Borrower's and Guarantor's present and future books of account of every kind or nature, purchase and sale agreements, invoices, ledger cards, bills of lading and other shipping evidence, statements, correspondence, memoranda, credit files and other data relating to the Collateral or any account debtor, together with the tapes, disks, diskettes and other data and software storage media and devices, file cabinets or containers in or on which the foregoing are stored (including any rights of any Borrower or Guarantor with respect to the foregoing maintained with or by any other person).

1.122 "Register" shall have the meaning set forth in Section 13.7 hereof.

1.123 "Required Lenders" shall mean, at any time, those Lenders whose Pro Rata Shares aggregate sixty-six and two-thirds (66 2/3%) percent or more of the aggregate of the Commitments of all Lenders, or if the Commitments shall have been terminated, Lenders to whom at least sixty-six and two-thirds (66 2/3%) percent of the then outstanding Obligations are owing; provided, that, in the event that there are only two Lenders, then "Required Lenders" shall mean both of such Lenders.

1.124 "Reserves" shall mean as of any date of determination, such amounts as Agent may from time to time establish and revise in good faith reducing the amount of Loans and Letters of Credit that would otherwise be available to any Borrower under the lending formula(s) provided for herein: (a) to reflect events, conditions, contingencies or risks

which, as determined by Agent in good faith, adversely affect, or would have a reasonable likelihood of adversely affecting, either (i) the Collateral or any other property which is security for the Obligations or its value or (ii) the assets, business or prospects of any Borrower or Guarantor or (iii) the security interests and other rights of Agent in the Collateral (including the enforceability, perfection and priority thereof) or (b) to reflect Agent's good faith belief that any collateral report or financial information furnished by or on behalf of any Borrower or Guarantor to Agent is or may have been incomplete, inaccurate or misleading in any material respect or (c) to reflect outstanding Letter of Credit Obligations as provided in Section 2.2 hereof or (d) in respect of any state of facts which Agent determines in good faith constitutes a Default or an Event of Default or (e) an amount, determined monthly, equal to (i) the difference between the highest and lowest monthly average price of green coffee per pound (as measured by the International Coffee Organization or such other reputable third party acceptable to the Agent) over the immediately preceding six (6) months multiplied by (ii) the amount of Inventory consisting of green coffee (measured in pounds) as of the end of the month most recently ended and as reported pursuant to Section 7.1(a)(ii)(E). Without limiting the generality of the foregoing, Reserves may, at Agent's option, be established to reflect: (a) dilution with respect to the Accounts (based on the ratio of the aggregate amount of non-cash reductions in Accounts for any period to the aggregate dollar amount of the sales of such Borrower for such period) as calculated by Agent for any period is or is reasonably anticipated to be greater than five (5%) percent; (b) returns, rebates, discounts, claims, credits and allowances of any nature that are not paid pursuant to the reduction of Accounts; (c) sales, excise or similar taxes included in the amount of any Accounts reported to Agent; (d) a change in the turnover, age or mix of the categories of Inventory that adversely affects the aggregate value of all Inventory; (e) amounts due or to become due in respect of employee payroll and benefits, including, incentives and retention bonuses; (f) amounts due or to become due to owners and lessors of premises where any Collateral is located, other than for those locations where Agent has received a Collateral Access Agreement that Agent has accepted in writing; (g) amounts due or to become due to owners and licensors of trademarks and other Intellectual Property used by any Borrower or Guarantor; (h) reserves for in-transit Inventory, including freight, taxes, duty and other amounts which Agent estimates must be paid in connection with such Inventory upon arrival and for delivery to one of such Borrower's locations for Eligible Inventory within the United States of America, and (i) obligations, liabilities or indebtedness (contingent or otherwise) of any Borrower or Guarantor to Agent or any Lender or any Affiliate of Agent or any Lender arising under or in connection with any Bank Products to the extent that such obligations, liabilities or indebtedness constitute Obligations as such term is defined herein or otherwise receive the benefit of the security interest of Agent in any Collateral. The amount of any Reserve established by Agent shall have a reasonable relationship to the event, condition or other matter which is the basis for such reserve as determined by Agent in good faith and to the extent that such Reserve is in respect of amounts that may be payable to third parties Agent may, at its option, deduct such Reserve from the Maximum Credit, at any time that such limit is less than the amount of the Borrowing Base.

1.125 "Revolving Loans" shall mean the loans now or hereafter made by or on behalf of any Lender or by Agent for the account of any Lender on a revolving basis pursuant to the Credit Facility (involving advances, repayments and readvances) as set forth in Section 2.1 hereof.

1.126 “Sanctioned Entity” shall mean (a) an agency of the government of, (b) an organization directly or indirectly controlled by, or (c) a person resident in, a country that is subject to a sanctions program identified on the list maintained and published by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs>, or as otherwise published from time to time as such program may be applicable to such agency, organization or person

1.127 “Sanctioned Person” shall mean a person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/index.html>, or as otherwise published from time to time.

1.128 “Secured Parties” shall mean shall mean, collectively, (a) Agent, (b) Issuing Bank, (c) Lenders and (d) Bank Product Providers; provided, that, as to any Bank Product Provider, only to the extent of the Obligations owing to such Bank Product Provider

1.129 “Security Provisions” shall mean the following provisions of the Financing Agreements (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) Section 1(a) of the Guarantee, dated the date of the Existing Loan Agreement, by Guarantors in favor of Agent; (b) Section 2 of each Pledge and Security Agreement, dated the date of the Existing Loan Agreement, by Farmer in favor of Agent; (c) Section 2 of the Pledge and Security Agreement, dated the date of the Existing Loan Agreement, by Coffee Holding in favor of Agent; (d) Section 2 of the Collateral Assignment of Acquisition Agreements, dated the date of the Existing Loan Agreement, by Farmer in favor of Agent; (e) Section 2 of the Copyright Collateral Assignment and Security Agreement, dated the date of the Existing Loan Agreement, by Farmer in favor of Agent; (f) Section 2 of the Trademark Collateral Assignment and Security Agreement, dated the date of the Existing Loan Agreement, by Farmer in favor of Agent; (g) Section 2 of the Trademark Collateral Assignment and Security Agreement, dated the date of the Existing Loan Agreement, by CBI in favor of Agent; (h) Section 2 of the Trademark Collateral Assignment and Security Agreement, dated the date of the Existing Loan Agreement, by Finance in favor of Agent; (i) Section 2 of the Investment Property Pledge and Security Agreement, dated the date of the Existing Loan Agreement, by Finance in favor of Agent; and (j) such other sections of such other Financing Agreements as Agent may from time to time designate as a Security Provision in a writing delivered by Agent to Administrative Borrower.”

1.130 “Sellers” shall mean collectively, the following (together with their respective successors and assigns): (a) Sara Lee Corporation, a Maryland corporation and (b) Saramar, LLC, a Delaware limited liability company; each sometimes being referred to herein individually as a “Seller”.

1.131 “Solvent” shall mean, at any time with respect to any Person, that at such time such Person (a) is able to pay its debts as they mature and has (and has a reasonable basis to believe it will continue to have) sufficient capital (and not unreasonably small capital) to carry on its business consistent with its practices as of the date hereof, and (b) the assets and properties of such Person at a fair valuation (and including as assets for this purpose at a fair valuation all rights of subrogation, contribution or indemnification arising pursuant to any guarantees given by such Person) are greater than the Indebtedness of such Person, and including subordinated

and contingent liabilities computed at the amount which, such person has a reasonable basis to believe, represents an amount which can reasonably be expected to become an actual or matured liability (and including as to contingent liabilities arising pursuant to any guarantee the face amount of such liability as reduced to reflect the probability of it becoming a matured liability).

1.132 "Specified Investment Account" shall mean account number 062-146 maintained by Parent at Flaherty & Crumrine Incorporated.

1.133 "Special Agent Advances" shall have the meaning set forth in Section 12.11 hereof.

1.134 "Subsidiary" or "subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, limited liability partnership or other limited or general partnership, trust, association or other business entity of which an aggregate of at least a majority of the outstanding Capital Stock or other interests entitled to vote in the election of the board of directors of such corporation (irrespective of whether, at the time, Capital Stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency), managers, trustees or other controlling persons, or an equivalent controlling interest therein, of such Person is, at the time, directly or indirectly, owned by such Person and/or one or more subsidiaries of such Person.

1.135 "Total Liquidity" shall mean the sum of (i) the aggregate dollar value of the Preferred Stock Portfolio, plus (ii) the aggregate amount of cash and Cash Equivalents in the Cash Investment Accounts, plus (iii) the aggregate dollar value of such other investments acceptable to Agent in its discretion, plus (iv) Excess Availability.

1.136 "UCC" shall mean the Uniform Commercial Code as in effect in the State of California, and any successor statute, as in effect from time to time (except that terms used herein which are defined in the Uniform Commercial Code as in effect in the State of California on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as Agent may otherwise determine).

1.137 "Unfunded Pension Liability" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

1.138 "Value" shall mean, as determined by Agent in good faith, with respect to Inventory, the lower of (a) cost computed on a first-in first-out basis in accordance with GAAP or (b) market value, provided, that, (i) for purposes of the calculation of the Borrowing Base, (A) the Value of the Inventory shall not include: (1) the portion of the value of Inventory equal to the profit earned by any Affiliate on the sale thereof to any Borrower or (2) write-ups or write-downs in value with respect to currency exchange rates and (B) notwithstanding anything to the contrary contained herein, the cost of the Inventory shall be

computed in the same manner and consistent with the most recent appraisal of the Inventory received and accepted by Agent prior to the date hereof, if any and (ii) Agent may from time to time, in its discretion, value the portion of the Inventory consisting of "green coffee" to market based on the market value thereof as determined by the New York Board of Trade or any other mutually agreed upon source.

1.139 "Voting Stock" shall mean with respect to any Person, (a) one (1) or more classes of Capital Stock of such Person having general voting powers to elect at least a majority of the board of directors, managers or trustees of such Person, irrespective of whether at the time Capital Stock of any other class or classes have or might have voting power by reason of the happening of any contingency, and (b) any Capital Stock of such Person convertible or exchangeable without restriction at the option of the holder thereof into Capital Stock of such Person described in clause (a) of this definition.

1.140 "Wells Fargo" shall mean Wells Fargo Bank, National Association, in its individual capacity, and its successors and assigns.

1.141 "Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing ((a) the then outstanding principal amount of such Indebtedness into (b) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

## **SECTION 2. CREDIT FACILITIES**

### **2.1 Loans.**

(a) Subject to and upon the terms and conditions contained herein, each Lender severally (and not jointly) agrees to make its Pro Rata Share of Revolving Loans to each Borrower from time to time in amounts requested by such Borrower (or Administrative Borrower on behalf of such Borrower) up to the aggregate amount outstanding for all Lenders at any time equal to the lesser of: (i) the Borrowing Base at such time or (ii) the Maximum Credit at such time.

(b) Except in Agent's discretion, with the consent of all Lenders, or as otherwise provided herein, (i) the aggregate amount of the Loans and the Letter of Credit Obligations outstanding at any time shall not exceed the Maximum Credit, (ii) the aggregate principal amount of the Revolving Loans and Letter of Credit Obligations outstanding at any time shall not exceed the Borrowing Base, and (iii) the aggregate principal amount of the Revolving Loans outstanding based on the Eligible Inventory shall not exceed the Inventory Loan Limit.

(c) In the event that (i) the aggregate amount of the Loans and the Letter of Credit Obligations outstanding at any time exceed the Maximum Credit, or (ii) except as otherwise provided herein, the aggregate principal amount of the Revolving Loans and Letter of Credit Obligations outstanding exceed the Borrowing Base, or (iii) the aggregate principal



amount of Revolving Loans and Letter of Credit Obligations based on the Eligible Inventory exceed the Inventory Loan Limit, such event shall not limit, waive or otherwise affect any rights of Agent or Lenders in such circumstances or on any future occasions and Borrowers shall, upon demand by Agent, which may be made at any time or from time to time, immediately repay to Agent the entire amount of any such excess(es) for which payment is demanded.

## 2.2 Letters of Credit.

(a) Subject to and upon the terms and conditions contained herein and in the Letter of Credit Documents, at the request of a Borrower (or Administrative Borrower on behalf of such Borrower), Agent agrees to cause Issuing Bank to issue, and Issuing Bank agrees to issue, for the account of such Borrower one or more Letters of Credit, for the ratable risk of each Lender according to its Pro Rata Share, containing terms and conditions acceptable to Agent and Issuing Bank.

(b) The Borrower requesting such Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall give Agent and Issuing Bank three (3) Business Days' prior written notice of such Borrower's request for the issuance of a Letter of Credit. Such notice shall be irrevocable and shall specify the original face amount of the Letter of Credit requested, the effective date (which date shall be a Business Day and in no event shall be a date less than ten (10) days prior to the end of the then current term of this Agreement) of issuance of such requested Letter of Credit, whether such Letter of Credit may be drawn in a single or in partial draws, the date on which such requested Letter of Credit is to expire (which date shall be a Business Day and shall not be more than one year from the date of issuance), the purpose for which such Letter of Credit is to be issued, and the beneficiary of the requested Letter of Credit. The Borrower requesting the Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall attach to such notice the proposed terms of the Letter of Credit. The renewal or extension of any Letter of Credit shall, for purposes hereof, be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(c) In addition to being subject to the satisfaction of the applicable conditions precedent contained in Section 4 hereof and the other terms and conditions contained herein, no Letter of Credit shall be available unless each of the following conditions precedent have been satisfied in a manner satisfactory to Agent: (i) the Borrower requesting such Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall have delivered to Issuing Bank at such times and in such manner as Issuing Bank may require, an application, in form and substance satisfactory to Issuing Bank and Agent, for the issuance of the Letter of Credit and such other Letter of Credit Documents as may be required pursuant to the terms thereof, and the form and terms of the proposed Letter of Credit shall be satisfactory to Agent and Issuing Bank, (ii) as of the date of issuance, no order of any court, arbitrator or other Governmental Authority shall purport by its terms to enjoin or restrain money center banks generally from issuing letters of credit of the type and in the amount of the proposed Letter of Credit, and no law, rule or regulation applicable to money center banks generally and no request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over money center banks generally shall prohibit, or request that Issuing Bank refrain from, the issuance of letters of credit generally or the issuance of such Letter of Credit, (iii) after giving effect to the issuance of such Letter of Credit, the Letter of Credit Obligations shall not exceed the Letter of Credit Limit,

and (iv) the Excess Availability, prior to giving effect to any Reserves with respect to such Letter of Credit, on the date of the proposed issuance of any Letter of Credit shall be equal to or greater than: (A) if the proposed Letter of Credit is for the purpose of purchasing Eligible Inventory and the documents of title with respect thereto are consigned to Issuing Bank, the sum of (1) the percentage equal to one hundred (100%) percent minus the then applicable percentage with respect to Eligible Inventory set forth in the definition of the term Borrowing Base multiplied by the Value of such Eligible Inventory, plus (2) freight, taxes, duty and other amounts which Agent estimates must be paid in connection with such Inventory upon arrival and for delivery to one of such Borrower's locations for Eligible Inventory within the United States of America and (B) if the proposed Letter of Credit is for any other purpose or the documents of title are not consigned to Issuing Bank in connection with a Letter of Credit for the purpose of purchasing Inventory, an amount equal to one hundred (100%) percent of the Letter of Credit Obligations with respect thereto. Effective on the issuance of each Letter of Credit, a Reserve shall be established in the applicable amount set forth in Section 2.2(c)(iv)(A) or Section 2.2(c)(iv)(B). Notwithstanding anything to the contrary contained herein, an Issuing Bank shall not be obligated to issue a Letter of Credit in respect of the obligations of a Borrower or Guarantor arising in connection with a lease of Real Property or an employment contract, (a) in the case of a Letter of Credit in connection with such a lease, with a face amount in excess of the amount equal to (x) the amount of rent under such lease, without acceleration, for the greater of one year or fifteen (15%) percent, not to exceed three (3) years, of the remaining term of such lease minus (y) the amount of any cash or other collateral to secure the obligations of a Borrower or Guarantor in respect of such lease and (b) in the case of a Letter of Credit in connection with an employment contract, with a face amount in excess of the compensation provided by such contract, without acceleration, for a one year period.

(d) Except in Agent's discretion, with the consent of all Lenders, the amount of all outstanding Letter of Credit Obligations shall not at any time exceed the Letter of Credit Limit.

(e) Each Borrower shall reimburse immediately Issuing Bank for any draw under any Letter of Credit issued for the account of such Borrower and pay Issuing Bank the amount of all other charges and fees payable to Issuing Bank in connection with any Letter of Credit issued for the account of such Borrower immediately when due, irrespective of any claim, setoff, defense or other right which such Borrower may have at any time against Issuing Bank or any other Person. Each drawing under any Letter of Credit or other amount payable in connection therewith when due shall constitute a request by the Borrower for whose account such Letter of Credit was issued to Agent for a Prime Rate Loan in the amount of such drawing or other amount then due, and shall be made by Agent on behalf of Lenders as a Revolving Loan (or Special Agent Advance, as the case may be). The date of such Loan shall be the date of the drawing or as to other amounts, the due date therefor. Any payments made by or on behalf of Agent or any Lender to Issuing Bank and/or related parties in connection with any Letter of Credit shall constitute additional Revolving Loans to such Borrower pursuant to this Section 2 (or Special Agent Advances as the case may be).

(f) Borrowers and Guarantors shall indemnify and hold Agent and Lenders harmless from and against any and all losses, claims, damages, liabilities, costs and expenses which Agent or any Lender may suffer or incur in connection with any Letter of Credit and any

documents, drafts or acceptances relating thereto, including any losses, claims, damages, liabilities, costs and expenses due to any action taken by Issuing Bank or correspondent with respect to any Letter of Credit, except for such losses, claims, damages, liabilities, costs or expenses that are a direct result of the gross negligence or willful misconduct of Agent or any Lender as determined pursuant to a final non-appealable order of a court of competent jurisdiction. Each Borrower and Guarantor assumes all risks with respect to the acts or omissions of the drawer under or beneficiary of any Letter of Credit and for such purposes the drawer or beneficiary shall be deemed such Borrower's agent. Each Borrower and Guarantor assumes all risks for, and agrees to pay, all foreign, Federal, State and local taxes, duties and levies relating to any goods subject to any Letter of Credit or any documents, drafts or acceptances thereunder. Each Borrower and Guarantor hereby releases and holds Agent and Lenders harmless from and against any acts, waivers, errors, delays or omissions with respect to or relating to any Letter of Credit, except for the gross negligence or willful misconduct of Agent or any Lender as determined pursuant to a final, non-appealable order of a court of competent jurisdiction. The provisions of this Section 2.2(f) shall survive the payment of Obligations and the termination of this Agreement.

(g) In connection with Inventory purchased pursuant to any Letter of Credit, Borrowers shall, at Agent's request, instruct all suppliers, carriers, forwarders, customs brokers, warehouses or others receiving or holding cash, checks, Inventory, documents or instruments in which Agent holds a security interest that upon Agent's request, such items are to be delivered to Agent and/or subject to Agent's order, and if they shall come into such Borrower's possession, to deliver them, upon Agent's request, to Agent in their original form. Except as otherwise provided herein, Agent shall not exercise such right to request such items so long as no Default or Event of Default shall exist or have occurred and be continuing. Except as Agent may otherwise specify, Borrowers shall designate Issuing Bank as the consignee on all bills of lading and other negotiable and non-negotiable documents.

(h) Each Borrower and Guarantor hereby irrevocably authorizes and directs Issuing Bank to name such Borrower or Guarantor as the account party therein and to deliver to Agent all instruments, documents and other writings and property received by Issuing Bank pursuant to the Letter of Credit and to accept and rely upon Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit or the Letter of Credit Documents with respect thereto. Nothing contained herein shall be deemed or construed to grant any Borrower or Guarantor any right or authority to pledge the credit of Agent or any Lender in any manner. Borrowers and Guarantors shall be bound by any reasonable interpretation made in good faith by Agent, or Issuing Bank under or in connection with any Letter of Credit or any documents, drafts or acceptances thereunder, notwithstanding that such interpretation may be inconsistent with any instructions of any Borrower or Guarantor.

(i) Immediately upon the issuance or amendment of any Letter of Credit, each Lender shall be deemed to have irrevocably and unconditionally purchased and received, without recourse or warranty, an undivided interest and participation to the extent of such Lender's Pro Rata Share of the liability with respect to such Letter of Credit and the obligations of Borrowers with respect thereto (including all Letter of Credit Obligations with respect thereto). Each Lender shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and be obligated to pay to Issuing Bank therefor and discharge when due, its Pro Rata

Share of all of such obligations arising under such Letter of Credit. Without limiting the scope and nature of each Lender's participation in any Letter of Credit, to the extent that Issuing Bank has not been reimbursed or otherwise paid as required hereunder or under any such Letter of Credit, each such Lender shall pay to Issuing Bank its Pro Rata Share of such unreimbursed drawing or other amounts then due to Issuing Bank in connection therewith.

(j) So long as no Event of Default exists or has occurred and is continuing, a Borrower may (i) approve or resolve any questions of non-compliance of documents, (ii) give any instructions as to acceptance or rejection of any documents or goods, (iii) execute any and all applications for steamship or airway guaranties, indemnities or delivery orders, and (iv) with Agent's consent, grant any extensions of the maturity of, time of payment for, or time of presentation of, any drafts, acceptances, or documents, and agree to any amendments, renewals, extensions, modifications, changes or cancellations of any of the terms or conditions of any of the applications, Letters of Credit, or documents, drafts or acceptances thereunder or any letters of credit included in the Collateral.

(k) At any time an Event of Default exists or has occurred and is continuing, Agent shall have the right and authority to, and Borrowers shall not, without the prior written consent of Agent, (i) approve or resolve any questions of non-compliance of documents, (ii) give any instructions as to acceptance or rejection of any documents or goods, (iii) execute any and all applications for steamship or airway guaranties, indemnities or delivery orders, (iv) grant any extensions of the maturity of, time of payments for, or time of presentation of, any drafts, acceptances, or documents, and (v) agree to any amendments, renewals, extensions, modifications, changes or cancellations of any of the terms or conditions of any of the applications, Letters of Credit, or documents, drafts or acceptances thereunder or any letters of credit included in the Collateral. Agent may take such actions either in its own name or in any Borrower's name.

(l) The obligations of Borrowers to pay each Letter of Credit Obligations and the obligations of Lenders to make payments to Agent for the account of Issuing Bank with respect to Letters of Credit shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances, whatsoever, notwithstanding the occurrence or continuance of any Default, Event of Default, the failure to satisfy any other condition set forth in Section 4 or any other event or circumstance. If such amount is not made available by a Lender when due, Agent shall be entitled to recover such amount on demand from such Lender with interest thereon, for each day from the date such amount was due until the date such amount is paid to Agent at the interest rate then payable by any Borrower in respect of Loans that are Prime Rate Loans. Any such reimbursement shall not relieve or otherwise impair the obligation of Borrowers to reimburse Issuing Bank under any Letter of Credit or make any other payment in connection therewith.

2.3 Commitments. The aggregate amount of each Lender's Pro Rata Share of the Loans and Letter of Credit Obligations shall not exceed the amount of such Lender's Commitment, as the same may from time to time be amended in accordance with the provisions hereof.

## SECTION 3. INTEREST AND FEES

### 3.1 Interest.

(a) Borrowers shall pay to Agent, for the benefit of Lenders, interest on the outstanding principal amount of the Loans at the Interest Rate. All interest accruing hereunder on and after the date of any Event of Default for so long as the same is continuing or on or after the date of termination hereof shall be payable on demand.

(b) Each Borrower (or Administrative Borrower on behalf of such Borrower) may from time to time request Eurodollar Rate Loans or may request that Prime Rate Loans be converted to Eurodollar Rate Loans or that any existing Eurodollar Rate Loans continue for an additional Interest Period. Such request from a Borrower (or Administrative Borrower on behalf of such Borrower) shall specify the amount of the Eurodollar Rate Loans or the amount of the Prime Rate Loans to be converted to Eurodollar Rate Loans or the amount of the Eurodollar Rate Loans to be continued (subject to the limits set forth below) and the Interest Period to be applicable to such Eurodollar Rate Loans (and if it does not specify an Interest Period, the Interest Period shall be deemed to be a one (1) month period). Subject to the terms and conditions contained herein, three (3) Business Days after receipt by Agent of such a request from a Borrower (or Administrative Borrower on behalf of such Borrower) which may be telephonic (and followed by a confirmation in writing if requested by Agent), such Eurodollar Rate Loans shall be made or Prime Rate Loans shall be converted to Eurodollar Rate Loans or such Eurodollar Rate Loans shall continue, as the case may be, provided, that, (i) no Default or Event of Default shall exist or have occurred and be continuing, (ii) no Borrower or Administrative Borrower shall have sent any notice of termination of this Agreement, (iii) such Borrower (or Administrative Borrower on behalf of such Borrower) shall have complied with such customary procedures as are established by Agent and specified by Agent to Administrative Borrower from time to time for requests by Borrowers for Eurodollar Rate Loans, (iv) no more than ten (10) Interest Periods may be in effect at any one time, (v) the aggregate amount of the Eurodollar Rate Loans must be in an amount not less than \$1,000,000 or an integral multiple of \$500,000 in excess thereof, and (vi) Agent and each Lender shall have determined that the Interest Period or Adjusted Eurodollar Rate is available to Agent and such Lender and can be readily determined as of the date of the request for such Eurodollar Rate Loan by such Borrower. Any request by or on behalf of a Borrower for Eurodollar Rate Loans or to convert Prime Rate Loans to Eurodollar Rate Loans or to continue any existing Eurodollar Rate Loans shall be irrevocable. Notwithstanding anything to the contrary contained herein, Agent and Lenders shall not be required to purchase United States Dollar deposits in the London interbank market or other applicable Eurodollar Rate market to fund any Eurodollar Rate Loans, but the provisions hereof shall be deemed to apply as if Agent and Lenders had purchased such deposits to fund the Eurodollar Rate Loans.

(c) Any Eurodollar Rate Loans shall automatically convert to Prime Rate Loans upon the last day of the applicable Interest Period, unless Agent has received and approved a request to continue such Eurodollar Rate Loan at least three (3) Business Days prior to such last day in accordance with the terms hereof and Borrowers are entitled to such Eurodollar Rate Loan under the terms hereof. Any Eurodollar Rate Loans shall, at Agent's option, upon notice by Agent to Administrative Borrower, be subsequently converted to Prime

Rate Loans in the event that this Agreement shall terminate or not be renewed. Borrowers shall pay to Agent, for the benefit of Lenders, upon demand by Agent (or Agent may, at its option, charge any loan account of any Borrower) any amounts required to compensate any Lender or Participant for any loss (including loss of anticipated profits), cost or expense incurred by such person, as a result of the conversion of Eurodollar Rate Loans to Prime Rate Loans pursuant to any of the foregoing.

(d) Interest shall be payable by Borrowers to Agent, for the account of Agent and Lenders as applicable, monthly in arrears not later than the first day of each calendar month and shall be calculated on the basis of a three hundred sixty (360) day year and actual days elapsed, other than for Prime Rate Loans which shall be calculated on the basis of three hundred sixty-five (365) or three hundred sixty-six (366) day year, as applicable, and actual days elapsed. The interest rate on non-contingent Obligations (other than Eurodollar Rate Loans) shall increase or decrease by an amount equal to each increase or decrease in the Prime Rate effective on the date any change in such Prime Rate is effective. In no event shall charges constituting interest payable by Borrowers to Agent and Lenders exceed the maximum amount or the rate permitted under any applicable law or regulation, and if any such part or provision of this Agreement is in contravention of any such law or regulation, such part or provision shall be deemed amended to conform thereto.

3.2 Unused Line Fee. Borrowers shall pay to Agent, for the account of Lenders, monthly an unused line fee at a rate equal to one quarter of one (0.25%) percent per annum calculated upon the amount by which the Maximum Credit exceeds the average daily principal balance of the outstanding Revolving Loans and Letters of Credit during the immediately preceding month (or part thereof) so long as any Obligations are outstanding and this Agreement has not been terminated. Such fees shall be payable on the first Business Day of each month in arrears and calculated based on a three hundred sixty (360) day year and actual days elapsed.

3.3 Letter of Credit Fees. (a) Borrowers shall pay to Agent, for the account of Lenders, monthly a fee at the LC Fee Rate determined as provided below (on a per annum basis), on the average daily outstanding balance of the Letters of Credit for the immediately preceding month (or part thereof), payable in arrears as of the first day of each month, computed for each day from the date of issuance to the date of expiration. Such percentages shall be increased or decreased, as the case may be, to the applicable percentage (on a per annum basis) set forth below based on the Monthly Average Excess Availability for the immediately preceding calendar month is at or within the amounts indicated for such percentage as of the last day of the immediately preceding calendar month:

Tier	Monthly Average Excess Availability	LC Fee Rate
1	Greater than \$30,000,000	2.00%
2	Less than or equal to \$30,000,000 and greater than \$17,500,000	2.25%
3	Less than or equal to \$17,500,000	2.50%

provided, that, (i) the applicable percentage shall be calculated and established once each calendar month (commencing with the month beginning October 1, 2011) based on the Monthly Average Excess Availability and shall remain in effect until adjusted after the end of the next calendar month, (ii) each adjustment of the applicable percentage shall be effective as of the first day of each such calendar month based on the Monthly Average Excess Availability for the immediately preceding calendar month, and (iii) (iv) Borrowers shall, at Agent's option, pay such fees at a rate two (2%) percent greater than the highest rate above on such average daily maximum amount for: (A) the period from and after the date of termination or non-renewal hereof until Agent and Lenders have received full and final payment of all Obligations (notwithstanding entry of a judgment against any Borrower or Guarantor) and (B) the period from and after the date of the occurrence of an Event of Default for so long as such Event of Default is continuing. Such letter of credit fees shall be calculated on the basis of a three hundred sixty (360) day year and actual days elapsed and the obligation of Borrowers to pay such fee shall survive the termination or non-renewal of this Agreement.

(b) In addition to the letter of credit fees provided above, Borrowers shall pay to Issuing Bank for its own account (without sharing with Lenders) the letter of credit fronting and negotiation fees agreed to by Borrowers and Issuing Bank from time to time and the customary charges from time to time of Issuing Bank with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit.

3.4 Additional Fees. Borrowers shall pay to Agent the other fees and amounts set forth in the Fee Letter in the amounts and at the times specified therein. To the extent payment in full of the applicable fee is received by Agent from Borrowers on or about the date hereof, Agent shall pay to each Lender its share of such fees in accordance with the terms of the arrangements of Agent with such Lender.

### 3.5 Changes in Laws and Increased Costs of Loans.

(a) If after the date hereof, either (i) any change in, or in the interpretation of, any law or regulation is introduced, including, without limitation, with respect to reserve requirements, applicable to any Lender or any banking or financial institution from whom any Lender borrows funds or obtains credit (a "Funding Bank"), or (ii) a Funding Bank or any Lender complies with any future guideline or request from any central bank or other Governmental Authority or (iii) a Funding Bank, any Lender or Issuing Bank determines that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof has or would have the effect described below, or a Funding Bank, any Lender or Issuing Bank complies with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, and in the case of any event set forth in this clause (iii), such adoption, change or compliance has or would have the direct or indirect effect of reducing the rate of return on any Lender's or Issuing Bank's capital as a consequence of its obligations hereunder to a level below that which such Lender or

Issuing Bank could have achieved but for such adoption, change or compliance (taking into consideration the Funding Bank's or Lender's or Issuing Bank's policies with respect to capital adequacy) by an amount deemed by such Lender or Issuing Bank in good faith to be material, and the result of any of the foregoing events described in clauses (i), (ii) or (iii) is or results in an increase in the cost to any Lender or Issuing Bank of funding or maintaining the Loans, the Letters of Credit or its Commitment, then Borrowers and Guarantors shall from time to time upon demand by Agent pay to Agent additional amounts sufficient to indemnify such Lender or Issuing Bank, as the case may be, against such increased cost on an after-tax basis (after taking into account applicable deductions and credits in respect of the amount indemnified). A certificate as to the amount of such increased cost and showing in reasonable detail the computation thereof shall be submitted to Administrative Borrower by Agent or the applicable Lender and shall be conclusive, absent manifest error.

(b) If prior to the first day of any Interest Period, (i) Agent shall have determined in good faith (which determination shall be conclusive and binding upon Borrowers and Guarantors) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate for such Interest Period, (ii) Agent has received notice from the Required Lenders that the Adjusted Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to Lenders of making or maintaining Eurodollar Rate Loans during such Interest Period, or (iii) Dollar deposits in the principal amounts of the Eurodollar Rate Loans to which such Interest Period is to be applicable are not generally available in the London interbank market, Agent shall give telecopy or telephonic notice thereof to Administrative Borrower as soon as practicable thereafter, and will also give prompt written notice to Administrative Borrower when such conditions no longer exist. If such notice is given (A) any Eurodollar Rate Loans requested to be made on the first day of such Interest Period shall be made as Prime Rate Loans, (B) any Loans that were to have been converted on the first day of such Interest Period to or continued as Eurodollar Rate Loans shall be converted to or continued as Prime Rate Loans and (C) each outstanding Eurodollar Rate Loan shall be converted, on the last day of the then-current Interest Period thereof, to Prime Rate Loans. Until such notice has been withdrawn by Agent, no further Eurodollar Rate Loans shall be made or continued as such, nor shall any Borrower (or Administrative Borrower on behalf of any Borrower) have the right to convert Prime Rate Loans to Eurodollar Rate Loans.

(c) Notwithstanding any other provision herein, if the adoption of or any change in any law, treaty, rule or regulation or final, non-appealable determination of an arbitrator or a court or other Governmental Authority or in the interpretation or application thereof occurring after the date hereof shall make it unlawful for Agent or any Lender to make or maintain Eurodollar Rate Loans as contemplated by this Agreement, (i) Agent or such Lender shall promptly give written notice of such circumstances to Administrative Borrower (which notice shall be withdrawn whenever such circumstances no longer exist), (ii) the commitment of such Lender hereunder to make Eurodollar Rate Loans, continue Eurodollar Rate Loans as such and convert Prime Rate Loans to Eurodollar Rate Loans shall forthwith be canceled and, until such time as it shall no longer be unlawful for such Lender to make or maintain Eurodollar Rate Loans, such Lender shall then have a commitment only to make a Prime Rate Loan when a Eurodollar Rate Loan is requested and (iii) such Lender's Loans then outstanding as Eurodollar Rate Loans, if any, shall be converted automatically to Prime Rate Loans on the respective last



days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurodollar Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, Borrowers and Guarantors shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.3(d) below.

(d) Borrowers and Guarantors shall indemnify Agent and each Lender and to hold Agent and each Lender harmless from any loss or expense which Agent or such Lender may sustain or incur as a consequence of (i) default by any Borrower in making a borrowing of, conversion into or extension of Eurodollar Rate Loans after such Borrower (or Administrative Borrower on behalf of such Borrower) has given a notice requesting the same in accordance with the provisions of this Agreement, (ii) default by any Borrower in making any prepayment of a Eurodollar Rate Loan after such Borrower (or Administrative Borrower on behalf of such Borrower) has given a notice thereof in accordance with the provisions of this Agreement, and (iii) the making of a prepayment of Eurodollar Rate Loans on a day which is not the last day of an Interest Period with respect thereto. With respect to Eurodollar Rate Loans, such indemnification may include an amount equal to the excess, if any, of (A) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or extended, for the period from the date of such prepayment or of such failure to borrow, convert or extend to the last day of the applicable Interest Period (or, in the case of a failure to borrow, convert or extend, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Eurodollar Rate Loans provided for herein over (B) the amount of interest (as determined by such Agent or such Lender) which would have accrued to Agent or such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. This covenant shall survive the termination or non-renewal of this Agreement and the payment of the Obligations.

#### **SECTION 4. CONDITIONS PRECEDENT**

##### **4.1 Conditions Precedent to Amendment and Restatement.**

Each of the following is a condition precedent to the effectiveness hereof:

(a) all requisite corporate and limited liability company action and proceedings in connection with this Agreement and the other Financing Agreements shall be satisfactory in form and substance to Agent, and Agent shall have received all information and copies of all documents, including records of requisite corporate and limited liability company action and proceedings which Agent may have reasonably requested in connection therewith, such documents where requested by Agent or its counsel to be certified by appropriate corporate officers or limited liability company managers or Governmental Authority (and including a copy of the certificate of incorporation or formation of each Borrower and Guarantor certified by the Secretary of State (or equivalent Governmental Authority) which shall set forth the same complete corporate or limited liability company name of such Borrower or Guarantor as is set forth herein and such document as shall set forth the organizational identification number of each Borrower or Guarantor, if one is issued in its jurisdiction of incorporation or formation);

(b) no material adverse change shall have occurred in the assets, business or prospects of Borrowers since the date of Agent's latest field examination (not including for this purpose the field review referred to in clause (d) below) and no change or event shall have occurred which would impair in any material respect the ability of any Borrower or Guarantor to perform its obligations hereunder or under any of the other Financing Agreements to which it is a party or of Agent or any Lender to enforce the Obligations or realize upon the Collateral;

(c) Agent shall have completed a field review of the Records and such other information with respect to the Collateral as Agent may reasonably require to determine the amount of Loans available to Borrowers (including, without limitation, current perpetual inventory records and/or roll-forwards of Accounts and Inventory through the date of closing and test counts of the Inventory in a manner satisfactory to Agent, together with such supporting documentation as may be necessary or appropriate, and other documents and information that will enable Agent to accurately identify and verify the Collateral), the results of which in each case shall be satisfactory to Agent, not more than three (3) Business Days prior to the date hereof or such earlier date as Agent may agree;

(d) Agent shall (i) be satisfied that, immediately after giving effect to the transactions contemplated to occur under this Agreement on or before the date hereof, each Borrower is and Borrowers and Guarantors (taken as a whole) are Solvent and (ii) have received an officer's certificate prepared by the chief financial officer of Parent as to the financial condition, solvency and related matters of Borrowers and Guarantors after giving effect to the initial borrowings under the Financing Agreements, in form and substance reasonably satisfactory to Agent;

(e) Agent shall have received, in form and substance reasonably satisfactory to Agent, all consents, waivers, acknowledgments and other agreements from third persons which Agent may deem necessary or desirable in order to permit, protect and perfect its security interests in and liens upon the Collateral or to effectuate the provisions or purposes of this Agreement and the other Financing Agreements, including, without limitation, Collateral Access Agreements;

(f) the Excess Availability as determined by Agent in good faith, as of the date hereof, shall be not less than \$20,000,000 after giving effect to the initial Loans made or to be made and Letters of Credit issued or to be issued in connection with the initial transactions hereunder;

(g) Agent shall have received, in form and substance reasonably satisfactory to Agent, Deposit Account Control Agreements and Investment Property Control Agreements by and among Agent, each Borrower and Guarantor, as the case may be and each bank, securities intermediary or other Person where such Borrower (or Guarantor) has a deposit account, investment account or other account, including with respect to the Preferred Stock Portfolio, in each case, duly authorized, executed and delivered by such bank, securities intermediary or other Person and Borrower or Guarantor, as the case may be (or Agent shall be the bank's customer with respect to such deposit account as Agent may specify);

(h) Agent shall have received evidence, in form and substance satisfactory to Agent, that Agent has a valid perfected first priority security interest in all of the Collateral (other than, with respect to perfection only, the Excluded Property);

(i) Agent shall have received and reviewed lien and judgment search results for the jurisdiction of organization of each Borrower and Guarantor, the jurisdiction of the chief executive office of each Borrower and Guarantor and all jurisdictions in which assets of Borrowers and Guarantors are located, which search results shall be in form and substance reasonably satisfactory to Agent;

(j) Agent shall have received originals of the certificates and membership interest certificates representing all of the issued and outstanding shares of the Capital Stock of each Borrower and Guarantor (other than Parent) and owned by any Borrower or Guarantor, in each case together with stock powers duly executed in blank with respect thereto;

(k) Agent shall have received a borrowing request and a Borrowing Base Certificate setting forth the Revolving Loans and Letters of Credit available to Borrowers as of the date of this Agreement as completed in a manner reasonably satisfactory to Agent and duly authorized, executed and delivered on behalf of Borrowers;

(l) Agent shall have received evidence of insurance and loss payee endorsements required hereunder and under the other Financing Agreements, in form and substance reasonably satisfactory to Agent, and certificates of insurance policies and/or endorsements naming Agent as loss payee;

(m) Agent shall have received, in form and substance reasonably satisfactory to Agent, such opinion letters of counsel to Borrowers and Guarantors with respect to the Financing Agreements and the security interests of Agent with respect to the Collateral and such other matters as Agent may reasonably request;

(n) Agent shall have received evidence, in form and substance satisfactory to Agent, that the ESOP is an "employee stock ownership plan" (as defined in Section 4975(e)(7) of the Code and Section 407(d)(6) of ERISA) and is qualified under Section 401(a) of the Code; and

(o) the other Financing Agreements and all instruments and documents hereunder and thereunder shall have been duly executed and delivered to Agent, in form and substance satisfactory to Agent.

4.2 Conditions Precedent to All Loans and Letters of Credit. The obligation of Lenders to make the Loans, including the initial Loans, or of Issuing Bank to issue any Letter of Credit, including the initial Letters of Credit, is subject to the further satisfaction of, or waiver of, immediately prior to or concurrently with the making of each such Loan or the issuance of such Letter of Credit of each of the following conditions precedent:

(a) all representations and warranties contained herein and in the other Financing Agreements that are qualified as to materiality or Material Adverse Effect shall be true and correct and the representations and warranties that are not so qualified shall be true and

correct in all material respects, in each case with the same effect as though such representations and warranties had been made on and as of the date of the making of each such Loan or providing each such Letter of Credit and after giving effect thereto, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct to the extent required hereunder or under the other Financing Agreements on and as of such earlier date);

(b) no law, regulation, order, judgment or decree of any Governmental Authority shall exist, and no action, suit, investigation, litigation or proceeding shall be pending or threatened in any court or before any arbitrator or Governmental Authority, which (i) purports to enjoin, prohibit, restrain or otherwise affect (A) the making of the Loans or providing the Letter of Credit, or (B) the consummation of the transactions contemplated pursuant to the terms hereof or the other Financing Agreements or (ii) has or has a reasonable likelihood of having a Material Adverse Effect; and

(c) no Default or Event of Default shall exist or have occurred and be continuing on and as of the date of the making of such Loan or providing each such Letter of Credit and after giving effect thereto.

Each borrowing of Loans by and each Letter of Credit issued, amended or extended on behalf of any Borrower hereunder shall constitute a representation and warranty by Borrowers and Guarantors as of the date of such borrowing or such issuance, amendment or extension that the conditions contained in this Section 4.2 have been satisfied.

## **SECTION 5. GRANT AND PERFECTION OF SECURITY INTEREST**

5.1 Grant of Security Interest. To secure payment and performance of all Obligations, each Borrower and Guarantor hereby grants to Agent, for itself and the benefit of Secured Parties, a continuing security interest in, a lien upon, and a right of set off against, and hereby assigns to Agent, for itself and the benefit of Secured Parties, as security, and hereby confirms, reaffirms and restates the prior grant thereof pursuant to the Existing Loan Agreement, all personal and real property and fixtures, and interests in property and fixtures, of each Borrower and Guarantor, whether now owned or hereafter acquired or existing, and wherever located (together with all other collateral security for the Obligations at any time granted to or held or acquired by Agent or any Lender, collectively, the "Collateral"), including:

- (a) all Accounts;
- (b) all general intangibles, including, without limitation, all Intellectual Property;
- (c) all goods, including, without limitation, Inventory and Equipment;
- (d) all Real Property and fixtures;
- (e) all chattel paper, including, without limitation, all tangible and electronic chattel paper;

(f) all instruments, including, without limitation, all promissory notes;

(g) all documents;

(h) all deposit accounts;

(i) all letters of credit, banker's acceptances and similar instruments and including all letter-of-credit rights;

(j) all supporting obligations and all present and future liens, security interests, rights, remedies, title and interest in, to and in respect of Receivables and other Collateral, including (i) rights and remedies under or relating to guaranties, contracts of suretyship, letters of credit and credit and other insurance related to the Collateral, (ii) rights of stoppage in transit, replevin, repossession, reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, (iii) goods described in invoices, documents, contracts or instruments with respect to, or otherwise representing or evidencing, Receivables or other Collateral, including returned, repossessed and reclaimed goods, and (iv) deposits by and property of account debtors or other persons securing the obligations of account debtors;

(k) all (i) investment property (including securities, whether certificated or uncertificated, securities accounts, security entitlements, commodity contracts or commodity accounts), including the Preferred Stock Portfolio and (ii) monies, credit balances, deposits and other property of any Borrower or Guarantor now or hereafter held or received by or in transit to Agent, any Lender or its Affiliates or at any other depository or other institution from or for the account of any Borrower or Guarantor, whether for safekeeping, pledge, custody, transmission, collection or otherwise;

(l) all commercial tort claims, including, without limitation, those identified in the Information Certificate;

(m) to the extent not otherwise described above, all Receivables;

(n) all Records; and

(o) all products and proceeds of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to or destruction of or other involuntary conversion of any kind or nature of any or all of the other Collateral.

#### 5.2 Perfection of Security Interests.

(a) Each Borrower and Guarantor irrevocably and unconditionally authorizes Agent (or its agent) to file at any time and from time to time such financing statements with respect to the Collateral naming Agent or its designee as the secured party and such Borrower or Guarantor as debtor, as Agent may require, and including any other information with respect to such Borrower or Guarantor or otherwise required by part 5 of Article 9 of the Uniform Commercial Code of such jurisdiction as Agent may determine, together with any amendment and continuations with respect thereto, which authorization shall apply to all financing statements filed on, prior to or after the date hereof. Each Borrower and Guarantor hereby

ratifies and approves all financing statements naming Agent or its designee as secured party and such Borrower or Guarantor, as the case may be, as debtor with respect to the Collateral (and any amendments with respect to such financing statements) filed by or on behalf of Agent prior to the date hereof and ratifies and confirms the authorization of Agent to file such financing statements (and amendments, if any). Each Borrower and Guarantor hereby authorizes Agent to adopt on behalf of such Borrower and Guarantor any symbol required for authenticating any electronic filing. In the event that the description of the collateral in any financing statement naming Agent or its designee as the secured party and any Borrower or Guarantor as debtor includes assets and properties of such Borrower or Guarantor that do not at any time constitute Collateral, whether hereunder, under any of the other Financing Agreements or otherwise, the filing of such financing statement shall nonetheless be deemed authorized by such Borrower or Guarantor to the extent of the Collateral included in such description and it shall not render the financing statement ineffective as to any of the Collateral or otherwise affect the financing statement as it applies to any of the Collateral. Until such time as the Credit Facility shall have been terminated and all Obligations have been paid in full in accordance with Section 13.1(a) hereof, in no event shall any Borrower or Guarantor at any time file, or permit or cause to be filed, any correction statement or termination statement with respect to any financing statement (or amendment or continuation with respect thereto) naming Agent or its designee as secured party and such Borrower or Guarantor as debtor.

(b) Each Borrower and Guarantor does not have any chattel paper (whether tangible or electronic) or instruments as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall be entitled to or shall receive any chattel paper or instrument after the date hereof, Borrowers and Guarantors shall promptly notify Agent thereof in writing. Promptly upon the receipt thereof by or on behalf of any Borrower or Guarantor (including by any agent or representative), such Borrower or Guarantor shall deliver, or cause to be delivered to Agent, all tangible chattel paper and instruments that such Borrower or Guarantor has or may at any time acquire, accompanied by such instruments of transfer or assignment duly executed in blank as Agent may from time to time specify, in each case except as Agent may otherwise agree. At Agent's option, each Borrower and Guarantor shall, or Agent may at any time on behalf of any Borrower or Guarantor, cause the original of any such instrument or chattel paper to be conspicuously marked in a form and manner acceptable to Agent with the following legend referring to chattel paper or instruments as applicable: "This [chattel paper][instrument] is subject to the security interest of Wells Fargo Bank, National Association and any sale, transfer, assignment or encumbrance of this [chattel paper][instrument] violates the rights of such secured party."

(c) In the event that any Borrower or Guarantor shall at any time hold or acquire an interest in any electronic chattel paper or any "transferable record" (as such term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction) with a value in excess of \$100,000, such Borrower or Guarantor shall promptly notify Agent thereof in writing. Promptly upon Agent's request, such Borrower or Guarantor shall take, or cause to be taken, such actions as Agent may request to give Agent control of such electronic chattel paper under Section 9-105 of the UCC and control of such transferable record under Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or,

as the case may be, Section 16 of the Uniform Electronic Transactions Act, as in effect in such jurisdiction.

(d) Each Borrower and Guarantor does not have any deposit accounts as of the date hereof, except as set forth in the Information Certificate. Borrowers and Guarantors shall not, directly or indirectly, after the date hereof open, establish or maintain any deposit account unless each of the following conditions is satisfied: (i) Agent shall have received not less than five (5) Business Days prior written notice of the intention of any Borrower or Guarantor to open or establish such account which notice shall specify in reasonable detail and specificity acceptable to Agent the name of the account, the owner of the account, the name and address of the bank at which such account is to be opened or established, the individual at such bank with whom such Borrower or Guarantor is dealing and the purpose of the account, (ii) the bank where such account is opened or maintained shall be reasonably acceptable to Agent, and (iii) on or before the opening of such deposit account, such Borrower or Guarantor shall as Agent may specify either (A) deliver to Agent a Deposit Account Control Agreement with respect to such deposit account duly authorized, executed and delivered by such Borrower or Guarantor and the bank at which such deposit account is opened and maintained or (B) arrange for Agent to become the customer of the bank with respect to the deposit account on terms and conditions reasonably acceptable to Agent. The terms of this subsection (d) shall not apply to deposit accounts specifically and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Borrower's or Guarantor's salaried employees or to the cash deposit referred to in Section 9.8(m) of this Agreement.

(e) No Borrower or Guarantor owns or holds, directly or indirectly, beneficially or as record owner or both, any investment property, as of the date hereof, or have any investment account, securities account, commodity account or other similar account with any bank or other financial institution or other securities intermediary or commodity intermediary as of the date hereof, in each case except as set forth in the Information Certificate.

(i)(A) In the event that any Borrower or Guarantor shall be entitled to or shall at any time after the date hereof hold or acquire any certificated securities, such Borrower or Guarantor shall promptly endorse, assign and deliver the same to Agent, accompanied by such instruments of transfer or assignment duly executed in blank as Agent may from time to time specify and (B) if any securities, now or hereafter acquired by any Borrower or Guarantor are uncertificated and are issued to such Borrower or Guarantor or its nominee directly by the issuer thereof, such Borrower or Guarantor shall immediately notify Agent thereof and shall as Agent may specify, either (1) cause the issuer to agree to comply with instructions from Agent as to such securities, without further consent of any Borrower or Guarantor or such nominee, or (2) arrange for Agent to become the registered owner of the securities.

(ii) Borrowers and Guarantors shall not, directly or indirectly, after the date hereof open, establish or maintain any investment account, securities account, commodity account or any other similar account (other than a deposit account or the Specified Investment Account) with any securities intermediary or commodity intermediary unless each of the following conditions is satisfied: (A) Agent shall have received not less than five (5) Business Days prior written notice of the intention of such Borrower or Guarantor to open or establish

such account which notice shall specify in reasonable detail and specificity acceptable to Agent the name of the account, the owner of the account, the name and address of the securities intermediary or commodity intermediary at which such account is to be opened or established, the individual at such intermediary with whom such Borrower or Guarantor is dealing and the purpose of the account, (B) the securities intermediary or commodity intermediary (as the case may be) where such account is opened or maintained shall be reasonably acceptable to Agent, and (C) on or before the opening of such investment account, securities account or other similar account with a securities intermediary or commodity intermediary, such Borrower or Guarantor shall as Agent may specify either (1) execute and deliver, and cause to be executed and delivered to Agent, an Investment Property Control Agreement with respect thereto duly authorized, executed and delivered by such Borrower or Guarantor and such securities intermediary or commodity intermediary or (2) arrange for Agent to become the entitlement holder with respect to such investment property on terms and conditions reasonably acceptable to Agent.

(f) Borrowers and Guarantors are not the beneficiary or otherwise entitled to any right to payment under any letter of credit, banker's acceptance or similar instrument as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall be entitled to or shall receive any right to payment under any letter of credit, banker's acceptance or any similar instrument with a principal amount in excess of \$250,000, individually, and \$500,000, in the aggregate, whether as beneficiary thereof or otherwise after the date hereof, such Borrower or Guarantor shall promptly notify Agent thereof in writing. Such Borrower or Guarantor shall immediately, as Agent may specify, either (i) deliver, or cause to be delivered to Agent, with respect to any such letter of credit, banker's acceptance or similar instrument, the written agreement of the issuer and any other nominated person obligated to make any payment in respect thereof (including any confirming or negotiating bank), in form and substance reasonably satisfactory to Agent, consenting to the assignment of the proceeds of the letter of credit to Agent by such Borrower or Guarantor and agreeing to make all payments thereon directly to Agent or as Agent may otherwise direct or (ii) cause Agent to become, at Borrowers' expense, the transferee beneficiary of the letter of credit, banker's acceptance or similar instrument (as the case may be).

(g) Borrowers and Guarantors do not have any commercial tort claims as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall at any time after the date hereof have any commercial tort claims, such Borrower or Guarantor shall promptly notify Agent thereof in writing, which notice shall (i) set forth in reasonable detail the basis for and nature of such commercial tort claim for an amount in excess of \$250,000, individually, and \$500,000, in the aggregate, and (ii) include the express grant by such Borrower or Guarantor to Agent of a security interest in such commercial tort claim (and the proceeds thereof). In the event that such notice does not include such grant of a security interest, the sending thereof by such Borrower or Guarantor to Agent shall be deemed to constitute such grant to Agent. Upon the sending of such notice, any commercial tort claim described therein shall constitute part of the Collateral and shall be deemed included therein. Without limiting the authorization of Agent provided in Section 5.2(a) hereof or otherwise arising by the execution by such Borrower or Guarantor of this Agreement or any of the other Financing Agreements, Agent is hereby irrevocably authorized from time to time and at any time to file such financing statements naming Agent or its designee as secured party and such Borrower or Guarantor as debtor, or any amendments to any financing statements, covering any



such commercial tort claim as Collateral. In addition, each Borrower and Guarantor shall promptly upon Agent's request, execute and deliver, or cause to be executed and delivered, to Agent such other agreements, documents and instruments as Agent may reasonably require in connection with such commercial tort claim.

(h) Borrowers and Guarantors do not have any goods, documents of title or other Collateral in the custody, control or possession of a third party as of the date hereof, except (i) as set forth in the Information Certificate, (ii) Coffee Brewing Equipment and (iii) for goods located in the United States of America in transit to a location of a Borrower or Guarantor permitted herein in the ordinary course of business of such Borrower or Guarantor in the possession of the carrier transporting such goods. In the event that any goods, documents of title or other Collateral (other than Coffee Brewing Equipment) are at any time after the date hereof in the custody, control or possession of any other person not referred to in the Information Certificate or such carriers with a Value in excess of \$250,000, individually, and \$500,000, in the aggregate, Borrowers and Guarantors shall promptly notify Agent thereof in writing. Promptly upon Agent's request, Borrowers and Guarantors shall deliver to Agent a Collateral Access Agreement duly authorized, executed and delivered by such person and the Borrower or Guarantor that is the owner of such Collateral.

(i) Borrowers and Guarantors shall take any other actions reasonably requested by Agent from time to time to cause the attachment, perfection and first priority of, and the ability of Agent to enforce, the security interest of Agent in any and all of the Collateral, including, without limitation, (i) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC or other applicable law, to the extent, if any, that any Borrower's or Guarantor's signature thereon is required therefor, (ii) causing Agent's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of Agent to enforce, the security interest of Agent in such Collateral, (iii) complying with any provision of any statute, regulation or treaty of the United States of America as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of Agent to enforce, the security interest of Agent in such Collateral, (iv) obtaining the consents and approvals of any Governmental Authority or third party, including, without limitation, any consent of any licensor, lessor or other person obligated on Collateral, and taking all actions required by any earlier versions of the UCC or by other law, as applicable in any relevant jurisdiction.

5.3 Special Provisions Regarding Collateral. Borrowers and Guarantors hereby agree that any time that a Default or an Event of Default has occurred and is continuing, at the request of Agent, Borrowers and Guarantors shall take any and all actions requested by Agent from time to time to cause the attachment, perfection and first priority of, and the ability of Agent to enforce, the security interest of Agent in any and all of the Collateral, including, the Excluded Property.

## **SECTION 6. COLLECTION AND ADMINISTRATION**

6.1 Borrowers' Loan Accounts. Agent shall maintain one or more loan account(s) on its books in which shall be recorded (a) all Loans, Letters of Credit and other Obligations

and the Collateral, (b) all payments made by or on behalf of any Borrower or Guarantor and (c) all other appropriate debits and credits as provided in this Agreement, including fees, charges, costs, expenses and interest. All entries in the loan account(s) shall be made in accordance with Agent's customary practices as in effect from time to time.

6.2 Statements. Agent shall render to Administrative Borrower each month a statement setting forth the balance in the Borrowers' loan account(s) maintained by Agent for Borrowers pursuant to the provisions of this Agreement, including principal, interest, fees, costs and expenses. Each such statement shall be subject to subsequent adjustment by Agent but shall, absent manifest errors or omissions, be considered correct and deemed accepted by Borrowers and Guarantors and conclusively binding upon Borrowers and Guarantors as an account stated except to the extent that Agent receives a written notice from Administrative Borrower of any specific exceptions of Administrative Borrower thereto within thirty (30) days after the date such statement has been received by Administrative Borrower. Until such time as Agent shall have rendered to Administrative Borrower a written statement as provided above, the balance in any Borrower's loan account(s) shall be presumptive evidence of the amounts due and owing to Agent and Lenders by Borrowers and Guarantors.

### 6.3 Collection of Accounts.

(a) Borrowers and Guarantors shall establish and maintain, at their expense, deposit accounts and cash management services of a type and on terms, as Agent may reasonably specify at Wells Fargo and, subject to Section 5.2(d) hereof, such other banks as such Borrower or Guarantor may hereafter select. The banks set forth on Schedule 8.10 of the Information Certificate constitute all of the banks with which Borrowers and Guarantors have deposit account and cash management arrangements as of the date of this Agreement and describes the nature of the use of such deposit account by such Borrower or Guarantor (collectively, together with any accounts of Borrowers and Guarantors at Lender, the "Cash Management Accounts" and individually a "Cash Management Account").

(b) Borrowers shall, and shall cause Guarantors to, deposit or cause to be deposited all proceeds of Collateral, including all proceeds from sales of Inventory, all amounts payable to each Borrower and Guarantor and all other proceeds of Collateral, from each location of such Borrower and Guarantor on each Business Day into the Cash Management Account of such Borrower and Guarantor used for such purpose. All such funds deposited into the Cash Management Accounts shall be sent by wire transfer or other electronic funds transfer each day to the Concentration Accounts.

(c) Without limiting any other rights or remedies of Agent and Lenders, Agent may, at its option, instruct the depository banks at which the Concentration Accounts are maintained to transfer all available funds received or deposited into the Concentration Accounts to the Agent Payment Account at any time after the occurrence of a Cash Dominion Event. At all times that Agent shall have notified any depository bank to transfer funds from a Concentration Account to the Agent Payment Account, all payments made to such Concentration Accounts, whether in respect of the Receivables, as proceeds of Inventory or other Collateral or otherwise shall be treated as payments to Agent in respect of the Obligations and therefore shall constitute the property of Agent and Lenders to the extent of the then outstanding Obligations.

(d) Without limiting any other rights or remedies of Agent and Lenders, Agent may, at its option, send a “notice of exclusive control” or similar notice and otherwise instruct the securities intermediary or other Person party to an Investment Property Control Agreement that no funds in any investment account or other account subject to such agreement may be transferred except to the Concentration Accounts or otherwise paid to the Agent Payment Account at any time on or after a Cash Dominion Event and for so long as the same is continuing or at any time on or after Agent receives a notice of the intention of the securities intermediary or other party thereto to terminate such Investment Property Control Agreement.

(e) For purposes of calculating the amount of the Loans and Letters of Credit available to Borrowers, such payments or other funds received will be applied (conditional upon final collection) to the Obligations on the Business Day of receipt by Agent of immediately available funds in the Agent Payment Account provided such payments or other funds and notice thereof are received in accordance with Agent’s usual and customary practices as in effect from time to time and within sufficient time to credit such Borrower’s loan account on such day, and if not, then on the next Business Day. For the purposes of calculating interest on the Obligations, such payments or other funds received will be applied (conditional upon final collection) to the Obligations one (1) Business Day following the date of receipt by Agent of immediately available funds in the Agent Payment Account provided such payments or other funds and notice thereof are received in accordance with Agent’s usual and customary practices as in effect from time to time and within sufficient time to credit such Borrower’s loan account on such day, and if not, then on the next Business Day. In the event that at any time or from time to time there are no Revolving Loans outstanding, Agent shall be entitled to an administrative fee in an amount calculated based on the Interest Rate for Prime Rate Loans (on a per annum basis) multiplied by the amount of the funds received in the Concentration Accounts for such day as calculated by Agent in accordance with its customary practice. The economic benefit of the timing in the application of payments (and the administrative charge with respect thereto, if applicable) shall be for the sole benefit of Agent.

(f) Each Borrower and Guarantor and their respective employees, agents and Subsidiaries shall, acting as trustee for Agent, receive, as the property of Agent, any monies, checks, notes, drafts or any other payment relating to and/or proceeds of Accounts or other Collateral which come into their possession or under their control and immediately upon receipt thereof, shall deposit or cause the same to be deposited in the Blocked Accounts, or remit the same or cause the same to be remitted, in kind, to Agent. In no event shall the same be commingled with any Borrower’s or Guarantor’s own funds. Borrowers agree to reimburse Agent on demand for any amounts owed or paid to any bank or other financial institution at which a Concentration Account or any other deposit account or investment account is established or any other bank, financial institution or other person involved in the transfer of funds to or from the Concentration Accounts arising out of Agent’s payments to or indemnification of such bank, financial institution or other person. The obligations of Borrowers to reimburse Agent for such amounts pursuant to this Section 6.3 shall survive the termination of this Agreement.

#### 6.4 Payments.

(a) All Obligations shall be payable to the Agent Payment Account as provided in Section 6.3 or such other place as Agent may designate from time to time. Subject to

the other terms and conditions contained herein, Agent shall apply payments received or collected from any Borrower or Guarantor or for the account of any Borrower or Guarantor (including the monetary proceeds of collections or of realization upon any Collateral) as follows: first, to pay any fees, indemnities or expense reimbursements then due to Agent, Lenders and Issuing Bank from any Borrower or Guarantor; second, to pay interest due in respect of any Loans (and including any Special Agent Advances) or Letter of Credit Obligations; third, to pay or prepay principal in respect of Special Agent Advances; fourth, on a pro rata basis to pay principal due in respect of the Loans and to the payment or prepayment of Obligations then due arising under or pursuant to any Hedge Agreements (but, as to Obligations arising under or pursuant to any Hedge Agreements, only up to the amount of any effective Reserve established in respect of such Obligations); fifth, to pay Revolving Loans, whether or not then due, sixth, at any time an Event of Default exists or has occurred and is continuing, to pay or prepay any other Obligations (other than Obligations arising under or pursuant to any Bank Products) whether or not then due, in such order and manner as Agent determines and to provide cash collateral for any Letter of Credit Obligations, and seventh, to the payment or prepayment in full of any Obligations due arising under or pursuant to any Bank Products not payable pursuant to clause fourth above. Notwithstanding anything to the contrary contained in this Agreement, (i) unless so directed by Administrative Borrower, or unless a Default or an Event of Default shall exist or have occurred and be continuing, Agent shall not apply any payments which it receives to any Eurodollar Rate Loans, except (A) on the expiration date of the Interest Period applicable to any such Eurodollar Rate Loans or (B) in the event that there are no outstanding Prime Rate Loans and (ii) to the extent any Borrower uses any proceeds of the Loans or Letters of Credit to acquire rights in or the use of any Collateral or to repay any Indebtedness used to acquire rights in or the use of any Collateral, payments in respect of the Obligations shall be deemed applied first to the Obligations arising from Loans and Letters of Credit that were not used for such purposes and second to the Obligations arising from Loans and Letters of Credit the proceeds of which were used to acquire rights in or the use of any Collateral in the chronological order in which such Borrower acquired such rights in or the use of such Collateral.

(b) At Agent's option, all principal, interest, fees, costs, expenses and other charges provided for in this Agreement or the other Financing Agreements may be charged directly to the loan account(s) of any Borrower maintained by Agent. If after receipt of any payment of, or proceeds of Collateral applied to the payment of, any of the Obligations, Agent, any Lender or Issuing Bank is required to surrender or return such payment or proceeds to any Person for any reason, then the Obligations intended to be satisfied by such payment or proceeds shall be reinstated and continue and this Agreement shall continue in full force and effect as if such payment or proceeds had not been received by Agent or such Lender. Borrowers and Guarantors shall be liable to pay to Agent, and do hereby indemnify and hold Agent and Lenders harmless for the amount of any payments or proceeds surrendered or returned. This Section 6.4(b) shall remain effective notwithstanding any contrary action which may be taken by Agent or any Lender in reliance upon such payment or proceeds. This Section 6.4 shall survive the payment of the Obligations and the termination of this Agreement.

#### 6.5 Taxes.

(a) Any and all payments by or on account of any of the Obligations shall be made free and clear of and without deduction or withholding for or on account of, any setoff,

counterclaim, defense, duties, taxes, levies, imposts, fees, deductions, charges, withholdings, liabilities, restrictions or conditions of any kind, excluding (i) in the case of each Lender, Issuing Bank and Agent (A) taxes measured by its net income, and franchise taxes imposed on it, by the jurisdiction (or any political subdivision thereof) under the laws of which such Lender, Issuing Bank or Agent (as the case may be) is organized and (B) any United States withholding taxes payable with respect to payments under the Financing Agreements under laws (including any statute, treaty or regulation) in effect on the date hereof (or, in the case of an Eligible Transferee, the date of the Assignment and Acceptance) applicable to such Lender, Issuing Bank or Agent, as the case may be, but not excluding any United States withholding taxes payable as a result of any change in such laws occurring after the date hereof (or the date of such Assignment and Acceptance) and (ii) in the case of each Lender, taxes measured by its net income, and franchise taxes imposed on it as a result of a present or former connection between such Lender and the jurisdiction of the Governmental Authority imposing such tax or any taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, fees, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes").

(b) If any Taxes shall be required by law to be deducted from or in respect of any sum payable in respect of the Obligations to any Lender, Issuing Bank or Agent (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 6.5), such Lender, Issuing Bank or Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the relevant Borrower or Guarantor shall make such deductions, (iii) the relevant Borrower or Guarantor shall pay the full amount deducted to the relevant taxing authority or other authority in accordance with applicable law and (iv) the relevant Borrower or Guarantor shall deliver to Agent evidence of such payment.

(c) In addition, each Borrower and Guarantor agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies of the United States of America or any political subdivision thereof or any applicable foreign jurisdiction, and all liabilities with respect thereto, in each case arising from any payment made hereunder or under any of the other Financing Agreements or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any of the other Financing Agreements (collectively, "Other Taxes").

(d) Each Borrower and Guarantor shall indemnify each Lender, Issuing Bank and Agent for the full amount of Taxes and Other Taxes (including any Taxes and Other Taxes imposed by any jurisdiction on amounts payable under this Section 6.5) paid by such Lender, Issuing Bank or Agent (as the case may be) and any liability (including for penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. This indemnification shall be made within thirty (30) days from the date such Lender, Issuing Bank or Agent (as the case may be) makes written demand therefor. A certificate as to the amount of such payment or liability delivered to Administrative Borrower by a Lender, Issuing Bank (with a copy to Agent) or by Agent on its own behalf or on behalf of a Lender or Issuing Bank, shall be conclusive absent manifest error.

(e) As soon as practicable after any payment of Taxes or Other Taxes by any Borrower or Guarantor, such Borrower or Guarantor shall furnish to Agent, at its address referred to herein, the original or a certified copy of a receipt evidencing payment thereof.

(f) Without prejudice to the survival of any other agreements of any Borrower or Guarantor hereunder or under any of the other Financing Agreements, the agreements and obligations of such Borrower or Guarantor contained in this Section 6.5 shall survive the termination of this Agreement and the payment in full of the Obligations.

(g) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the applicable Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any of the other Financing Agreements shall deliver to Administrative Borrower (with a copy to Agent), at the time or times prescribed by applicable law or reasonably requested by Administrative Borrower or Agent (in such number of copies as is reasonably requested by the recipient), whichever of the following is applicable (but only if such Foreign Lender is legally entitled to do so): (i) duly completed copies of Internal Revenue Service Form W-8BEN claiming exemption from, or a reduction to, withholding tax under an income tax treaty, or any successor form, (ii) duly completed copies of Internal Revenue Service Form 8-8ECI claiming exemption from withholding because the income is effectively connection with a U.S. trade or business or any successor form, (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Sections 871(h) or 881(c) of the Code, (A) a certificate of the Lender to the effect that such Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of a Borrower within the meaning of Section 881(c)(3)(B) of the Code or a "controlled foreign corporation" described and Section 881(c)(3)(C) of the Code and (B) duly completed copies of Internal Revenue Service Form W-8BEN claiming exemption from withholding under the portfolio interest exemption or any successor form or (iv) any other applicable form, certificate or document prescribed by applicable law as a basis for claiming exemption from or a reduction in United States withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit a Borrower to determine the withholding or deduction required to be made. Unless Administrative Borrower and Agent have received forms or other documents satisfactory to them indicating that payments hereunder or under any of the other Financing Agreements to or for a Foreign Lender are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, Borrowers or Agent shall withhold amounts required to be withheld by applicable requirements of law from such payments at the applicable statutory rate.

(h) Any Lender claiming any additional amounts payable pursuant to this Section 6.5 shall use its reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to change the jurisdiction of its applicable lending office if the making of such a change would avoid the need for, or reduce the amount of, any such additional amounts that would be payable or may thereafter accrue and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

6.6 Authorization to Make Loans and Provide Letters of Credit. Agent and Lenders are authorized to make the Loans and provide the Letters of Credit based upon telephonic or

other instructions received from anyone purporting to be an officer of Administrative Borrower or any Borrower or other authorized person or, at the discretion of Agent, if such Loans are necessary to satisfy any Obligations. All requests for Loans or Letters of Credit hereunder shall specify the date on which the requested extension of credit is to be made or provided (which day shall be a Business Day) and the amount of the requested Loan. Requests received after 11:00 a.m. Los Angeles time on any day shall be deemed to have been made as of the opening of business on the immediately following Business Day. All Loans and Letters of Credit under this Agreement shall be conclusively presumed to have been made to, and at the request of and for the benefit of, any Borrower or Guarantor when deposited to the credit of any Borrower or Guarantor or otherwise disbursed or established in accordance with the instructions of any Borrower or Guarantor or in accordance with the terms and conditions of this Agreement.

6.7 Use of Proceeds. Borrowers shall use the initial proceeds of the Loans and Letters of Credit hereunder only for: (a) payments to each of the persons listed in the disbursement direction letter furnished by Borrowers to Agent on or about the date hereof and (b) costs, expenses and fees in connection with the preparation, negotiation, execution, delivery and performance of this Agreement and the other Financing Agreements. All other Loans made or Letters of Credit provided to or for the benefit of any Borrower pursuant to the provisions hereof shall be used by such Borrower only for general operating, working capital and other proper corporate purposes of such Borrower not otherwise prohibited by the terms hereof. None of the proceeds will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security or for the purposes of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, as amended.

6.8 Appointment of Administrative Borrower as Agent for Requesting Loans and Receipts of Loans and Statements.

(a) Each Borrower hereby irrevocably appoints and constitutes Administrative Borrower as its agent and attorney-in-fact to request and receive Loans and Letters of Credit pursuant to this Agreement and the other Financing Agreements from Agent or any Lender in the name or on behalf of such Borrower. Agent and Lenders may disburse the Loans to such bank account of Administrative Borrower or a Borrower or otherwise make such Loans to a Borrower and provide such Letters of Credit to a Borrower as Administrative Borrower may designate or direct, without notice to any other Borrower or Guarantor. Notwithstanding anything to the contrary contained herein, Agent may at any time and from time to time require that Loans to or for the account of any Borrower be disbursed directly to an operating account of such Borrower.

(b) Administrative Borrower hereby accepts the appointment by Borrowers to act as the agent and attorney-in-fact of Borrowers pursuant to this Section 6.8. Administrative Borrower shall ensure that the disbursement of any Loans to each Borrower requested by or paid to or for the account of Parent, or the issuance of any Letter of Credit for a Borrower hereunder, shall be paid to or for the account of such Borrower.

(c) Each Borrower and other Guarantor hereby irrevocably appoints and constitutes Administrative Borrower as its agent to receive statements on account and all other

notices from Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Financing Agreements.

(d) Any notice, election, representation, warranty, agreement or undertaking by or on behalf of any other Borrower or any Guarantor by Administrative Borrower shall be deemed for all purposes to have been made by such Borrower or Guarantor, as the case may be, and shall be binding upon and enforceable against such Borrower or Guarantor to the same extent as if made directly by such Borrower or Guarantor.

(e) No purported termination of the appointment of Administrative Borrower as agent as aforesaid shall be effective, except after ten (10) days' prior written notice to Agent.

6.9 Pro Rata Treatment. Except to the extent otherwise provided in this Agreement or as otherwise agreed by Lenders: (a) the making and conversion of Loans shall be made among the Lenders based on their respective Pro Rata Shares as to the Loans and (b) each payment on account of any Obligations to or for the account of one or more of Lenders in respect of any Obligations due on a particular day shall be allocated among the Lenders entitled to such payments based on their respective Pro Rata Shares and shall be distributed accordingly.

#### 6.10 Sharing of Payments, Etc.

(a) Each Borrower and Guarantor agrees that, in addition to (and without limitation of) any right of setoff, banker's lien or counterclaim Agent or any Lender may otherwise have, each Lender shall be entitled, at its option (but subject, as among Agent and Lenders, to the provisions of Section 12.3(b) hereof), to offset balances held by it for the account of such Borrower or Guarantor at any of its offices, in dollars or in any other currency, against any principal of or interest on any Loans owed to such Lender or any other amount payable to such Lender hereunder, that is not paid when due (regardless of whether such balances are then due to such Borrower or Guarantor), in which case it shall promptly notify Administrative Borrower and Agent thereof; provided, that, such Lender's failure to give such notice shall not affect the validity thereof.

(b) If any Lender (including Agent) shall obtain from any Borrower or Guarantor payment of any principal of or interest on any Loan owing to it or payment of any other amount under this Agreement or any of the other Financing Agreements through the exercise of any right of setoff, banker's lien or counterclaim or similar right or otherwise (other than from Agent as provided herein), and, as a result of such payment, such Lender shall have received more than its Pro Rata Share of the principal of the Loans or more than its share of such other amounts then due hereunder or thereunder by any Borrower or Guarantor to such Lender than the percentage thereof received by any other Lender, it shall promptly pay to Agent, for the benefit of Lenders, the amount of such excess and simultaneously purchase from such other Lenders a participation in the Loans or such other amounts, respectively, owing to such other Lenders (or such interest due thereon, as the case may be) in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all Lenders shall share the benefit of such excess payment (net of any expenses that may be incurred by such Lender in obtaining or preserving such excess payment) in accordance with their respective Pro Rata Shares or as otherwise agreed by Lenders. To such end all Lenders shall make appropriate



adjustments among themselves (by the resale of participation sold or otherwise) if such payment is rescinded or must otherwise be restored.

(c) Each Borrower and Guarantor agrees that any Lender purchasing a participation (or direct interest) as provided in this Section may exercise, in a manner consistent with this Section, all rights of setoff, banker's lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans or other amounts (as the case may be) owing to such Lender in the amount of such participation.

(d) Nothing contained herein shall require any Lender to exercise any right of setoff, banker's lien, counterclaims or similar rights or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any such right with respect to any other Indebtedness or obligation of any Borrower or Guarantor. If, under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section applies, such Lender shall, to the extent practicable, assign such rights to Agent for the benefit of Lenders and, in any event, exercise its rights in respect of such secured claim in a manner consistent with the rights of Lenders entitled under this Section to share in the benefits of any recovery on such secured claim.

#### 6.11 Settlement Procedures.

(a) In order to administer the Credit Facility in an efficient manner and to minimize the transfer of funds between Agent and Lenders, Agent may, at its option, subject to the terms of this Section, make available, on behalf of Lenders, the full amount of the Loans requested or charged to any Borrower's loan account(s) or otherwise to be advanced by Lenders pursuant to the terms hereof, without requirement of prior notice to Lenders of the proposed Loans.

(b) With respect to all Loans made by Agent on behalf of Lenders as provided in this Section, the amount of each Lender's Pro Rata Share of the outstanding Loans shall be computed weekly, and shall be adjusted upward or downward on the basis of the amount of the outstanding Loans as of 5:00 p.m. Los Angeles time on the Business Day immediately preceding the date of each settlement computation; provided, that, Agent retains the absolute right at any time or from time to time to make the above described adjustments at intervals more frequent than weekly, but in no event more than twice in any week. Agent shall deliver to each of the Lenders after the end of each week, or at such lesser period or periods as Agent shall determine, a summary statement of the amount of outstanding Loans for such period (such week or lesser period or periods being hereinafter referred to as a "Settlement Period"). If the summary statement is sent by Agent and received by a Lender prior to 12:00 p.m. Los Angeles time, then such Lender shall make the settlement transfer described in this Section by no later than 3:00 p.m. Los Angeles time on the same Business Day and if received by a Lender after 12:00 p.m. Los Angeles time, then such Lender shall make the settlement transfer by not later than 3:00 p.m. Los Angeles time on the next Business Day following the date of receipt. If, as of the end of any Settlement Period, the amount of a Lender's Pro Rata Share of the outstanding Loans is more than such Lender's Pro Rata Share of the outstanding Loans as of the end of the previous Settlement Period, then such Lender shall forthwith (but in no event later than the time set forth in the preceding sentence) transfer to Agent by wire transfer in immediately available funds the

amount of the increase. Alternatively, if the amount of a Lender's Pro Rata Share of the outstanding Loans in any Settlement Period is less than the amount of such Lender's Pro Rata Share of the outstanding Loans for the previous Settlement Period, Agent shall forthwith transfer to such Lender by wire transfer in immediately available funds the amount of the decrease. The obligation of each of the Lenders to transfer such funds and effect such settlement shall be irrevocable and unconditional and without recourse to or warranty by Agent. Agent and each Lender agrees to mark its books and records at the end of each Settlement Period to show at all times the dollar amount of its Pro Rata Share of the outstanding Loans and Letters of Credit. Each Lender shall only be entitled to receive interest on its Pro Rata Share of the Loans to the extent such Loans have been funded by such Lender. Because the Agent on behalf of Lenders may be advancing and/or may be repaid Loans prior to the time when Lenders will actually advance and/or be repaid such Loans, interest with respect to Loans shall be allocated by Agent in accordance with the amount of Loans actually advanced by and repaid to each Lender and the Agent and shall accrue from and including the date such Loans are so advanced to but excluding the date such Loans are either repaid by Borrowers or actually settled with the applicable Lender as described in this Section.

(c) To the extent that Agent has made any such amounts available and the settlement described above shall not yet have occurred, upon repayment of any Loans by a Borrower, Agent may apply such amounts repaid directly to any amounts made available by Agent pursuant to this Section. In lieu of weekly or more frequent settlements, Agent may, at its option, at any time require each Lender to provide Agent with immediately available funds representing its Pro Rata Share of each Loan, prior to Agent's disbursement of such Loan to Borrower. In such event, all Loans under this Agreement shall be made by the Lenders simultaneously and proportionately to their Pro Rata Shares. No Lender shall be responsible for any default by any other Lender in the other Lender's obligation to make a Loan requested hereunder nor shall the Commitment of any Lender be increased or decreased as a result of the default by any other Lender in the other Lender's obligation to make a Loan hereunder.

(d) If Agent is not funding a particular Loan to a Borrower (or Administrative Borrower for the benefit of such Borrower) pursuant to Sections 6.11(a) and 6.11(b) above on any day, but is requiring each Lender to provide Agent with immediately available funds on the date of such Loan as provided in Section 6.11(c) above, Agent may assume that each Lender will make available to Agent such Lender's Pro Rata Share of the Loan requested or otherwise made on such day and Agent may, in its discretion, but shall not be obligated to, cause a corresponding amount to be made available to or for the benefit of such Borrower on such day. If Agent makes such corresponding amount available to a Borrower and such corresponding amount is not in fact made available to Agent by such Lender, Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon for each day from the date such payment was due until the date such amount is paid to Agent at the Federal Funds Rate for each day during such period (as published by the Federal Reserve Bank of New York or at Agent's option based on the arithmetic mean determined by Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of the three leading brokers of Federal funds transactions in New York City selected by Agent) and if such amounts are not paid within three (3) days of Agent's demand, at the highest Interest Rate provided for in Section 3.1 hereof applicable to Prime Rate Loans. During the period in which such Lender has not paid such corresponding amount to Agent,

notwithstanding anything to the contrary contained in this Agreement or any of the other Financing Agreements, the amount so advanced by Agent to or for the benefit of any Borrower shall, for all purposes hereof, be a Loan made by Agent for its own account. Upon any such failure by a Lender to pay Agent, Agent shall promptly thereafter notify Administrative Borrower of such failure and Borrowers shall pay such corresponding amount to Agent for its own account within five (5) Business Days of Administrative Borrower's receipt of such notice.

(e) Upon any failure by a Lender to pay Agent pursuant to the settlement described in Section 6.11(b) above or to pay Agent pursuant to Section 6.11(c) or 6.11(d), Agent shall promptly thereafter notify Administrative Borrower of such failure and Borrowers shall pay such corresponding amount to Agent for its own account within five (5) Business Days of Administrative Borrower's receipt of such notice. The term "Defaulting Lender" shall mean (i) any Lender that has failed to fund any portion of the Revolving Loans or participations in Letter of Credit Obligations required to be funded by it hereunder within one (1) Business Day of the date required to be funded by it hereunder, or has otherwise failed to pay over to Agent or any other Lender any other amount required to be paid by it hereunder within one (1) Business Day of the date when due, and such failure has not been cured by the making of such funding or payment over to Agent or such Lender by such Lender with such one (1) Business Day period, (ii) any Lender that has notified Agent, any Lender, Issuing Bank, or any Borrower or Guarantor in writing that it will not or does not intend to comply with any of its funding obligations under this Agreement (and such Lender has not retracted such notification in writing) or has made a public statement in writing to the effect that it will not or does not intend to comply with its funding obligations under this Agreement (and such Lender has not retracted such public statement in writing), or (iii) any Lender that becomes or is insolvent or has a parent company that has become or is insolvent or becomes the subject of a bankruptcy or insolvency proceeding, or has a receiver, conservator, trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment and has not obtained all required orders, approvals or consents of any court or other Governmental Authority to continue to fulfill its obligations hereunder, in form and substance reasonably satisfactory to Agent and Administrative Borrower.

(f) Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for such Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal or fees and whether in respect of Revolving Loans, participation interests or otherwise). No fees otherwise payable hereunder to a Lender shall accrue for the benefit of such Defaulting Lender for such period as it is a Defaulting Lender but interest on the portion of the then outstanding Loans (and any participations) for which such Defaulting Lender has provided funds prior to becoming a Defaulting Lender shall be payable to it in the same manner as for the other Lenders that are not Defaulting Lenders in accordance with the terms hereof. For purposes of voting or consenting to matters with respect to this Agreement and the other Financing Agreements and determining Pro Rata Shares (other than as to interest to the extent provided herein), such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Commitment shall be deemed to be zero (0). So long as there is a Defaulting Lender, (i) the maximum amount of the Loans and Letter of Credit Obligations shall not exceed the aggregate amount of the Commitments of the Lenders that are not Defaulting Lenders plus the Pro Rata Share of the Defaulting Lender (determined immediately prior to its being a Defaulting Lender) of the Loans and Letters of Credit

outstanding as of the date that the Defaulting Lender has become a Defaulting Lender, (ii) the maximum amount of the Loans and Letter of Credit Obligations shall not exceed the aggregate amount of the Commitments of the Lenders that are not Defaulting Lenders plus the Pro Rata Share of the Defaulting Lender (determined immediately prior to its being a Defaulting Lender) of the Loans and Letters of Credit outstanding as of the date that the Defaulting Lender has become a Defaulting Lender. At any time that there is a Defaulting Lender, payments received for application to the Obligations payable to Lenders in accordance with the terms of this Agreement shall be distributed to Lenders based on their Pro Rata Shares calculated after giving effect to the reduction of such Defaulting Lender's Commitment to zero (0) as provided herein (other than as to interest as provided above) or at Agent's option, Agent may instead receive and retain such amounts that would be otherwise attributable to the Pro Rata Share of such Defaulting Lender (which for such purpose shall be such Pro Rata Share as in effect immediately prior to its being a Defaulting Lender). To the extent that Agent elects to receive and retain such amounts, Agent may hold such amounts (which shall not accrue interest) and, in its reasonable discretion, relend such amounts to a Borrower. To the extent that Agent exercises its option to relend such amounts, such amounts shall be treated as Revolving Loans for the account of Agent in addition to the Revolving Loans that are made by the Lenders other than such Defaulting Lender based on their respective Pro Rata Shares as calculated after giving effect to the reduction of such Defaulting Lender's Commitment to zero (0) as provided herein but shall be repaid in the same order of priority as the principal amount of the Loans on a pro rata basis for purposes of Section 6.4 hereof. Agent shall determine whether any Revolving Loans requested shall be made from relending such amounts or from Revolving Loans from the Lenders (other than such Defaulting Lender) and any allocation of requested Revolving Loans between them. The rights of a Lender that is a Defaulting Lender shall be limited as provided herein until such time as such Defaulting Lender has made all payments to Agent of the amounts that it had failed to pay causing it to become a Defaulting Lender and such Lender is otherwise in compliance with the terms of this Agreement (including making any payments as it would have been required to make as a Lender during the period that it was a Defaulting Lender other than in respect of the principal amount of Revolving Loans, which payments as to the principal amount of Revolving Loans shall be made based on the outstanding balance thereof on the date of the cure by Defaulting Lender or at such other time thereafter as Agent may specify) or has otherwise provided evidence in form and substance reasonably satisfactory to Agent that such Defaulting Lender will be able to fund its Pro Rata Share (as in effect immediately prior to its being a Defaulting Lender) in accordance with the terms hereof. Upon the cure by any Lender that is a Defaulting Lender of the event that is the basis for it to be a Defaulting Lender by making such payment or payments and such Lender otherwise being in compliance with the terms hereof, such Lender shall cease to be a Defaulting Lender and shall only be entitled to payment of interest accrued during the period that such Lender was a Defaulting Lender to the extent previously received and retained by Agent from or for the account of Borrowers on the funds constituting Loans funded by such Lender prior to the date of it being a Defaulting Lender (and not previously paid to such Lender) and shall otherwise, on and after such cure, make Loans and settle in respect of the Loans and other Obligations in accordance with the terms hereof. The existence of a Defaulting Lender and the operation of this Section shall not be construed to increase or otherwise affect the Commitment of any Lender, or relieve or excuse the performance by any Borrower or Guarantor of its duties and obligations hereunder (including, but not limited to, the obligation of such Borrower or Guarantor to make any payments

hereunder, whether in respect of Loans by a Defaulting Lender or otherwise), except as specifically set forth herein.

(g) Notwithstanding anything to the contrary contained in this Agreement, in the event that there is a Defaulting Lender, if there are any Letters of Credit outstanding, and (i) the aggregate amount of the Letter of Credit Obligations and the Loans exceed the aggregate amount of the Commitments of the Lenders that are not Defaulting Lenders plus the Pro Rata Share of the Defaulting Lender (determined immediately prior to its being a Defaulting Lender) of the Loans and Letter of Credit Obligations outstanding as of the date that the Defaulting Lender has become a Defaulting Lender, or (ii) the aggregate amount of the Letter of Credit Obligations and the Loans exceed the aggregate amount of the Commitments of the Lenders that are not Defaulting Lenders plus the Pro Rata Share of the Defaulting Lender (determined immediately prior to its being a Defaulting Lender) of the Loans and Letter of Credit Obligations outstanding as of the date that the Defaulting Lender has become a Defaulting Lender, then (A) within one (1) Business Day after the written request of an Issuing Bank, Borrowers shall pay to Agent an amount equal to the Pro Rata Share of the Defaulting Lender (calculated as in effect immediately prior to such Lender becoming a Defaulting Lender) of the Letter of Credit Obligations then outstanding to be held by Agent on terms and conditions satisfactory to Agent and such Issuing Bank as cash collateral for the Obligations and (B) for so long as there is a Defaulting Lender, such Issuing Bank shall not be required to issue any Letter of Credit, or increase or extend or otherwise amend any Letter of Credit, unless upon the request of such Issuing Bank, Agent has cash collateral from Borrowers in an amount equal to the Pro Rata Share of the Defaulting Lender (calculated as in effect immediately prior to such Lender becoming a Defaulting Lender) of the Letter of Credit Obligations outstanding after giving effect to any such requested Letter of Credit (or increase, extension or other amendment) to be held by Agent on its behalf on terms and conditions satisfactory to Agent and such Issuing Bank or there are other arrangements reasonably satisfactory to such Issuing Bank with respect to the participation in Letters of Credit by such Defaulting Lender. Such cash collateral shall be applied first to the Letter of Credit Obligations before application to any other Obligations, notwithstanding anything to the contrary contained in Section 6.4 hereof.

(h) Nothing in this Section or elsewhere in this Agreement or the other Financing Agreements shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitment hereunder or to prejudice any rights that any Borrower may have against any Lender as a result of any default by any Lender hereunder in fulfilling its Commitment.

**6.12 Obligations Several; Independent Nature of Lenders' Rights.** The obligation of each Lender hereunder is several, and no Lender shall be responsible for the obligation or commitment of any other Lender hereunder. Nothing contained in this Agreement or any of the other Financing Agreements and no action taken by the Lenders pursuant hereto or thereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and subject to Section 12.3 hereof, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

6.13 **Bank Products.** Borrowers and Guarantors, or any of their Subsidiaries, may (but no such Person is required to) request that the Bank Product Providers provide or arrange for such Person to obtain Bank Products from Bank Product Providers, and each Bank Product Provider may, in its sole discretion, provide or arrange for such Person to obtain the requested Bank Products. Borrowers and Guarantors or any of their Subsidiaries that obtains Bank Products shall indemnify and hold Agent, each Lender and their respective Affiliates harmless from any and all obligations now or hereafter owing to any other Person by any Bank Product Provider in connection with any Bank Products other than for gross negligence or willful misconduct on the part of any such indemnified Person. This Section 6.13 shall survive the payment of the Obligations and the termination of this Agreement. Borrower and its Subsidiaries acknowledge and agree that the obtaining of Bank Products from Bank Product Providers (a) is in the sole discretion of such Bank Product Provider, and (b) is subject to all rules and regulations of such Bank Product Provider. Each Bank Product Provider shall be deemed a party hereto for purposes of any reference in a Financing Agreement to the parties for whom Agent is acting, provided, that, the rights of such Bank Product Provider hereunder and under any of the other Financing Agreements shall consist exclusively of such Bank Product Provider's right to share in payments and collections out of the Collateral as set forth herein. The determination of amounts owed to Bank Product Providers, including with respect to indemnification for Taxes and Other Taxes, shall be governed by and determined pursuant to the documents establishing such Bank Products. In connection with any such distribution of payments and collections, Agent shall be entitled to assume that no amounts are due to any Bank Product Provider unless such Bank Product Provider has notified Agent in writing of any such liability owed to it as of the date of any such distribution.

## **SECTION 7. COLLATERAL REPORTING AND COVENANTS**

### **7.1 Collateral Reporting.**

(a) Borrowers shall provide Agent with the following documents in a form reasonably satisfactory to Agent:

(i) as soon as possible after the end of every second week (but in any event within three (3) Business Days after the end thereof), on a bi-weekly basis, or in the event that at any time Excess Availability is less than \$15,000,000, on a weekly basis, or more frequently as Agent may request if an Event of Default shall exist or have occurred and is continuing: (A) schedules of sales made, credits issued and cash received, (B) perpetual inventory reports, (C) report of quantity of green coffee included in Inventory, and (D) a Borrowing Base Certificate setting forth the calculation of the Borrowing Base as of the last Business Day of the immediately preceding two-week period (or one-week period, as applicable), duly completed and executed by the chief financial officer, vice president of finance, treasurer or controller of Borrowers, together with all schedules required pursuant to the terms of the Borrowing Base Certificate duly completed;

(ii) as soon as possible after the end of each month (but in any event within ten (10) days after the end thereof), on a monthly basis or more frequently as Agent may request if an Event of Default shall exist or have occurred and is continuing, (A) agings of accounts receivable together with a reconciliation to the previous month's aging and general

ledger), (B) agings of accounts payable (and including information indicating the amounts owing to owners and lessors of leased premises, warehouses, processors and other third parties from time to time in possession of any Collateral); (C) schedules of sales made, credits issued and cash received, (D) inventory reports by location and category (and including the amounts of Inventory and the value thereof at, any leased locations and at premises of warehouses, processors or other third parties), (E) report of quantity of green coffee included in Inventory, and (F) a Borrowing Base Certificate setting forth the calculation of the Borrowing Base as of the last Business Day of the immediately preceding month, duly completed and executed by the chief financial officer, vice president of finance, treasurer or controller of Borrowers, together with all schedules required pursuant to the terms of the Borrowing Base Certificate duly completed;

(iii) upon Agent's request, (A) copies of customer statements, purchase orders, sales invoices, credit memos, remittance advices and reports, and copies of deposit slips and bank statements, (B) copies of shipping and delivery documents, and (C) copies of purchase orders, invoices and delivery documents for Inventory and Equipment acquired by any Borrower or Guarantor;

(iv) such other reports as to the Collateral as Agent shall reasonably request from time to time.

(b) Nothing contained in any Borrowing Base Certificate shall be deemed to limit, impair or otherwise affect the rights of Agent contained herein and in the event of any conflict or inconsistency between the calculation of the Borrowing Base as set forth in any Borrowing Base Certificate and as determined by Agent in good faith, the determination of Agent shall govern and, absent manifest error, be conclusive and binding upon Borrowers and Guarantors. Without limiting the foregoing, Borrowers shall furnish to Agent any information which Agent may reasonably request regarding the determination and calculation of any of the amounts set forth in any Borrowing Base Certificate. Subject to the limitations set forth herein, the Borrowing Base may be adjusted based on the information received by Agent pursuant to this Agreement. If any Borrower's or Guarantor's records or reports of the Collateral are prepared or maintained by an accounting service, contractor, shipper or other agent, such Borrower and Guarantor hereby irrevocably authorizes such service, contractor, shipper or agent to deliver such records, reports, and related documents to Agent and to follow Agent's instructions with respect to further services at any time that an Event of Default exists or has occurred and is continuing.

## 7.2 Accounts Covenants.

(a) Borrowers shall notify Agent promptly of: (i) any material delay in any Borrower's performance of any of its material obligations to any account debtor (to the extent the Accounts owed by any such account debtor to such Borrower exceeds \$250,000) or the assertion of any material claims, offsets, defenses or counterclaims by any account debtor, or any material disputes with account debtors, or any settlement, adjustment or compromise thereof, (ii) all material adverse information known to any Borrower or Guarantor relating to the financial condition of any account debtor (to the extent the Accounts owed by any such account debtor to such Borrower exceeds \$250,000) and (iii) any event or circumstance which, to the best of any Borrower's or Guarantor's knowledge, would cause Agent to consider any then existing

Accounts as no longer constituting Eligible Accounts (to the extent the Accounts owed by any such account debtor to such Borrower exceeds \$250,000). No credit, discount, allowance or extension or agreement for any of the foregoing shall be granted to any account debtor without Agent's consent, except as reported to Agent in accordance with this Agreement and except for credits, discounts, allowances or extensions made or given in the ordinary course of a Borrower's or Guarantor's business in accordance with practices and policies previously disclosed in writing to Agent and except as set forth in the schedules delivered to Agent pursuant to Section 7.1(a) above. So long as no Event of Default exists or has occurred and is continuing, Borrowers and Guarantors shall settle, adjust or compromise any claim, offset, counterclaim or dispute with any account debtor. At any time that an Event of Default exists or has occurred and is continuing, Agent shall, at its option, have the exclusive right to settle, adjust or compromise any claim, offset, counterclaim or dispute with account debtors or grant any credits, discounts or allowances.

(b) With respect to each Account: (i) the amounts shown on any invoice delivered to Agent or schedule thereof delivered to Agent shall be true and complete, (ii) no payments shall be made thereon except payments remitted in accordance with Section 6.4 hereof, (iii) there shall be no setoffs, deductions, contras, defenses, counterclaims or disputes existing or asserted with respect thereto except as reported to Agent in accordance with the terms of this Agreement, (iv) none of the transactions giving rise thereto will violate any applicable foreign, Federal, State or local laws or regulations, all documentation relating thereto will be legally sufficient under such laws and regulations and all such documentation will be legally enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws limited creditors' rights generally and by general equitable principals.

(c) Agent shall have the right at any time or times, in Agent's name or in the name of a nominee of Agent, to verify the validity, amount or any other matter relating to any Receivables or other Collateral, by mail, telephone, facsimile transmission or otherwise.

7.3 Inventory Covenants. With respect to the Inventory: (a) each Borrower and Guarantor shall at all times maintain inventory records reasonably satisfactory to Agent, keeping correct and accurate records itemizing and describing the kind, type, quality and quantity of Inventory, such Borrower's or Guarantor's cost therefor and daily withdrawals therefrom and additions thereto; (b) Borrowers and Guarantors shall conduct a physical count of the Inventory either through periodic cycle counts or wall to wall counts so that at least ninety-five (95%) percent of all Inventory is subject to such counts at least once each year during the term hereof but at any time or times as Agent may request on or after an Event of Default and for so long as the same is continuing, and promptly following such physical inventory (whether through periodic cycle counts or wall to wall count) shall supply Agent with a report in the form and with such specificity as may be reasonably satisfactory to Agent concerning such physical count; (c) Borrowers and Guarantors shall not remove any Inventory from the locations set forth or permitted herein, without the prior written consent of Agent, except for sales of Inventory in the ordinary course of its business and except to move Inventory directly from one location set forth or permitted herein to another such location and except for Inventory shipped from the manufacturer thereof to such Borrower or Guarantor which is in transit to the locations set forth or permitted herein; (d) upon Agent's request, Borrowers shall, (i) at their expense, no more than



two (2) times in any twelve (12) month period, (ii) at their expense one (1) additional time at any time that Excess Availability is less than \$10,000,000, (iii) at Agent's expense, two (2) further additional times, as Agent may request in such twelve (12) month period and (iv) at any time or times at Borrowers' expense as Agent may request if a Default or Event of Default shall exist or have occurred and be continuing, deliver or cause to be delivered to Agent written appraisals as to the Inventory in form, scope and methodology reasonably acceptable to Agent and by an appraiser acceptable to Agent, addressed to Agent and Lenders and upon which Agent and Lenders are expressly permitted to rely; (e) Borrowers and Guarantors shall produce, use, store and maintain the Inventory with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with applicable laws (including the requirements of the Federal Fair Labor Standards Act of 1938, as amended and all rules, regulations and orders related thereto); (f) none of the Inventory or other Collateral constitutes farm products or the proceeds thereof; (g) each Borrower and Guarantor assumes all responsibility and liability arising from or relating to the production, use, sale or other disposition of the Inventory; (h) Borrowers and Guarantors shall not sell Inventory to any customer on approval, or any other basis which entitles the customer to return or may obligate any Borrower or Guarantor to repurchase such Inventory, except for the right to return given customers of Borrowers in the ordinary course of the business of Borrowers in accordance with the then current return policy of Borrowers; (i) Borrowers and Guarantors shall keep the Inventory in good and marketable condition (subject to Borrowers' normal reserves for damaged and defective Inventory); and (j) Borrowers and Guarantors shall not, without prior written notice to Agent or the specific identification of such Inventory in a report with respect thereto provided by Administrative Borrower to Agent pursuant to Section 7.1(a) hereof, acquire or accept any Inventory on consignment or approval.

7.4 Equipment and Real Property Covenants. With respect to the Equipment and Real Property: (a) Borrowers and Guarantors shall keep the Equipment in good order, repair, running and marketable condition (ordinary wear and tear excepted); (b) Borrowers and Guarantors shall use the Equipment and Real Property with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with all applicable laws; (c) the Equipment (other than cars owned by any borrower and in use by employees of such Borrower) is and shall be used in the business of Borrowers and Guarantors and not for personal, family, household or farming use; (d) Borrowers and Guarantors shall not remove any Equipment from the locations set forth or permitted herein, except to the extent expressly permitted under this Agreement or to the extent necessary to have any Equipment repaired or maintained in the ordinary course of its business or to move Equipment directly from one location set forth or permitted herein to another such location and except for the movement of motor vehicles used by or for the benefit of such Borrower or Guarantor in the ordinary course of business; (e) the Equipment is now and shall remain personal property and Borrowers and Guarantors shall not permit any of the Equipment to be or become a part of or, except for removable trade fixtures, affixed to real property; and (f) each Borrower and Guarantor assumes all responsibility and liability arising from the use of the Equipment and Real Property.

7.5 Power of Attorney. Each Borrower and Guarantor hereby irrevocably designates and appoints Agent (and all persons designated by Agent) as such Borrower's and Guarantor's true and lawful attorney-in-fact, and authorizes Agent, in such Borrower's, Guarantor's or Agent's name, to: (a) at any time an Event of Default exists or has occurred and is

continuing (i) demand payment on Receivables or other Collateral, (ii) enforce payment of Receivables by legal proceedings or otherwise, (iii) exercise all of such Borrower's or Guarantor's rights and remedies to collect any Receivable or other Collateral, (iv) sell or assign any Receivable upon such terms, for such amount and at such time or times as the Agent deems advisable, (v) settle, adjust, compromise, extend or renew an Account, (vi) discharge and release any Receivable, (vii) prepare, file and sign such Borrower's or Guarantor's name on any proof of claim in bankruptcy or other similar document against an account debtor or other obligor in respect of any Receivables or other Collateral, (viii) notify the post office authorities to change the address for delivery of remittances from account debtors or other obligors in respect of Receivables or other proceeds of Collateral to an address designated by Agent, and open and dispose of all mail addressed to such Borrower or Guarantor and handle and store all mail relating to the Collateral; and (ix) do all acts and things which are reasonably necessary, in Agent's determination, to fulfill such Borrower's or Guarantor's obligations under this Agreement and the other Financing Agreements and (b) at any time after the occurrence of a Cash Dominion Event to (i) take control in any manner of any item of payment in respect of Receivables or constituting Collateral or otherwise received in or for deposit in the Concentration Accounts or otherwise received by Agent or any Lender, (ii) have access to any lockbox or postal box into which remittances from account debtors or other obligors in respect of Receivables or other proceeds of Collateral are sent or received, if after the occurrence of a Cash Dominion Event, (iii) endorse such Borrower's or Guarantor's name upon any items of payment in respect of Receivables or constituting Collateral or otherwise received by Agent and any Lender and deposit the same in Agent's account for application to the Obligations, (iv) endorse such Borrower's or Guarantor's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Receivable or any goods pertaining thereto or any other Collateral, including any warehouse or other receipts, or bills of lading and other negotiable or non-negotiable documents, (v) clear Inventory the purchase of which was financed with a Letter of Credit through U.S. Customs or foreign export control authorities in such Borrower's or Guarantor's name, Agent's name or the name of Agent's designee, and to sign and deliver to customs officials powers of attorney in such Borrower's or Guarantor's name for such purpose, and to complete in such Borrower's or Guarantor's or Agent's name, any order, sale or transaction, obtain the necessary documents in connection therewith and collect the proceeds thereof, and (vi) sign such Borrower's or Guarantor's name on any verification of Receivables and notices thereof to account debtors or any secondary obligors or other obligors in respect thereof. Each Borrower and Guarantor hereby releases Agent and Lenders and their respective officers, employees and designees from any liabilities arising from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of Agent's or any Lender's own gross negligence or willful misconduct as determined pursuant to a final non-appealable order of a court of competent jurisdiction.

7.6 Right to Cure. Agent may, at its option, upon notice to Administrative Borrower, (a) cure any default by any Borrower or Guarantor under any material agreement with a third party that affects the Collateral, its value or the ability of Agent to collect, sell or otherwise dispose of the Collateral or the rights and remedies of Agent or any Lender therein or the ability of any Borrower or Guarantor to perform its obligations hereunder or under any of the other Financing Agreements, (b) pay or bond on appeal any judgment entered against any Borrower or Guarantor, (c) discharge taxes, liens, security interests or other encumbrances at any time levied on or existing with respect to the Collateral and (d) pay any amount, incur any

expense or perform any act which, in Agent's reasonable judgment, is necessary or appropriate to preserve, protect, insure or maintain the Collateral and the rights of Agent and Lenders with respect thereto. Agent may add any amounts so expended to the Obligations and charge any Borrower's account therefor, such amounts to be repayable by Borrowers on demand. Agent and Lenders shall be under no obligation to effect such cure, payment or bonding and shall not, by doing so, be deemed to have assumed any obligation or liability of any Borrower or Guarantor. Any payment made or other action taken by Agent or any Lender under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed accordingly.

7.7 Access to Premises. (a) From time to time as requested by Agent, at the cost and expense of Borrowers, (i) Agent or its designee shall have complete access to all of each Borrower's and Guarantor's premises during normal business hours and after notice to Parent, or at any time and without notice to Administrative Borrower if an Event of Default exists or has occurred and is continuing, for the purposes of inspecting, verifying and auditing the Collateral and all of each Borrower's and Guarantor's books and records, including the Records, and (ii) each Borrower and Guarantor shall promptly furnish to Agent such copies of such books and records or extracts therefrom as Agent may reasonably request, and Agent or any Lender or Agent's designee may use during normal business hours such of any Borrower's and Guarantor's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing and if an Event of Default exists or has occurred and is continuing for the collection of Receivables and realization of other Collateral. Agent may conduct up to two (2) field examinations with respect to the Collateral in each consecutive twelve (12) month period after the date of this Agreement at the expense of Borrowers and such other field examinations as Agent may reasonably require at its expense and at any time upon the occurrence and during the continuance of an Event of Default at the expense of Borrowers.

(b) From time to time as requested by Agent, at the cost and expense of Borrowers, each Borrower and Guarantor shall promptly furnish to Agent such copies of such books and records or extracts therefrom as Agent may request, and Agent or any Lender or Agent's designee may use during normal business hours such of any Borrower's and Guarantor's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing and if an Event of Default exists or has occurred and is continuing for the collection of Receivables and realization of other Collateral.

## **SECTION 8. REPRESENTATIONS AND WARRANTIES**

Each Borrower and Guarantor hereby represents and warrants to Agent, Lenders and Issuing Bank, subject to Section 8.21(b) hereof, the following (which shall survive the execution and delivery of this Agreement):

8.1 Corporate or Limited Liability Company Existence, Power and Authority. Each Borrower and Guarantor is a corporation or limited liability company duly organized and in good standing under the laws of its jurisdiction of organization and is duly qualified as a foreign corporation or limited liability company and in good standing in all states or other jurisdictions where the nature and extent of the business transacted by it or the ownership of assets makes such qualification necessary, except for those jurisdictions in which the failure to so qualify

would not have a Material Adverse Effect. The execution, delivery and performance of this Agreement, the other Financing Agreements and the transactions contemplated hereunder and thereunder (a) are all within each Borrower's and Guarantor's corporate or limited liability company powers, as applicable, (b) have been duly authorized, (c) are not in contravention of law or the terms of any Borrower's or Guarantor's certificate of incorporation, by laws, or other organizational documentation, (d) are not in contravention of the terms of any indenture, agreement or undertaking to which any Borrower or Guarantor is a party or by which any Borrower or Guarantor or its property are bound and (e) will not result in the creation or imposition of, or require or give rise to any obligation to grant, any lien, security interest, charge or other encumbrance upon any property of any Borrower or Guarantor, except for the security interests and liens expressly permitted by Section 9.8 hereof. This Agreement and the other Financing Agreements to which any Borrower or Guarantor is a party constitute legal, valid and binding obligations of such Borrower and Guarantor enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar law limiting creditors' rights generally and by general equitable principles.

**8.2 Name; State of Organization; Chief Executive Office; Collateral Locations.**

(a) The exact legal name of each Borrower and Guarantor is as set forth on the signature page of this Agreement and in the Information Certificate. No Borrower or Guarantor has, during the five years prior to the date of this Agreement, been known by or used any other corporate or fictitious name or been a party to any merger or consolidation, or acquired all or substantially all of the assets of any Person, or acquired any of its property or assets out of the ordinary course of business, except as set forth in the Information Certificate.

(b) Each Borrower and Guarantor is an organization of the type and organized in the jurisdiction set forth in the Information Certificate. The Information Certificate accurately sets forth the organizational identification number of each Borrower and Guarantor or accurately states that such Borrower or Guarantor has none and accurately sets forth the federal employer identification number of each Borrower and Guarantor.

(c) The chief executive office and mailing address of each Borrower and Guarantor and each Borrower's and Guarantor's Records concerning Accounts are located only at the address identified as such in Schedule 8.2 to the Information Certificate and its only other places of business and the only other locations of Collateral, if any, are the addresses set forth in Schedule 8.2 to the Information Certificate, subject to the rights of any Borrower or Guarantor to establish new locations in accordance with Section 9.2 below and other than Collateral in transit to any such locations. The Information Certificate correctly identifies any of such locations which are not owned by a Borrower or Guarantor and sets forth the owners and/or operators thereof.

**8.3 Financial Statements; No Material Adverse Change.** All financial statements relating to any Borrower or Guarantor which have been or may hereafter be delivered by any Borrower or Guarantor to Agent and Lenders have been prepared in accordance with GAAP (except as to any interim financial statements, to the extent such statements are subject to normal year-end adjustments and do not include any notes) and fairly present in all material respects the

financial condition and the results of operation of such Borrower and Guarantor as at the dates and for the periods set forth therein. Except as disclosed in any interim financial statements furnished by Borrowers and Guarantors to Agent prior to the date of this Agreement, there has been no act, condition or event which has had or is reasonably likely to have a Material Adverse Effect since the date of the most recent audited financial statements of any Borrower or Guarantor furnished by any Borrower or Guarantor to Agent prior to the date of this Agreement. The projections dated July 2011 for the fiscal years ending 2012 through 2013 that have been delivered to Agent or any projections hereafter delivered to Agent have been prepared in light of the past operations of the businesses of Borrowers and Guarantors and are based upon estimates and assumptions stated therein, all of which Borrowers and Guarantors have determined to be reasonable and fair in light of the then current conditions and current facts and reflect the good faith and reasonable estimates of Borrowers and Guarantors of the future financial performance of Parent and its Subsidiaries and of the other information projected therein for the periods set forth therein.

8.4 Priority of Liens; Title to Properties. The security interests and liens granted to Agent under this Agreement and the other Financing Agreements constitute valid and perfected first priority liens and security interests in and upon the Collateral subject only to the liens indicated on Schedule 8.4 to the Information Certificate and the other liens permitted under Section 9.8 hereof. Each Borrower and Guarantor has good and marketable fee simple title to or valid leasehold interests in all of its Real Property and good, valid and merchantable title to all of its other properties and assets subject to no liens, mortgages, pledges, security interests, encumbrances or charges of any kind, except those granted to Agent and such others as are specifically listed on Schedule 8.4 to the Information Certificate or permitted under Section 9.8 hereof.

8.5 Tax Returns. Each Borrower and Guarantor has filed, or caused to be filed, in a timely manner all tax returns, reports and declarations which are required to be filed by it. All information in such tax returns, reports and declarations is complete and accurate in all material respects. Each Borrower and Guarantor has paid or caused to be paid all taxes due and payable or claimed due and payable in any assessment received by it, except taxes the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower or Guarantor and with respect to which adequate reserves have been set aside on its books. Adequate provision has been made for the payment of all accrued and unpaid Federal, State, county, local, foreign and other taxes whether or not yet due and payable and whether or not disputed.

8.6 Litigation. Except as set forth on Schedule 8.6 to the Information Certificate, (a) there is no investigation by any Governmental Authority pending, or to the best of any Borrower's or Guarantor's knowledge threatened, against or affecting any Borrower or Guarantor, its or their assets or business and (b) there is no action, suit, proceeding or claim by any Person pending, or to the best of any Borrower's or Guarantor's knowledge threatened, against any Borrower or Guarantor or its or their assets or goodwill, or against or affecting any transactions contemplated by this Agreement, in each case, which if adversely determined against such Borrower or Guarantor has or could reasonably be expected to have a Material Adverse Effect.

#### 8.7 Compliance with Other Agreements and Applicable Laws.

(a) Borrowers and Guarantors are not in default in any respect under, or in violation in any respect of the terms of, any material agreement, contract, instrument, lease or other commitment to which it is a party or by which it or any of its assets are bound, except where such default or violation would not be reasonably expected to have a Material Adverse Effect. Borrowers and Guarantors are in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority relating to their respective businesses, including, without limitation, those set forth in or promulgated pursuant to the Occupational Safety and Health Act of 1970, as amended, the Fair Labor Standards Act of 1938, as amended, ERISA, the Code, as amended, and the rules and regulations thereunder, and all Environmental Laws, in each case except where the failure to so comply would not be reasonably expected to have a Material Adverse Effect.

(b) Borrowers and Guarantors have obtained all material permits, licenses, approvals, consents, certificates, orders or authorizations of any Governmental Authority required for the lawful conduct of its business (the "Permits"), except to the extent the failure to so obtain would not reasonably be expected to have a Material Adverse Effect. All of the Permits are valid and subsisting and in full force and effect. There are no actions, claims or proceedings pending or to the best of any Borrower's or Guarantor's knowledge, threatened that seek the revocation, cancellation, suspension or modification of any of the Permits.

#### 8.8 Environmental Compliance.

(a) Except as set forth on Schedule 8.8 to the Information Certificate, Borrowers, Guarantors and any Subsidiary of any Borrower or Guarantor have not generated, used, stored, treated, transported, manufactured, handled, produced or disposed of any Hazardous Materials, on or off its premises (whether or not owned by it) in any manner which at any time violates in any material respect any applicable Environmental Law or Permit, and the operations of Borrowers, Guarantors and any Subsidiary of any Borrower or Guarantor complies in all material respects with all Environmental Laws and all Permits, except for such non-compliance which could not be reasonably expected to result in a Material Adverse Effect.

(b) Except as set forth on Schedule 8.8 to the Information Certificate, there has been no investigation by any Governmental Authority or any proceeding, complaint, order, directive, claim, citation or notice by any Governmental Authority or any other person nor is any pending or to the best of any Borrower's or Guarantor's knowledge threatened, with respect to any non compliance with or violation of the requirements of any Environmental Law by any Borrower or Guarantor and any Subsidiary of any Borrower or Guarantor or the release, spill or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials or any other environmental, health or safety matter, which in any case could reasonably be expected to result in a Material Adverse Effect.

(c) Except as set forth on Schedule 8.8 to the Information Certificate, Borrowers, Guarantors and their Subsidiaries have no material liability (contingent or otherwise) in connection with a release, spill or discharge, threatened or actual, of any Hazardous Materials

or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials which in any case could reasonably be expected to result in a Material Adverse Effect.

(d) Borrowers, Guarantors and their Subsidiaries have all Permits required to be obtained or filed in connection with the operations of Borrowers and Guarantors under any Environmental Law, except where the failure to maintain or have such Permits could not reasonably be expected to result in a Material Adverse Effect, and all of such licenses, certificates, approvals or similar authorizations and other Permits are valid and in full force and effect.

#### 8.9 Employee Benefits.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or State law. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service and to the best of any Borrower's or Guarantor's knowledge, nothing has occurred which would cause the loss of such qualification. Each Borrower and its ERISA Affiliates have made all required contributions to any Plan subject to Section 412 or Section 430 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 or 430 of the Code has been made with respect to any Plan. No Lien imposed under the Code or ERISA exists or is likely to arise on account of any Plan.

(b) There are no pending, or to the best of any Borrower's or Guarantor's knowledge, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan, which could be reasonably expected to subject any Borrower or Guarantor to liability in excess of \$250,000.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; except, that, based on the latest valuation of the Farmer Bros. Co. Hourly Employees' Pension Plan 5-21711 and Farmer Bros. Co. Retirement Plan 7-01704 and on the actuarial methods and assumptions employed for such valuation (determined in accordance with the assumptions used for funding such Pension Plan pursuant to Section 412 or 430 of the Code), as of the date hereof the aggregate current value of accumulated benefit liabilities of each Pension Plan under Section 4001(a) (16) of ERISA is in excess of the aggregate current value of the assets of each Pension Plan, but such underfunding does not have, and could not reasonably be expected to have, a Material Adverse Effect and Borrowers and Guarantors have and shall continue to comply with the requirements of ERISA with respect to the funding of each of their Pension Plans; (iii) each Borrower and Guarantor, and their ERISA Affiliates, have not incurred and do not reasonably expect to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) each Borrower and Guarantor, and their ERISA Affiliates, have not incurred and do not reasonably expect 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) each Borrower and Guarantor, and their ERISA Affiliates, have not engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA.

8.10 Bank Accounts. All of the deposit accounts, investment accounts or other accounts in the name of or used by any Borrower or Guarantor maintained at any bank or other financial institution are set forth on Schedule 8.10 to the Information Certificate, subject to the right of each Borrower and Guarantor to establish new accounts in accordance with Section 5.2 hereof.

8.11 Intellectual Property. Each Borrower and Guarantor owns or licenses or otherwise has the right to use all Intellectual Property necessary for the operation of its business as presently conducted or proposed to be conducted. As of the date hereof, Borrowers and Guarantors do not have any Intellectual Property registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country, other than those described in Schedule 8.11 to the Information Certificate and has not granted any licenses with respect thereto other than as set forth in Schedule 8.11 to the Information Certificate. No event has occurred which permits or would permit after notice or passage of time or both, the revocation, suspension or termination of such rights. To the best of any Borrower's and Guarantor's knowledge, no slogan or other advertising device, product, process, method, substance or other Intellectual Property or goods bearing or using any Intellectual Property presently contemplated to be sold by or employed by any Borrower or Guarantor infringes any patent, trademark, servicemark, tradename, copyright, license or other Intellectual Property owned by any other Person presently and no claim or litigation is pending or threatened against or affecting any Borrower or Guarantor contesting its right to sell or use any such Intellectual Property. Schedule 8.11 to the Information Certificate sets forth all of the agreements or other arrangements of each Borrower and Guarantor pursuant to which such Borrower or Guarantor has a license (other than commercially available off-the-shelf software) or other right to use any trademarks, logos, designs, representations or other Intellectual Property owned by another person as in effect on the date hereof and the dates of the expiration of such agreements or other arrangements of such Borrower or Guarantor as in effect on the date hereof (collectively, together with such agreements or other arrangements as may be entered into by any Borrower or Guarantor after the date hereof, collectively, the "License Agreements" and individually, a "License Agreement"). No trademark, servicemark, copyright or other Intellectual Property at any time used by any Borrower or Guarantor which is owned by another person, or owned by such Borrower or Guarantor subject to any security interest, lien, collateral assignment, pledge or other encumbrance in favor of any person other than Agent, is affixed to any Eligible Inventory, except (a) to the extent permitted under the term of the license agreements listed on Schedule 8.11 to the Information Certificate and (b) to the extent the sale of Inventory to which such Intellectual Property is affixed is permitted to be sold by such Borrower or Guarantor under applicable law (including the United States Copyright Act of 1976).

8.12 Subsidiaries; Affiliates; Capitalization; Solvency.

(a) Each Borrower and Guarantor does not have any direct or indirect Subsidiaries or Affiliates and is not engaged in any joint venture or partnership except as set forth in Schedule 8.12 to the Information Certificate.

(b) Each Borrower and Guarantor is the record and beneficial owner of all of the issued and outstanding shares of Capital Stock of each of the Subsidiaries listed on Schedule



8.12 to the Information Certificate as being owned by such Borrower or Guarantor and there are no proxies, irrevocable or otherwise, with respect to such shares and no equity securities of any of the Subsidiaries are or may become required to be issued by reason of any options, warrants, rights to subscribe to, calls or commitments of any kind or nature and there are no contracts, commitments, understandings or arrangements by which any Subsidiary is or may become bound to issue additional shares of its Capital Stock or securities convertible into or exchangeable for such shares.

(c) The issued and outstanding shares of Capital Stock of each Borrower and Guarantor are directly and beneficially owned and held by the persons indicated in the Information Certificate, and in each case all of such shares have been duly authorized and are fully paid and non-assessable, free and clear of all claims, liens, pledges and encumbrances of any kind, except as disclosed in writing to Agent prior to the date hereof.

(d) Each Borrower and Guarantor is Solvent and will continue to be Solvent after the creation of the Obligations, the security interests of Agent and the other transaction contemplated hereunder.

(e) The Inactive Subsidiary does not have any material liabilities, is not engaged in any business or commercial activities, does not own any assets with a book value of more than \$100,000 in the aggregate and is not obligated or liable, directly or indirectly, contingently or otherwise, in respect of any material Indebtedness or other material obligations.

#### 8.13 Labor Disputes.

(a) Set forth on Schedule 8.13 to the Information Certificate is a list (including dates of termination) of all collective bargaining or similar agreements between or applicable to each Borrower and Guarantor and any union, labor organization or other bargaining agent in respect of the employees of any Borrower or Guarantor on the date hereof.

(b) There is (i) no material unfair labor practice complaint pending against any Borrower or Guarantor or, to the best of any Borrower's or Guarantor's knowledge, threatened against it, before the National Labor Relations Board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is pending on the date hereof against any Borrower or Guarantor or, to best of any Borrower's or Guarantor's knowledge, threatened against it, and (ii) no material strike, labor dispute, slowdown or stoppage is pending against any Borrower or Guarantor or, to the best of any Borrower's or Guarantor's knowledge, threatened against any Borrower or Guarantor.

8.14 Restrictions on Subsidiaries. Except for restrictions contained in this Agreement or any other agreement with respect to Indebtedness of any Borrower or Guarantor permitted hereunder as in effect on the date hereof, there are no contractual or consensual restrictions on any Borrower or Guarantor or any of its Subsidiaries which prohibit or otherwise restrict (a) the transfer of cash or other assets (i) between any Borrower or Guarantor and any of its or their Subsidiaries or (ii) between any Subsidiaries of any Borrower or Guarantor or (b) the ability of any Borrower or Guarantor or any of its or their Subsidiaries to incur Indebtedness or grant security interests to Agent or any Lender in the Collateral.

8.15 Material Contracts. Schedule 8.15 to the Information Certificate sets forth all Material Contracts to which any Borrower or Guarantor is a party or is bound as of the date hereof. Borrowers and Guarantors have delivered true, correct and complete copies of such Material Contracts to Agent on or before the date hereof. Borrowers and Guarantors are not in breach or in default in any material respect of or under any Material Contract and have not received any notice of the intention of any other party thereto to terminate any Material Contract.

8.16 Payable Practices. Each Borrower and Guarantor have not made any material change in the historical accounts payable practices from those in effect immediately prior to the date hereof.

8.17 OFAC. None of Borrower, any Subsidiary of Borrower or any Affiliate of Borrower: (a) is a Sanctioned Person, (b) has more than ten (10%) percent of its assets in Sanctioned Entities, or (c) derives more than ten (10%) percent of its operating income from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. The proceeds of any Loan will not be used and have not been used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity.

8.18 Anti-Terrorism Laws. No Borrower, Guarantor or any of their Subsidiaries is an “enemy” or an “ally of the enemy” within the meaning of Section 2 of the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§ 1 et seq.), as amended. No Borrower, Guarantor or any of their Subsidiaries is in violation of (a) the Trading with the Enemy Act, as amended, (b) any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto or (c) the Patriot Act. No Borrower, Guarantor or any of their Subsidiaries is a blocked person described in Section 1 of the Anti-Terrorism Order or, to the best of its knowledge, engages in any dealings or transactions, or is otherwise associated, with any such blocked person. Each Borrower or Guarantor shall deliver to Agent and Lenders any certification or other evidence requested from time to time by Agent or any Lender in its sole discretion, confirming compliance with this Section 8.18.

8.19 ESOP/ESOT.

(a) The ESOP is an “employee stock ownership plan” (as defined in Section 4975(e)(7) of the Code and Section 407(d)(6) of ERISA) and is qualified under Section 401(a) of the Code. The ESOP has been established, and is operated in compliance with, all applicable Laws, including the Code and ERISA.

(b) The ESOT has been duly constituted in accordance with the ESOT Trust Agreement and pursuant to the ESOP; is duly and validly existing under the Laws of the State of California as a trust (it being understood that the ESOT is not a business trust), is duly qualified under Section 401(a) of the Code and is tax-exempt under Section 501(a) of the Code. The ESOT has been established, and is operated in compliance in all material respects with all applicable laws, rules and regulations of any applicable Governmental Authority, including the Code and ERISA.

(c) The execution, delivery and performance by the ESOT of the ESOP Documents and continued holding of ESOP Shares by the ESOT and the administration of the ESOP and the ESOT pursuant to the ESOP Documents: (i) are within the ESOP's and ESOT's powers and have been duly authorized by all necessary action; (ii) require no action by or in respect of, or filing with, any Governmental Authority (other than those duly obtained prior to the date hereof and that are in full force and effect and routine filings subsequent to the date hereof pursuant to reporting requirements of ERISA); (iii) do not contravene, or constitute a default under, any provision of laws, rules and regulations of any applicable Governmental Authority or of any agreement, judgment, injunction, order, decree or other instrument binding upon the ESOP or ESOT; (iv) does not result in the creation or imposition of any lien, security interest, claim, charge or other encumbrance on any asset of the ESOP or ESOT (other than as contemplated by the ESOP Documents); and (v) does not result in any tax under Section 4975 of the Code.

(d) No Borrower or Guarantor shall amend, modify, change, agree to any amendment, modification or other change to (or make any payment consistent with any amendment or other change to) or waive any of its rights under any of the ESOP Documents in any manner which would adversely affect, or could reasonably be expected to adversely affect, the Obligations or the Collateral.

(e) As of June 30, 2011, the outstanding principal amount of the ESOP Indebtedness was \$30,437,363.13.

#### 8.20 ESOP Loan Documents.

(a) To the best of Borrowers' and Guarantors' knowledge, the loan evidenced by the ESOP Loan Documents constitutes an "exempt loan" within the meaning of Section 4975(d)(3) of the Code and complies with all requirements applicable to exempt loans under 26 C.F.R. §54.4975-7(b)(1)(iii) and 29 C.F.R. §2550.408(b)-3(a)(3).

(b) To the best of Borrowers' and Guarantors' knowledge, the execution, delivery and performance of the ESOP Loan Documents and the ESOP Documents by the parties thereto, and the consummation of the transactions contemplated thereby, will not constitute a "prohibited transaction" or otherwise constitute a violation of, or give rise to any liability under any laws, rules and regulations of any applicable Governmental Authority (including without limitation, ERISA and the Code).

#### 8.21 Accuracy and Completeness of Information.

(a) All information furnished by or on behalf of any Borrower or Guarantor in writing to Agent or any Lender in connection with this Agreement or any of the other Financing Agreements or any transaction contemplated hereby or thereby, including all information on the Information Certificate is true and correct in all material respects on the date as of which such information is dated or certified and does not omit any material fact necessary in order to make such information not misleading (it being understood that any forward-looking statement or projection shall be judged in light of the circumstances then known to, or which were reasonably believed by a person making such statement or projection and having the information reasonably

available to a Person so situated). No event or circumstance has occurred which has had or could reasonably be expected to have a Material Adverse Effect, which has not been fully and accurately disclosed to Agent in writing prior to the date hereof.

(b) All of the representations and warranties contained in the Loan Agreement and the other Financing Agreements are true and correct based on the information furnished by or on behalf of the Borrowers and Guarantors on the Existing Information Certificate and based on information that has been furnished by or on behalf of Borrowers and Guarantors to Agent after the date of the Existing Information Certificate through and including the date hereof in accordance with the terms of the Existing Loan Agreement.

8.22 Survival of Warranties; Cumulative. All representations and warranties contained in this Agreement or any of the other Financing Agreements shall survive the execution and delivery of this Agreement and shall be deemed to have been made again to Agent and Lenders on the date of each additional borrowing or other credit accommodation hereunder and shall be conclusively presumed to have been relied on by Agent and Lenders regardless of any investigation made or information possessed by Agent or any Lender. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which any Borrower or Guarantor shall now or hereafter give, or cause to be given, to Agent or any Lender.

## **SECTION 9. AFFIRMATIVE AND NEGATIVE COVENANTS**

### **9.1 Maintenance of Existence**

(a) Each Borrower and Guarantor shall at all times preserve, renew and keep in full force and effect its corporate or limited liability company, as applicable, existence and rights and franchises with respect thereto and maintain in full force and effect all licenses, trademarks, tradenames, approvals, authorizations, leases, contracts and Permits necessary to carry on the business as presently or proposed to be conducted, except as to any Guarantor other than Parent as permitted in Section 9.7 hereof.

(b) No Borrower or Guarantor shall change its name unless each of the following conditions is satisfied: (i) Agent shall have received not less than thirty (30) days prior written notice from Administrative Borrower of such proposed change in its corporate or limited liability company name, which notice shall accurately set forth the new corporate or limited liability company name; and (ii) Agent shall have received a copy of the amendment to the Certificate of Incorporation or Certificate of Formation, as applicable, of such Borrower or Guarantor providing for the name change certified by the Secretary of State of the jurisdiction of incorporation or organization of such Borrower or Guarantor as soon as it is available.

(c) No Borrower or Guarantor shall change its chief executive office or its mailing address or organizational identification number (or if it does not have one, shall not acquire one) unless Agent shall have received not less than thirty (30) days' prior written notice from Administrative Borrower of such proposed change, which notice shall set forth such information with respect thereto as Agent may require and Agent shall have received such agreements as Agent may reasonably require in connection therewith. No Borrower or

Guarantor shall change its type of organization, jurisdiction of organization or other legal structure.

(d) Borrowers and Guarantors shall not, and shall not permit any Subsidiary to amend, modify or otherwise change its certificate of incorporation, articles of association, certificate of formation, limited liability agreement, limited partnership agreement or other organizational documents, as applicable, except for amendments, modifications or other changes that do not affect the rights and privileges of any Borrower or Guarantor, or its Subsidiaries in any material respect and do not adversely affect the ability of any Borrower, any Guarantor or such Subsidiary to amend, modify, renew or supplement the terms of this Agreement or any of the other Financing Agreements, or otherwise adversely affect the interests of Agent or any Lender in any material respect and so long as at the time of any such amendment, modification or change, no Default or Event of Default shall exist or have occurred and be continuing.

(e) No Borrower or Guarantor shall amend, modify, change, agree to any amendment, modification or other change to (or make any payment consistent with any amendment or other change to) or waive any of its rights under any of the Purchase Agreements in any manner which would adversely affect, or could reasonably be expected to adversely affect, the Obligations or the Collateral.

9.2 New Collateral Locations. Each Borrower and Guarantor may only open any new location within the continental United States of America provided such Borrower or Guarantor (a) gives Agent prior written notice of the intended opening of any such new location and (b) executes and delivers, or causes to be executed and delivered, to Agent such agreements, documents, and instruments as Agent may deem reasonably necessary or desirable to protect its interests in the Collateral at such location.

### 9.3 Compliance with Laws, Regulations, Etc.

(a) Each Borrower and Guarantor shall, and shall cause any Subsidiary to, at all times, comply in all material respects with all laws, rules, regulations, licenses, approvals, orders and other Permits applicable to it and duly observe all requirements of any foreign, Federal, State or local Governmental Authority.

(b) Borrowers and Guarantors shall give written notice to Agent immediately upon any Borrower's or Guarantor's receipt of any notice of, or any Borrower's or Guarantor's otherwise obtaining knowledge of, (i) the occurrence of any event involving the release, spill or discharge, threatened or actual, of any Hazardous Material or (ii) any investigation, proceeding, complaint, order, directive, claims, citation or notice with respect to: (A) any material non-compliance with or violation of any Environmental Law by any Borrower or Guarantor or (B) the release, spill or discharge, threatened or actual, of any Hazardous Material other than in the ordinary course of business and other than as permitted under any applicable Environmental Law. Copies of all environmental surveys, audits, assessments, feasibility studies and results of remedial investigations shall be promptly furnished, or caused to be furnished, by such Borrower or Guarantor to Agent. Each Borrower and Guarantor shall take prompt action to respond to any material non-compliance with any of the Environmental Laws and shall regularly report to Agent on such response.

(c) Without limiting the generality of the foregoing, whenever Agent reasonably determines that there is material non-compliance, or any condition which requires any action by or on behalf of any Borrower or Guarantor in order to avoid any non compliance, with any Environmental Law, Borrowers shall, at Agent's request and Borrowers' expense: (i) cause an independent environmental engineer reasonably acceptable to Agent to conduct such tests of the site where non-compliance or alleged non compliance with such Environmental Laws has occurred as to such non-compliance and prepare and deliver to Agent a report as to such non-compliance setting forth the results of such tests, a proposed plan for responding to any environmental problems described therein, and an estimate of the costs thereof and (ii) provide to Agent a supplemental report of such engineer whenever the scope of such non-compliance, or such Borrower's or Guarantor's response thereto or the estimated costs thereof, shall change in any material respect.

(d) Each Borrower and Guarantor shall indemnify and hold harmless Agent and Lenders and their respective directors, officers, employees, agents, invitees, representatives, successors and assigns, from and against any and all losses, claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees and expenses) directly or indirectly arising out of or attributable to the use, generation, manufacture, reproduction, storage, release, threatened release, spill, discharge, disposal or presence of a Hazardous Material, including the costs of any required or necessary repair, cleanup or other remedial work with respect to any property of any Borrower or Guarantor and the preparation and implementation of any closure, remedial or other required plans. All representations, warranties, covenants and indemnifications in this Section 9.3 shall survive the payment of the Obligations and the termination of this Agreement.

9.4 Payment of Taxes and Claims. Each Borrower and Guarantor shall, and shall cause any Subsidiary to, duly pay and discharge all taxes, assessments, contributions and governmental charges upon or against it or its properties or assets, except for taxes the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, Guarantor or Subsidiary, as the case may be, and with respect to which adequate reserves have been set aside on its books. Each Borrower and Guarantor shall be liable for any tax or penalties imposed on Agent or any Lender as a result of the financing arrangements provided for herein and each Borrower and Guarantor agrees to indemnify and hold Agent and Lenders harmless with respect to the foregoing, and to repay to Agent and Lenders on demand the amount thereof, and until paid by such Borrower or Guarantor such amount shall be added and deemed part of the Loans, provided, that, nothing contained herein shall be construed to require any Borrower or Guarantor to pay any income or franchise taxes attributable to the income of Agent or any Lender from any amounts charged or paid hereunder to Agent and Lenders. The foregoing indemnity shall survive the payment of the Obligations and the termination of this Agreement.

#### 9.5 Insurance.

(a) Each Borrower and Guarantor shall, and shall cause any Subsidiary to, at all times, maintain with financially sound and reputable insurers insurance with respect to the Collateral against loss or damage and all other insurance of the kinds and in the amounts customarily insured against or carried by corporations of established reputation engaged in the

same or similar businesses and similarly situated. Said policies of insurance shall be reasonably satisfactory to Agent as to form, amount and insurer. Borrowers and Guarantors shall furnish certificates, policies or endorsements to Agent as Agent shall reasonably require as proof of such insurance, and, if any Borrower or Guarantor fails to do so, Agent is authorized, but not required, to obtain such insurance at the expense of Borrowers. All policies shall provide for at least thirty (30) days prior written notice to Agent of any cancellation or reduction of coverage and that Agent may act as attorney for each Borrower and Guarantor in obtaining, and at any time an Event of Default exists or has occurred and is continuing, adjusting, settling, amending and canceling such insurance. Borrowers and Guarantors shall cause Agent to be named as a loss payee and an additional insured (but without any liability for any premiums) under such insurance policies and Borrowers and Guarantors shall obtain non-contributory lender's loss payable endorsements to all insurance policies in form and substance reasonably satisfactory to Agent. Such lender's loss payable endorsements shall specify that the proceeds of such insurance shall be payable to Agent as its interests may appear and further specify that Agent and Lenders shall be paid regardless of any act or omission by any Borrower, Guarantor or any of its or their Affiliates. Without limiting any other rights of Agent or Lenders, any insurance proceeds received by Agent at any time may be applied to payment of the Obligations, whether or not then due, in any order and in such manner as Agent may determine. Upon application of such proceeds to the Revolving Loans, Revolving Loans may be available subject and pursuant to the terms hereof to be used for the costs of repair or replacement of the Collateral lost or damages resulting in the payment of such insurance proceeds.

(b) In the event of a Property Loss Event with respect to Real Property or Equipment (except as otherwise provided below), if any of the Equipment or any portion of any building, structure or other improvement on any Real Property is lost, physically damaged or destroyed, upon the written request of Administrative Borrower, Agent shall release the Net Cash Proceeds from insurance received by Agent based on a claim by any Borrower or Guarantor as a result of such loss, damage or destruction to the extent necessary for the repair, refurbishing or replacement of such Equipment or building, structure or improvement; provided, that, all of the following conditions are satisfied: (1) if any Default or Event of Default shall exist or have occurred and be continuing (except for any Default or Event of Default arising as a result of and continuing solely as a result of such Property Loss Event), any such proceeds may be applied to the Obligations (2) if such insurance proceeds aggregate \$1,000,000 or more, Administrative Borrower shall obtain the prior written consent of Lender in order to apply such insurance proceeds in the manner set forth in this clause (b), (3) such proceeds shall be used only to repair, refurbish or replace such Equipment or building, structure or improvement and all related expenses and costs in connection therewith within one hundred eighty (180) days after receipt by such Borrower or Guarantor of such proceeds, (4) Lender shall have a first priority perfected lien (subject to liens permitted under this Agreement ) on such replacement (or repaired or restored) property or assets (other than, with respect to perfection only, the Excluded Property), (5) the aggregate amount of such proceeds in excess of the amount necessary to repair, refurbish or replace such replacement (or repaired or restored) property or assets shall be applied to the Obligations in such order and manner as Lender determines, (6) Lender shall have received within fifteen (15) days after Lender notifies Administrative Borrower that Lender has received any proceeds of insurance (or if any Borrower or Guarantor receives any such proceeds, then within fifteen (15) days after such Borrower or Guarantor receives such proceeds, which shall be delivered to Lender), a certificate duly executed by an authorized officer of

Administrative Borrower addressed to Lender stating that such proceeds shall be used to repair, refurbish or replace such Equipment or building, structure or improvement, (7) if all or any portion of such proceeds are not so used or being used within such one hundred eighty (180) day period, Lender shall apply such unused proceeds to the Obligations, and (8) as to a Property Loss Event with respect to assets of any Borrower or Guarantor, until such time as the proceeds are so used, such proceeds will be held in a deposit account or investment account at Lender and released upon receipt of written request of Administrative Borrower that such proceeds are to be so used with such evidence thereof as Lender may require and so long as no Default or Event of Default exists or has occurred and is continuing.

9.6 Financial Statements and Other Information.

(a) Each Borrower and Guarantor shall, and shall cause any Subsidiary to, keep proper books and records in which true and complete entries shall be made of all dealings or transactions of or in relation to the Collateral and the business of such Borrower, Guarantor and its Subsidiaries in accordance with GAAP. Borrowers and Guarantors shall promptly furnish to Agent and Lenders all such financial and other information as Agent shall reasonably request relating to the Collateral and the assets, business and operations of Borrowers and Guarantors, and to notify the auditors and accountants of Borrowers and Guarantors that Agent is authorized to obtain such information directly from them (other than materials protected by the attorney-client privilege and materials which any Borrower or Guarantor may not disclose without violation of a confidentiality obligation binding upon it). Without limiting the foregoing, Borrowers shall furnish or cause to be furnished to Agent, the following:

(i) within thirty (30) days after the end of each fiscal month (other than any such fiscal month if such fiscal month is also the last fiscal month of a fiscal quarter), monthly unaudited consolidated financial statements and unaudited consolidating financial statements (including in each case balance sheets, statements of income and loss and statements of cash flow), all in reasonable detail, fairly presenting in all material respects the financial position and the results of the operations of Parent and its Subsidiaries as of the end of and through such fiscal month, certified to be correct by the chief financial officer of Administrative Borrower, subject to normal year-end adjustments and no footnotes and accompanied by a summary narrative of material changes and operating performance and a compliance certificate substantially in the form of Exhibit D hereto, along with a schedule in form reasonably satisfactory to Agent of the calculations used in determining, as of the end of such month, whether Borrowers and Guarantors were in compliance with the covenants set forth in Section 9.18 of this Agreement for such month, and

(ii) within forty-five days after the end of each fiscal month which is also the last fiscal month of a fiscal quarter, monthly unaudited consolidated financial statements and unaudited consolidating financial statements (including in each case balance sheets, statements of income and loss and statements of cash flow), all in reasonable detail, fairly presenting in all material respects the financial position and the results of the operations of Parent and its Subsidiaries as of the end of and through such fiscal month, certified to be correct by the chief financial officer of Administrative Borrower, subject to normal year-end adjustments and accompanied by a summary narrative of material changes and operating performance and a compliance certificate substantially in the form of Exhibit D hereto, along



with a schedule in form reasonably satisfactory to Agent of the calculations used in determining, as of the end of such month, whether Borrowers and Guarantors were in compliance with the covenants set forth in Section 9.18 of this Agreement for such month;

(iii) within ninety (90) days after the end of each fiscal year, audited consolidated financial statements and unaudited consolidating financial statements of Parent and its Subsidiaries (including in each case balance sheets, statements of income and loss, statements of cash flow and statements of stockholders' equity), and the accompanying notes thereto, all in reasonable detail, fairly presenting in all material respects the financial position and the results of the operations of Parent and its Subsidiaries as of the end of and for such fiscal year, together with the unqualified opinion of independent certified public accountants with respect to the audited consolidated financial statements, which accountants shall be an independent accounting firm selected by Administrative Borrower and reasonably acceptable to Agent, that such audited consolidated financial statements have been prepared in accordance with GAAP, and present fairly in all material respects the results of operations and financial condition of Parent and its Subsidiaries as of the end of and for the fiscal year then ended, and

(iv) at such time as available, but in no event later than thirty (30) days prior to the end of each fiscal year, projected consolidated financial statements (including in each case, forecasted balance sheets and statements of income and loss, statements of cash flow, and statements of stockholders' equity) of Parent and its Subsidiaries for the next fiscal year, all in reasonable detail, and in a format consistent with the projections delivered by Borrowers to Agent prior to the date hereof, together with such supporting information as Agent may reasonably request. Such projected financial statements shall be prepared on a monthly basis for the next succeeding fiscal year. Such projections shall represent the reasonable best estimate by Borrowers and Guarantors of the future financial performance of Parent and its Subsidiaries for the periods set forth therein and shall have been prepared on the basis of the assumptions set forth therein which Borrowers and Guarantors believe are fair and reasonable as of the date of preparation in light of current and reasonably foreseeable business conditions (it being understood that actual results may differ from those set forth in such projected financial statements). Each fiscal year Borrowers shall provide to Agent a semi-annual update with respect to such projections or at any time a Default or Event of Default exists or has occurred and is continuing, more frequently as Agent may reasonably require; provided, that, such Borrowers shall only be required to deliver such semi-annual update to the extent that such update would show a significant variance from such projections for the remainder of such fiscal year; and

(v) within twenty (20) days after the end of each fiscal month (or more frequently as Agent reasonably requests), a certificate substantially in the form of Exhibit E hereto, along with (A) a schedule in form reasonably satisfactory to Agent of the calculations used in determining, as of the end of such month (or shorter period), the sum of the dollar value of the Preferred Stock Portfolio and the Cash Investment Accounts and (B) the most recent statement received by Borrowers and Guarantors setting forth the balance of the Specified Investment Account.

(b) Borrowers and Guarantors shall promptly notify Agent in writing of the details of (i) any loss, damage, investigation, action, suit, proceeding or claim relating to Collateral having a value of more than \$250,000 or which if adversely determined could

reasonably be expected to result in a Material Adverse Effect, (ii) any Material Contract being terminated or amended or any new Material Contract entered into (in which event Borrowers and Guarantors shall provide Agent with a copy of such termination, amendment or Material Contract), (iii) any order, judgment or decree in excess of \$250,000 shall have been entered against any Borrower or Guarantor any of its or their properties or assets, (iv) any notification of a material violation of laws or regulations received by any Borrower or Guarantor, (v) any ERISA Event, (vi) the payment or receipt by any Borrower or Guarantor of any purchase price adjustment or indemnity payment pursuant to the Purchase Agreements, and (vii) the occurrence of any Default or Event of Default.

(c) Promptly after the sending or filing thereof, Borrowers shall notify Agent that any of the following have been sent or filed, and to the extent any of the following are not then publicly available by electronic means to Agent, shall send to Agent, copies of (i) all reports which Parent or any of its Subsidiaries sends to its security holders generally, (ii) all reports and registration statements which Parent or any of its Subsidiaries files with the Securities Exchange Commission, any national or foreign securities exchange or the National Association of Securities Dealers, Inc., and such other reports as Agent may hereafter specifically identify to Administrative Borrower that Agent will require be provided to Agent, (iii) all press releases and (iv) all other statements concerning material changes or developments in the business of a Borrower or Guarantor made available by any Borrower or Guarantor to the public.

(d) Borrowers and Guarantors shall furnish or cause to be furnished to Agent such budgets, forecasts, projections and other information respecting the Collateral and the business of Borrowers and Guarantors, as Agent may, from time to time, reasonably request. Agent is hereby authorized to deliver a copy of any financial statement or any other information relating to the business of Borrowers and Guarantors to any court or other Governmental Authority or to any Lender or Participant or prospective Lender or Participant or any Affiliate of any Lender or Participant. Each Borrower and Guarantor hereby irrevocably authorizes and directs all accountants or auditors to deliver to Agent, at Borrowers' expense, copies of the financial statements of any Borrower and Guarantor and any reports or management letters prepared by such accountants or auditors on behalf of any Borrower or Guarantor and to disclose to Agent and Lenders such information as they may have regarding the business of any Borrower and Guarantor. Any documents, schedules, invoices or other papers delivered to Agent or any Lender may be destroyed or otherwise disposed of by Agent or such Lender one (1) year after the same are delivered to Agent or such Lender, except as otherwise designated by Administrative Borrower to Agent or such Lender in writing.

9.7 Sale of Assets, Consolidation, Merger, Dissolution, Etc. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, directly or indirectly,

(a) merge into or with or consolidate with any other Person or permit any other Person to merge into or with or consolidate with it except that any wholly-owned Subsidiary of Parent (other than any Borrower) may merge with and into or consolidate with any other wholly-owned Subsidiary of Parent (other than any Borrower), provided, that, each of the following conditions is satisfied as determined by Agent in good faith: (i) Agent shall have received not less than ten (10) Business Days' prior written notice of the intention of such Subsidiaries to so merge or consolidate, which notice shall set forth in reasonable detail

reasonably satisfactory to Agent, the persons that are merging or consolidating, which person will be the surviving entity, the locations of the assets of the persons that are merging or consolidating, and the material agreements and documents relating to such merger or consolidation, (ii) Agent shall have received such other information with respect to such merger or consolidation as Agent may reasonably request, (iii) as of the effective date of the merger or consolidation and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, (iv) Agent shall have received, true, correct and complete copies of all agreements, documents and instruments relating to such merger or consolidation, including, but not limited to, the certificate or certificates of merger to be filed with each appropriate Secretary of State (with a copy as filed promptly after such filing), (v) the surviving entity shall expressly confirm, ratify and assume the Obligations and the Financing Agreements to which it is a party in writing, in form and substance reasonably satisfactory to Agent, and Borrowers and Guarantors shall execute and deliver such other agreements, documents and instruments as Agent may reasonably request in connection therewith;

(b) sell, issue, assign, lease, license, transfer, abandon or otherwise dispose of any Capital Stock or Indebtedness to any other Person or any of its assets to any other Person, except for

(i) sales of Inventory in the ordinary course of business,

(ii) the sale or other disposition of Equipment (including worn-out or obsolete Equipment or Equipment no longer used or useful in the business of any Borrower or Guarantor) so long as such sales or other dispositions do not involve Equipment having an aggregate fair market value in excess of \$1,000,000 for all such Equipment disposed of in any fiscal year of Borrowers or as Agent may otherwise agree, and

(iii) the issuance and sale by any Borrower or Guarantor of Capital Stock of such Borrower or Guarantor after the date hereof; provided, that, (A) Agent shall have received not less than ten (10) Business Days' prior written notice of such issuance and sale by such Borrower or Guarantor, which notice shall specify the parties to whom such shares are to be sold, the terms of such sale, the total amount which it is anticipated will be realized from the issuance and sale of such stock and the Net Cash Proceeds which it is anticipated will be received by such Borrower or Guarantor from such sale, (B) such Borrower or Guarantor shall not be required to pay any cash dividends or repurchase or redeem such Capital Stock or make any other payments in respect thereof, except as otherwise permitted in Section 9.11 hereof, (C) the terms of such Capital Stock, and the terms and conditions of the purchase and sale thereof, shall not include any terms that include any limitation on the right of any Borrower to request or receive Loans or Letters of Credit or the right of any Borrower and Guarantor to amend or modify any of the terms and conditions of this Agreement or any of the other Financing Agreements or otherwise in any way relate to or affect the arrangements of Borrowers and Guarantors with Agent and Lenders or are more restrictive or burdensome to any Borrower or Guarantor than the terms of any Capital Stock in effect on the date hereof, (D) except as Agent may otherwise agree in writing, if as of the date of such issuance and sale or after giving effect thereto, a Cash Dominion Event has occurred and is continuing, all of the proceeds of the sale and issuance of such Capital Stock shall be paid to Agent for application to the Obligations in such order and manner as Agent may determine or at Agent's option, to be held as cash collateral

for the Obligations and (E) as of the date of such issuance and sale and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing,

(iv) the issuance of Capital Stock of any Borrower or Guarantor consisting of common stock pursuant to an employee stock ownership plan, employee stock option or grant or similar equity plan or 401(k) plans of such Borrower or Guarantor for the benefit of its employees, directors and consultants, provided, that, in no event shall such Borrower or Guarantor be required to issue, or shall such Borrower or Guarantor issue, Capital Stock pursuant to such stock plans or 401(k) plans which would result in a Change of Control or other Event of Default,

(v) sales or other dispositions of Excluded Property, provided, that, as to any such sale or other disposition, each of the following conditions is satisfied: (A) the consideration to be received by Borrowers and Guarantors shall be paid or payable in cash and shall be paid contemporaneously with consummation of the transaction; (B) the consideration paid or payable shall be in an amount not less than the fair market value of the Excluded Property disposed of; (C) such transaction does not involve the sale or other disposition of any Equity Interest in any Subsidiary or of any Inventory or Receivables; (D) the Net Cash Proceeds from any such sale or other disposition, shall be applied to the Obligations (without permanent reduction of the Maximum Credit as a result thereof); (E) the aggregate fair market value of all such Excluded Property sold or otherwise disposed of shall not exceed \$5,000,000 in the aggregate during the term of this Agreement; and (F) as of the date of any such sale or other disposition, and in each case after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing,

(vi) sales or other dispositions of investment property from the Preferred Stock Portfolio; provided, that, all of the proceeds of from such sales or other dispositions shall be (A) reinvested in other investment property consisting of shares of preferred stock of public companies (other than a Borrower), with such shares to be maintained in the Specified Investment Account or (B) used for general operating, working capital and other proper corporate purposes of such Borrower not otherwise prohibited by the terms hereof, and

(vii) the transfer of cash for the payment of Indebtedness to the extent such payments are permitted under this Agreement and for the payment of other payables in the ordinary course of the business of Borrowers and Guarantors.

(c) wind up, liquidate or dissolve except that any Guarantor (other than Parent) may wind up, liquidate and dissolve, provided, that, each of the following conditions is satisfied, (i) the winding up, liquidation and dissolution of such Guarantor shall not violate any law or any order or decree of any court or other Governmental Authority in any material respect and shall not conflict with or result in the breach of, or constitute a default under, any indenture, mortgage, deed of trust, or any other agreement or instrument to which any Borrower or Guarantor is a party or may be bound, (ii) such winding up, liquidation or dissolution shall be done in accordance with the requirements of all applicable laws and regulations, (iii) effective upon such winding up, liquidation or dissolution, all of the assets and properties of such Guarantor shall be duly and validly transferred and assigned to a Borrower, free and clear of any liens, restrictions or encumbrances other than the security interest and liens of Agent (and Agent

shall have received such evidence thereof as Agent may reasonably require) or as permitted under Section 9.8 of this Agreement and Agent shall have received such deeds, assignments or other agreements as Agent may reasonably request to evidence and confirm the transfer of such assets of such Guarantor to a Borrower, (iv) Agent shall have received all documents and agreements that any Borrower or Guarantor has filed with any Governmental Authority or as are otherwise required to effectuate such winding up, liquidation or dissolution, (v) no Borrower or Guarantor shall assume any Indebtedness, obligations or liabilities as a result of such winding up, liquidation or dissolution, or otherwise become liable in respect of any obligations or liabilities of the entity that is winding up, liquidating or dissolving, unless such Indebtedness is otherwise expressly permitted hereunder, (vi) Agent shall have received not less than ten (10) Business Days prior written notice of the intention of such Guarantor to wind up, liquidate or dissolve, and (vii) as of the date of such winding up, liquidation or dissolution and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing; or

(d) agree to do any of the foregoing (unless such agreement has been consented to in writing by Agent and Required Lenders, or includes as a condition to the effectiveness of such agreement that Agent's and Required Lenders' consent thereto shall be obtained or that as of the consummation of the transactions contemplated thereby all of the Obligations shall be fully and finally paid and satisfied and this Agreement shall be terminated in accordance with the terms hereof).

9.8 Encumbrances. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, create, incur, assume or suffer to exist any security interest, mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever on any of its assets or properties, including the Collateral, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any security interest or lien with respect to any such assets or properties, except:

(a) the security interests and liens of Agent for itself and the benefit of the Secured Parties;

(b) liens securing the payment of taxes, assessments or other governmental charges or levies either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, or Guarantor or Subsidiary, as the case may be and with respect to which adequate reserves have been set aside on its books;

(c) non-consensual statutory liens (other than liens securing the payment of taxes) arising in the ordinary course of such Borrower's, Guarantor's or Subsidiary's business to the extent: (i) such liens secure Indebtedness which is not overdue or (ii) such liens secure Indebtedness relating to claims or liabilities which are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, Guarantor or such Subsidiary, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books;

(d) zoning restrictions, easements, licenses, covenants and other restrictions affecting the use of Real Property which do not interfere in any material respect with the use of such Real Property or ordinary conduct of the business of such Borrower, Guarantor or such Subsidiary as presently conducted thereon or materially impair the value of the Real Property which may be subject thereto;

(e) purchase money security interests or other security interests in Equipment (including Capital Leases) and purchase money mortgages or other mortgages on Real Property to secure Indebtedness permitted under Section 9.9(b) hereof so long as such security interests and mortgages do not apply to any property of any Borrower, any Guarantor or any Subsidiary other than the Equipment or Real Property so acquired (and the proceeds thereof), and the Indebtedness secured thereby does not exceed the cost of the Equipment or Real Property so acquired, constructed, remodeled or improved, as the case may be, and such security interests are granted within 180 days of the date of such acquisition or completion of construction, remodeling or improvement of such Equipment or Real Property, as the case may be;

(f) pledges and deposits of cash by any Borrower or Guarantor after the date hereof in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits consistent with the current practices of such Borrower or Guarantor as of the date hereof;

(g) pledges and deposits of cash by any Borrower or Guarantor after the date hereof to secure the performance of tenders, bids, leases, trade contracts (other than for the repayment of Indebtedness), statutory obligations and other similar obligations in each case in the ordinary course of business consistent with the current practices of such Borrower or Guarantor as of the date hereof; provided, that, in connection with any performance bonds issued by a surety or other person, the issuer of such bond shall have waived in writing any rights in or to, or other interest in, any of the Collateral in an agreement, in form and substance reasonably satisfactory to Agent;

(h) liens arising from (i) operating leases and the precautionary UCC financing statement filings in respect thereof and (ii) equipment or other materials which are not owned by any Borrower or Guarantor located on the premises of such Borrower or Guarantor (but not in connection with, or as part of, the financing thereof) from time to time in the ordinary course of business and consistent with current practices of such Borrower or Guarantor and the precautionary UCC financing statement filings in respect thereof;

(i) judgments and other similar liens arising in connection with court proceedings that do not constitute an Event of Default, provided, that, (i) such liens are being contested in good faith and by appropriate proceedings diligently pursued, (ii) adequate reserves or other appropriate provision, if any, as are required by GAAP have been made therefor, (iii) a stay of enforcement of any such liens is in effect and (iv) Agent may establish a Reserve with respect thereto;

(j) pledges and deposits of cash after the date hereof to secure obligations under appeal bonds or as otherwise required in connection with court proceedings (including, without limitation, surety bonds, security for costs of litigation where required by law and letters

of credit) or any other instruments serving a similar purpose; provided, that, (i) as of the date of the pledge and deposit of such cash, and after giving effect thereto, the aggregate amount of the Excess Availability shall be not less than \$10,000,000 and (ii) any judgment in connection with which such appeal bond or other instruments are required shall not constitute an Event of Default;

(k) liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods so long as such liens attach only to the imported goods;

(l) liens to secure Indebtedness of Borrowers and Guarantors permitted under Section 9.9(h) hereof; provided, that, (i) such liens shall only encumber the Real Property owned by Borrowers as of the date hereof, fixtures thereon, licenses, permits and other general intangibles directly related thereto, and proceeds thereof, and (ii) as of the date of incurring such liens and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing;

(m) the pledge and deposit by Borrowers of cash in favor Wells Fargo Bank, N.A. to secure Indebtedness permitted under Section 9.9(g) of this Agreement; and

(n) the security interests and liens set forth on Schedule 8.4 to the Information Certificate.

9.9 Indebtedness. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Indebtedness, or guarantee, assume, endorse, or otherwise become responsible for (directly or indirectly), the Indebtedness, performance, obligations or dividends of any other Person, except:

(a) the Obligations;

(b) Indebtedness (including Capital Leases) arising after the date hereof to the extent secured by security interests in Equipment (including Capital Leases) and mortgages on Real Property to finance the acquisition, construction, remodeling or improvement thereof not to exceed \$3,000,000 in the aggregate at any time outstanding so long as such security interests and mortgages do not apply to any property of any Borrower, any Guarantor or any Subsidiary other than the Equipment or Real Property so acquired (and the proceeds thereof), and the Indebtedness secured thereby does not exceed the cost of the Equipment or Real Property so acquired, constructed, remodeled or improved, as the case may be, and such security interests are granted within 180 days of the date of such acquisition or completion of construction, remodeling or improvement of such Equipment or Real Property, as the case may be;

(c) guarantees by any Borrower or Guarantor of the Obligations of the other Borrowers or Guarantors in favor of Agent for the benefit of Secured Parties;

(d) the Indebtedness of any Borrower or Guarantor to any other Borrower or Guarantor arising after the date hereof pursuant to loans by any Borrower or Guarantor permitted under Section 9.10(g) hereof;

(e) Indebtedness of any Borrower entered into in the ordinary course of business pursuant to a Hedge Agreement; provided, that, (i) such arrangements are not for speculative purposes, and (ii) such Indebtedness shall be unsecured, except to the extent such Indebtedness constitutes part of the Obligations arising under or pursuant to Hedge Agreements with any Lender or any Affiliate of a Lender that are secured under the terms hereof;

(f) unsecured Indebtedness of any Borrower or Guarantor arising after the date hereof to any third person (but not to any other Borrower or Guarantor), provided, that, each of the following conditions is satisfied as reasonably determined by Agent: (i) such Indebtedness shall be on terms and conditions reasonably acceptable to Agent and shall be subject and subordinate in right of payment to the right of Agent and Lenders to receive the prior indefeasible payment and satisfaction in full payment of all of the Obligations pursuant to the terms of an intercreditor agreement between Agent and such third party, in form and substance reasonably satisfactory to Agent, (ii) Agent shall have received not less than ten (10) days prior written notice of the intention of such Borrower or Guarantor to incur such Indebtedness, which notice shall set forth in reasonable detail satisfactory to Agent the amount of such Indebtedness, the person or persons to whom such Indebtedness will be owed, the interest rate, the schedule of repayments and maturity date with respect thereto and such other information as Agent may reasonably request with respect thereto, (iii) Agent shall have received true, correct and complete copies of all agreements, documents and instruments evidencing or otherwise related to such Indebtedness, (iv) except as Agent may otherwise agree in writing, all of the proceeds of the loans or other accommodations giving rise to such Indebtedness shall be paid to Agent for application to the Obligations in such order and manner as Agent may determine or at Agent's option, to be held as cash collateral for the Obligations, (v) in no event shall the person or person to whom such Indebtedness will be owed be entitled to receive any cash payments in respect of the principal amount of, or any interest payable with respect thereto, prior to the final payment in full of the Obligations (and cash collateralization of contingent obligations pursuant to the terms hereof) and termination of the Financing Agreements (other than any interest payable in kind), (1) as of the date of incurring such Indebtedness and after giving effect thereto, no Default or Event of Default shall exist or have occurred, (vi) such Borrower and Guarantor shall not, directly or indirectly, (A) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto, except, that, such Borrower or Guarantor may, after prior written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof), or to reduce the interest rate or any fees in connection therewith, or (B) redeem, retire, defease, purchase or otherwise acquire such Indebtedness (except pursuant to regularly scheduled payments permitted herein), or set aside or otherwise deposit or invest any sums for such purpose, and (vii) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(g) Indebtedness of any Borrower or Guarantor arising after the date hereof to any Person that is not an Affiliate of Borrowers and Guarantors secured by a lien on Real Property owned by Borrowers as of the date hereof, fixtures thereon, licenses, permits and other general intangibles directly related thereto and proceeds thereof; provided, that, each of the



following conditions is satisfied: (i) Agent shall have received not less than ten (10) Business Days prior written notice of the intention of such Borrower or Guarantor to incur such Indebtedness, which notice shall set forth in reasonable detail the amount of such Indebtedness, the schedule of repayments and maturity date with respect thereto and such other information as Lender may reasonably request, (ii) the aggregate outstanding principal amount of such Indebtedness shall not exceed \$2,000,000 at any time, (iii) such Indebtedness shall have a Weighted Average Life to Maturity and a final maturity equal to or greater than Indebtedness having a one hundred twenty (120) month straight line amortization with a final maturity at the end of one hundred twenty (120) months, (iv) except as Agent may otherwise agree, Agent shall have received a Collateral Access Agreement with respect to such Real Property, duly executed and delivered by the mortgagee which has a lien on any such Real Property (v) promptly upon Agent's request, Agent shall have received true, correct and complete copies of all material agreements, documents and instruments evidencing or otherwise related to such Indebtedness, and (vi) as of the date of incurring such Indebtedness and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing;

(h) unsecured guarantees by and Borrower or Guarantor in respect of leases and Capital Leases that are entered into by any Borrower's Subsidiaries in the ordinary course of business or unsecured guarantees by any Borrower in respect of obligations of any Borrower's Subsidiaries incurred in the ordinary course of business;

(i) the Indebtedness of any Borrower or Guarantor arising after the date hereof permitted under Section 9.10(g) hereof;

(j) trade debt and accrued expenses incurred in the ordinary course of business on normal trade terms and not overdue by more than ninety (90) days;

and

(k) the Indebtedness set forth on Schedule 9.9 to the Information Certificate; provided, that, (i) Borrowers and Guarantors may only make regularly scheduled payments of principal and interest in respect of such Indebtedness in accordance with the terms of the agreement or instrument evidencing or giving rise to such Indebtedness as in effect on the date hereof, (ii) Borrowers and Guarantors shall not, directly or indirectly, (A) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto as in effect on the date hereof except, that, Borrowers and Guarantors may, after prior written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof), or to reduce the interest rate or any fees in connection therewith, or (B) redeem, retire, defease, purchase or otherwise acquire such Indebtedness, or set aside or otherwise deposit or invest any sums for such purpose, and (iii) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf, promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf, concurrently with the sending thereof, as the case may be.

9.10 Loans, Investments, Etc. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, directly or indirectly, make any loans or advance money or property to any person, or invest in (by capital contribution, dividend or otherwise) or purchase or

repurchase the Capital Stock or Indebtedness or all or a substantial part of the assets or property of any person, or form or acquire any Subsidiaries, or agree to do any of the foregoing, except:

(a) the endorsement of instruments for collection or deposit in the ordinary course of business;

(b) investments in cash or Cash Equivalents, provided, that, the terms and conditions of Section 5.2 hereof shall have been satisfied with respect to the deposit account, investment account or other account in which such cash or Cash Equivalents are held;

(c) the existing equity investments of each Borrower and Guarantor as of the date hereof in its Subsidiaries, provided, that, no Borrower or Guarantor shall have any further obligations or liabilities to make any capital contributions or other additional investments or other payments to or in or for the benefit of any of such Subsidiaries;

(d) loans and advances by any Borrower or Guarantor to employees of such Borrower or Guarantor not to exceed the principal amount of \$1,000,000 in the aggregate at any time outstanding for: (i) reasonably and necessary work-related travel or other ordinary business expenses to be incurred by such employee in connection with their work for such Borrower or Guarantor and (ii) reasonable and necessary relocation expenses of such employees (including home mortgage financing for relocated employees);

(e) stock or obligations issued to any Borrower or Guarantor by any Person (or the representative of such Person) in respect of Indebtedness of such Person owing to such Borrower or Guarantor in connection with the insolvency, bankruptcy, receivership or reorganization of such Person or a composition or readjustment of the debts of such Person; provided, that, the original of any such stock or instrument evidencing such obligations shall be promptly delivered to Agent, upon Agent's request, together with such stock power, assignment or endorsement by such Borrower or Guarantor as Agent may request;

(f) obligations of account debtors to any Borrower or Guarantor arising from Accounts which are past due evidenced by a promissory note made by such account debtor payable to such Borrower or Guarantor; provided, that, promptly upon the receipt of the original of any such promissory note by such Borrower or Guarantor, such promissory note shall be endorsed to the order of Agent by such Borrower or Guarantor and promptly delivered to Agent as so endorsed;

(g) loans by a Borrower or Guarantor to another Borrower or Guarantor after the date hereof, provided, that,

(i) as to all of such loans, (A) within thirty (30) days after the end of each fiscal month, Borrowers shall provide to Agent a report in form and substance reasonably satisfactory to Agent of the outstanding amount of such loans as of the last day of the immediately preceding month and indicating any loans made and payments received during the immediately preceding month, (B) the Indebtedness arising pursuant to any such loan shall not be evidenced by a promissory note or other instrument, unless the single original of such note or other instrument is promptly delivered to Agent upon its request to hold as part of the Collateral, with such endorsement and/or assignment by the payee of such note or other instrument as Agent

may require, (C) as of the date of any such loan and after giving effect thereto, the Borrower or Guarantor making such loan shall be Solvent, and (D) as of the date of any such loan and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, and

(ii) as to loans by a Guarantor to a Borrower, (A) the Indebtedness arising pursuant to such loan shall be subject to, and subordinate in right of payment to, the right of Agent and Lenders to receive the prior final payment and satisfaction in full of all of the Obligations on terms and conditions acceptable to Agent, (B) promptly upon Agent's request, Agent shall have received a subordination agreement, in form and substance satisfactory to Agent, providing for the terms of the subordination in right of payment of such Indebtedness of such Borrower to the prior final payment and satisfaction in full of all of the Obligations, duly authorized, executed and delivered by such Guarantor and such Borrower, and (C) such Borrower shall not, directly or indirectly make, or be required to make, any payments in respect of such Indebtedness prior to the end of the then current term of this Agreement;

(h) the purchase by a Borrower or Guarantor after the date hereof of all or any portion of the Option Property (as such term is defined in the Option Agreement), provided, that:

(i) the aggregate consideration paid for or in connection with the Option Property shall not exceed \$1,000,000,

(ii) no Default or Event of Default shall exist or have occurred as of the date of such purchase and after giving effect to such purchase,

(iii) Excess Availability shall have been not less than \$12,500,000 for the two consecutive month period immediately prior to the date of any such purchase and not less than \$12,500,000 immediately before and after giving effect to all payments in connection with such purchase, and

(iv) Agent shall have received true, correct and complete copies of all agreements, documents and instruments relating to such purchase, which documents shall be reasonably satisfactory to Agent;

(i) the purchase by a Borrower or Guarantor after the date hereof of all or substantially all of the assets of any Person or a business or division of such Person (whether pursuant to a merger or other transaction) or of all or a majority of the Capital Stock (such assets or Person being referred to herein as the "Acquired Business") and in one or a series of transaction that satisfies each of the following conditions as determined by Agent:

(i) Agent shall have received not less than ten (10) Business Days' prior written notice of the proposed acquisition and such information with respect thereto as Lender may reasonably request, including (A) the proposed date and amount of the acquisition, (B) a list and description of the assets or shares to be acquired, (C) the total purchase price for the assets or shares to be purchased (and the terms of payment of such purchase price), (D) a

summary of the due diligence undertaken by Borrowers in connection with such acquisition, and (E) financial statements of the Acquired Business reasonably satisfactory to Agent,

(ii) the Acquired Business shall be an operating company that engages in a line of business substantially similar to a business that Borrowers are engaged in on date hereof,

(iii) the aggregate consideration paid for or in connection with all acquisitions under this clause (i) shall not exceed \$5,500,000 during the term of this Agreement,

(iv) Agent shall have received: (A) the most recent annual and interim financial statements with respect to the Acquired Business and related statements of income and cash flows showing positive cash flows for the immediately preceding fiscal year of such Acquired Business, (B) detailed forecasts of cash flows for the Acquired Business forecasting positive future cash flows, (C) detailed projections for Parent and its Subsidiaries through the Maturity Date giving pro forma effect to such acquisition, based on assumptions reasonably satisfactory to Agent and demonstrating pro forma compliance with all financial covenants set forth in this Agreement, prepared in good faith and in a manner and using such methodology as is consistent with the most recent financial statements delivered to Agent pursuant to Section 9.6(a)(i) and in form and substance reasonably satisfactory to Agent and (D) current, updated projections of the amount of the Borrowing Base and Excess Availability for the twelve (12) month period after the date of such acquisition, in a form reasonably satisfactory to Agent, representing Borrowers' reasonable best estimate of the future Borrowing Base and Excess Availability for the period set forth therein as of the date not more than ten (10) days prior to the date of such acquisition, which projections shall have been prepared on the basis of the assumptions set forth therein which Borrowers believe are fair and reasonable as of the date of preparation in light of current and reasonably foreseeable business conditions and which projections shall show amounts of Excess Availability reasonably satisfactory to Agent,

(v) if Agent so elects, Agent shall have received an appraisal of the inventory of the Acquired Business and such other assets of the Acquired Business as Agent may specify, in each case in form and containing assumptions and appraisal methods satisfactory to Agent by an appraiser reasonably acceptable to Lender, on which Agent is expressly permitted to rely,

(vi) if Agent so elects, Agent shall have completed a field examination with respect to the business and assets of the Acquired Business in accordance with Agent's customary procedures and practices and as otherwise reasonably required by the nature and circumstances of the business of the Acquired Business, the scope and results of which shall be reasonably satisfactory to Agent and any accounts and inventory of the Acquired Business shall only be Eligible Accounts and Eligible Inventory, respectively, to the extent Agent has completed such field examination with respect thereto and the criteria for Eligible Accounts and Eligible Inventory set forth herein are satisfied with respect thereto in accordance with this Agreement (or such other or additional criteria as Agent may, at its option, reasonably establish with respect thereto in accordance with this Agreement and subject to such Reserves as Agent may reasonably establish in connection with the Acquired Business),

(vii) in the case of the acquisition of Capital Stock of any Person or the formation of any Subsidiary in connection with such acquisition, (A) the Borrower or Guarantor forming such Subsidiary shall, except as Agent may otherwise agree, (1) execute and deliver to Lender, a pledge and security agreement, in form and substance reasonably satisfactory to Agent, granting to Agent a first pledge of and lien on all of the issued and outstanding shares of Capital Stock of any such Subsidiary, (2) deliver the original stock certificates evidencing such shares of Capital Stock (or such other evidence as may be issued in the case of a limited liability company), together with stock powers with respect thereto duly executed in blank (or the equivalent thereof in the case of a limited liability company in which such interests are certificated, or otherwise take such actions as Agent shall reasonably require with respect to Agent's security interests therein) and (B) as to any such Subsidiary, except as Agent may otherwise agree, the Borrower or Guarantor forming such Subsidiary shall cause any such Subsidiary to execute and deliver to Agent, the following (each in form and substance reasonably satisfactory to Agent), (1) an absolute and unconditional guarantee of payment of the Obligations, (2) a security agreement granting to Agent a first security interest and lien (except as otherwise consented to in writing by Agent) upon all of the assets of any such Subsidiary, and (3) such other agreements, documents and instruments as Agent may reasonably require in connection with the documents referred to above in order to make such Subsidiary a party to this Agreement as a "Borrower" or as a "Guarantor" as Agent may determine, including, but not limited to, supplements and amendments hereto, authorization to file UCC financing statements, Collateral Access Agreements and other consents, waivers, acknowledgments and other agreements from third persons which Agent may reasonably deem necessary or desirable in order to permit, protect and perfect its security interests in and liens upon the assets purchased, corporate resolutions and other organization and authorizing documents of such Person, and favorable opinions of counsel to such Person,

(viii) in the case of an acquisition of assets (other than Capital Stock), Agent shall have received, in form and substance reasonably satisfactory to Agent, (A) evidence that Agent has valid and perfected security interests in and liens upon all purchased assets to the extent such assets constitute Collateral hereunder, (B) such other agreements, documents and instruments as Agent may reasonably require in connection with such assets, including, but not limited to, supplements and amendments hereto, authorization to file UCC financing statements, Collateral Access Agreements and other consents, waivers, acknowledgments and other agreements from third persons which Agent may reasonably deem necessary or desirable in order to permit, protect and perfect its security interests in and liens upon the assets purchased, corporate resolutions and other organization and authorizing documents of such Person, and favorable opinions of counsel to such Person, and (C) the agreement of the seller consenting to the collateral assignment by the Borrower purchasing such assets of all rights and remedies and claims for damages of such Borrower relating to the Collateral (including, without limitation, any bulk sales indemnification) under the agreements, documents and instruments relating to such acquisition,

(ix) in the case of the acquisition of the Capital Stock of another Person, the board of directors (or other comparable governing body) of such other Person shall have duly approved such acquisition and such Person shall not have announced that it will oppose such acquisition or shall not have commenced any action which alleges that such acquisition will violate applicable law,

(x) Agent shall have received a Compliance Certificate completed on a pro forma basis giving effect to the acquisition and showing that Borrowers and Guarantors are in compliance with all of the covenants set forth in Section 9 notwithstanding the amount of the Excess Availability,

(xi) no Default or Event of Default shall exist or have occurred as of the date of the acquisition or any payment in respect thereof and after giving effect to the acquisition or such payment,

(xii) Excess Availability shall have been not less than \$12,500,000 for the two consecutive month period immediately prior to the date of any such acquisition and not less than \$17,500,000 immediately before and after giving effect to all payments in connection with such acquisition, and

(xiii) Agent shall have received true, correct and complete copies of all agreements, documents and instruments relating to such acquisition, which documents shall be reasonably satisfactory to Agent;

(j) credit and advances, including marketing incentives, trade promotions and similar incentives and promotions provided by Borrowers to customers of Borrowers in the ordinary course of business and consistent with the current practices of such Borrower as of the date hereof; and

(k) the loans and advances set forth on Schedule 9.10 to the Information Certificate; provided, that, as to such loans and advances, (i) Borrowers and Guarantors shall not, directly or indirectly, amend, modify, alter or change the terms of such loans and advances or any agreement, document or instrument related thereto and (ii) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such loans and advances either received by any Borrower or Guarantor or on its behalf, promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf, concurrently with the sending thereof, as the case may be.

9.11 Dividends and Redemptions. Each Borrower and Guarantor shall not, directly or indirectly, declare or pay any dividends on account of any shares of class of any Capital Stock of such Borrower or Guarantor now or hereafter outstanding, or set aside or otherwise deposit or invest any sums for such purpose, or redeem, retire, defease, purchase or otherwise acquire any shares of any class of Capital Stock (or set aside or otherwise deposit or invest any sums for such purpose) for any consideration or apply or set apart any sum, or make any other distribution (by reduction of capital or otherwise) in respect of any such shares or agree to do any of the foregoing, except that:

(a) any Borrower or Guarantor may declare and pay such dividends or redeem, retire, defease, purchase or otherwise acquire any shares of any class of Capital Stock for consideration in the form of shares of common stock (so long as after giving effect thereto no Change of Control or other Default or Event of Default shall exist or have occurred and be continuing);

(b) Borrowers and Guarantors may pay dividends to the extent permitted in Section 9.12 below;

(c) any Subsidiary of a Borrower or Guarantor may pay dividends to a Borrower;

(d) Parent may repurchase Capital Stock for the purpose of funding required distribution obligations of Parent to employees pursuant to any employee stock ownership plan of Parent upon the termination, retirement, death of any such employee or diversification distribution pursuant to and in accordance with the ESOP as in effect on the date of this Agreement and Section 410(28) of the Code, in accordance with the provisions of such plan, provided, that, as to any such repurchase, each of the following conditions is satisfied: (i) such repurchase shall be paid with funds legally available therefor, (ii) such repurchase shall not violate any law or regulation or the terms of any indenture, agreement or undertaking to which any Borrower or Guarantor is a party or by which any Borrower or Guarantor or its or their property are bound, (iii) Excess Availability shall be not less than \$12,500,000 as of the date of the payment and after giving effect to such payment, and (iv) Parent shall deliver to Agent a certificate from an authorized officer of Parent certifying that as of the date of the payment for such repurchase and after giving effect thereto, Borrowers and Guarantors are and will be in compliance with all representations, warranties and covenants as set forth in this Agreement;

(e) Farmer may pay dividends and pay other distributions in respect of Capital Stock of Farmer, provided, that, (i) Administrative Borrower shall have provided to Agent not less than ten (10) Business Days' prior written notice of the intention of Farmer to pay such dividends or other distributions (specifying the amount to be paid by Farmer), (ii) immediately after giving effect to any such payment or distribution, Excess Availability shall be not less than \$10,000,000 and Total Liquidity shall be not less than \$20,000,000, (iii) Agent shall have received, not more than twenty (20) Business Days prior to such payment and not less than five (5) Business Days prior to such payment, current, updated projections of the amount of the Borrowing Base and Excess Availability for the one month period after the date of any payment in respect of such dividends, other distributions, in a form reasonably satisfactory to Agent, representing Borrowers' reasonable best estimate of the future Borrowing Base and Excess Availability for the period set forth therein as of the date not more than ten (10) days prior to the date of the payment in respect of such dividend or other distributions, which projections shall have been prepared on the basis of the assumptions set forth therein which Borrowers believe are fair and reasonable as of the date of preparation in light of current and reasonably foreseeable business conditions, (iv) the amount of the Excess Availability as set forth in the projections delivered pursuant to clause (iii) above for such one month period shall be not less than \$12,500,000, (v) the aggregate amount of all such payments in any fiscal year shall not exceed \$7,000,000, (vi) the aggregate amount of all such payments in any fiscal quarter shall not exceed \$1,750,000 and (vii) as of the date of any such payment and after giving effect thereto, no Default or Event of Default exists or has occurred and is continuing; and

(f) Parent may make distributions or pay dividends to the ESOT in connection with the ESOP in the amounts of regularly scheduled payments to be made thereunder, in accordance with the terms thereof in effect on the date hereof; provided, that, as to

any such distribution or dividend, all proceeds received by the ESOT are used by the ESOT to repay the ESOP Indebtedness.

9.12 Transactions with Affiliates. Each Borrower and Guarantor shall not, directly or indirectly:

(a) purchase, acquire or lease any property from, or sell, transfer or lease any property to, any officer, director or other Affiliate of such Borrower or Guarantor, except:

(i) in the ordinary course of and pursuant to the reasonable requirements of such Borrower's or Guarantor's business (as the case may be) and upon fair and reasonable terms no less favorable to such Borrower or Guarantor than such Borrower or Guarantor would obtain in a comparable arm's length transaction with an unaffiliated person;

(ii) as permitted under Section 9.11(d) hereof; and

(iii) pursuant to the performance by any Borrower of its obligations under the terms of any stockholders agreement (including any rights agreement related thereto) to which it is a party as of the date hereof and any similar agreement which such Borrower may enter into hereafter; provided, that, the existence of, or the performance by such Borrower of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the date hereof will only be permitted by this clause (iii) to the extent that the terms of any such amendment or new agreement, taken as a whole, are not materially disadvantageous to the Agent and Lenders; or

(b) make any payments (whether by dividend, loan or otherwise) of management, consulting or other fees for management or similar services, or of any Indebtedness owing to any officer, employee, director or any other Affiliate of such Borrower or Guarantor, except (i) reasonable compensation to officers, employees, directors and consultants for services rendered to such Borrower or Guarantor in the ordinary course of business, and (ii) payments by any such Borrower or Guarantor to Parent for actual and necessary reasonable out-of-pocket legal and accounting, insurance, marketing, payroll and similar types of services paid for by Parent on behalf of such Borrower or Guarantor, in the ordinary course of their respective businesses or as the same may be directly attributable to such Borrower or Guarantor and for the payment of taxes by or on behalf of Parent.

9.13 Compliance with ERISA. Each Borrower and Guarantor shall, and shall cause each of its ERISA Affiliates to: (i) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal and State law; (ii) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; (iii) not terminate any Pension Plan so as to incur any material liability to the Pension Benefit Guaranty Corporation; (iv) not allow or suffer to exist any prohibited transaction involving any Plan or any trust created thereunder which would subject such Borrower, Guarantor or such ERISA Affiliate to a material tax or other material liability on prohibited transactions imposed under Section 4975 of the Code or ERISA; (v) make all required contributions to any Plan which it is obligated to pay under Section 302 or 303 of ERISA, Section 412 or 430 of the Code or the terms of such Plan; (vi) not allow or suffer to exist any accumulated funding deficiency, whether or not



waived, with respect to any such Pension Plan; (vii) not engage in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; or (viii) not allow or suffer to exist any occurrence of a reportable event or any other event or condition which presents a material risk of termination by the Pension Benefit Guaranty Corporation of any Plan that is a single employer plan, which termination could result in any material liability of any Borrower or Guarantor to the Pension Benefit Guaranty Corporation.

(b) Promptly upon each determination of the amount of the contributions or other payments required to be made for any calendar year by any Borrower or Guarantor in respect of any underfunded Pension Plan in order to eliminate or reduce the funding deficiency and prior to any Borrower or Guarantor making any contribution or other payment in respect of such calendar year, Administrative Borrower shall notify Agent of such determination and provide such information with respect thereto as Agent may reasonably request. Agent may, at its option, establish a Reserve equal to the aggregate amount of any payments required to be made by any Borrower or Guarantor in respect of any Pension Plan to the extent not made when due and then outstanding. The amount required to be so contributed or paid in respect of the rehabilitation of underfunded Pension Plans during fiscal year 2012 is approximately \$7,491,251 in the aggregate. The payment of such amount is required to be made no later than June 30, 2012. On any date that the amount required to be so contributed or paid is less than the amount of such Reserve, the amount of the Reserve shall be reduced to the amount required to be so contributed or paid, provided, that, no Default or Event of Default shall exist or have occurred and be continuing and on any date that the amount required to be so contributed or paid is greater than the amount of such Reserve, the amount of such Reserve may be increased to such amount.

9.14 End of Fiscal Years; Fiscal Quarters. Each Borrower and Guarantor shall, for financial reporting purposes, cause its, and each of its Subsidiaries' (a) fiscal years to end on June 30 of each year and (b) fiscal quarters to end on September 30, December 31 and March 31 of each year.

9.15 Change in Business. Each Borrower and Guarantor shall not engage in any business other than the business of such Borrower or Guarantor on the date hereof and any business reasonably related, ancillary or complementary to the business in which such Borrower or Guarantor is engaged on the date hereof.

9.16 Limitation of Restrictions Affecting Subsidiaries. Each Borrower and Guarantor shall not, directly, or indirectly, create or otherwise cause or suffer to exist any encumbrance or restriction which prohibits or limits the ability of any Subsidiary of such Borrower or Guarantor to (a) pay dividends or make other distributions or pay any Indebtedness owed to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor; (b) make loans or advances to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (c) transfer any of its properties or assets to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor; or (d) create, incur, assume or suffer to exist any lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than encumbrances and restrictions arising under (i) applicable law, (ii) this Agreement, (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (iv) customary restrictions on

dispositions of real property interests found in reciprocal easement agreements of such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (v) any agreement relating to permitted Indebtedness incurred by a Subsidiary of such Borrower or Guarantor prior to the date on which such Subsidiary was acquired by such Borrower or such Guarantor and outstanding on such acquisition date, and (vi) the extension or continuation of contractual obligations in existence on the date hereof; provided, that, any such encumbrances or restrictions contained in such extension or continuation are no less favorable to Agent and Lenders than those encumbrances and restrictions under or pursuant to the contractual obligations so extended or continued.

9.17 Capital Expenditures. Borrowers and Guarantors shall not, and shall not permit any of their Subsidiaries to, make Capital Expenditures (calculated on a consolidated basis for Borrowers, Guarantors and their Subsidiaries) during any fiscal year in an aggregate amount in excess of \$25,000,000.

9.18 Minimum Excess Availability; Minimum Total Liquidity. Borrowers shall at all times maintain (a) Excess Availability of not less than \$10,000,000 and (b) Total Liquidity of not less than \$20,000,000.

9.19 [Reserved]

9.20 [Reserved]

9.21 ESOP/ESOT; ESOP Loan Documents.

(a) The ESOP and ESOT shall continue to be administered, operated and maintained as a qualified plan and trust under all applicable sections of the Code and ERISA, including (i) continuing the qualification of the ESOP and the ESOT under Section 401(a) of the Code, (ii) causing the ESOT to maintain its tax-exempt status under Section 501(a) of the Code, and (iii) causing the ESOP to maintain its status as an “employee stock ownership plan” within the meaning of Section 4975(e)(7) of the Code.

(b) Parent shall from time to time furnish to Agent satisfactory evidence of its contributions to the ESOT in an amount which, together with all cash held by the ESOT that is legally available to make regularly scheduled payments under the ESOP Loan Agreement on the date any payment is due thereunder, is sufficient to pay when due all amounts payable by the ESOT to Parent under the ESOP Loan Agreement as in effect on the date hereof.

(c) Parent shall from time to time furnish to Agent satisfactory evidence of its contributions to the ESOT in an amount which is sufficient to pay when due all amounts so payable by the ESOT to Parent thereunder.

(d) Parent shall deliver to Agent when obtained (i) a copy of any repurchase liability study or similar report prepared by a valuation firm, actuarial firm or other similar Person projecting the obligations of Parent (A) to repurchase Capital Stock or other interests in the ESOP from participants in the ESOP and (B) to satisfy its diversification obligations under the Code; and (ii) at the time that any such study is prepared or established, evidence of Parent’s

proposed plan with respect to funding and otherwise satisfying its repurchase and diversification obligations.

#### 9.22 Preferred Stock Portfolio.

(a) Borrowers and Guarantors shall not (i) close the Specified Investment Account or (ii) dispose of the investment property within the Specified Investment Account other than in accordance with Section 9.7(b)(vi) of this Agreement, in each case without the prior written consent of Agent.

(b) Borrowers and Guarantors shall not deposit or maintain the proceeds of any Loans or any proceeds from the sale or other disposition of any Collateral in the Specified Investment Account.

(c) Borrowers and Guarantors shall not use the proceeds of any Loans or the proceeds from the sale or other disposition of Collateral to purchase or otherwise acquire any investment property to be held in the Specified Investment Account.

(d) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such the Specified Investment Account either received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be.

(e) Each Borrower and Guarantor hereby irrevocably authorizes and directs the intermediary in respect of the Specified Investment Account to deliver to Agent, at Borrowers' expense, copies of the account statements sent by such intermediary to any Borrower or Guarantor or on its behalf.

#### 9.23 License Agreements.

(a) Each Borrower and Guarantor shall (i) promptly and faithfully observe and perform all of the material terms, covenants, conditions and provisions of the material License Agreements to which it is a party to be observed and performed by it, at the times set forth therein, if any, (ii) not do, permit, suffer or refrain from doing anything that could reasonably be expected to result in a default under or breach of any of the terms of any material License Agreement, (iii) not cancel, surrender, modify, amend, waive or release any material License Agreement in any material respect or any term, provision or right of the licensee thereunder in any material respect, or consent to or permit to occur any of the foregoing; except, that, subject to Section 9.23(b) below, such Borrower or Guarantor may cancel, surrender or release any material License Agreement in the ordinary course of the business of such Borrower or Guarantor; provided, that, such Borrower or Guarantor (as the case may be) shall give Agent not less than thirty (30) days prior written notice of its intention to so cancel, surrender and release any such material License Agreement, (iv) give Agent prompt written notice of any material License Agreement entered into by such Borrower or Guarantor after the date hereof, together with a true, correct and complete copy thereof and such other information with respect thereto as Agent may request, (v) give Agent prompt written notice of any material breach of any obligation, or any default, by any party under any material License Agreement, and deliver to Agent (promptly upon the receipt thereof by such Borrower or Guarantor in the case of a notice

to such Borrower or Guarantor and concurrently with the sending thereof in the case of a notice from such Borrower or Guarantor) a copy of each notice of default and every other notice and other communication received or delivered by such Borrower or Guarantor in connection with any material License Agreement which relates to the right of such Borrower or Guarantor to continue to use the property subject to such License Agreement, and (vi) furnish to Agent, promptly upon the request of Agent, such information and evidence as Agent may reasonably require from time to time concerning the observance, performance and compliance by such Borrower or Guarantor or the other party or parties thereto with the material terms, covenants or provisions of any material License Agreement.

(b) Each Borrower and Guarantor will either exercise any option to renew or extend the term of each material License Agreement to which it is a party in such manner as will cause the term of such material License Agreement to be effectively renewed or extended for the period provided by such option and give prompt written notice thereof to Agent or give Agent prior written notice that such Borrower or Guarantor does not intend to renew or extend the term of any such material License Agreement or that the term thereof shall otherwise be expiring, not less than sixty (60) days prior to the date of any such non-renewal or expiration. In the event of the failure of such Borrower or Guarantor to extend or renew any material License Agreement to which it is a party, Agent shall have, and is hereby granted, the irrevocable right and authority, at its option, to renew or extend the term of such material License Agreement, whether in its own name and behalf, or in the name and behalf of a designee or nominee of Agent or in the name and behalf of such Borrower or Guarantor, as Agent shall determine at any time that an Event of Default shall exist or have occurred and be continuing. Agent may, but shall not be required to, perform any or all of such obligations of such Borrower or Guarantor under any of the License Agreements, including, but not limited to, the payment of any or all sums due from such Borrower or Guarantor thereunder. Any sums so paid by Agent shall constitute part of the Obligations.

9.24 Foreign Assets Control Regulations, Etc. None of the requesting or borrowing of the Loans or the requesting or issuance, extension or renewal of any Letters of Credit or the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 U.S.C. §1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (including, but not limited to (a) Executive order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56). No Borrower nor any of their respective Subsidiaries or other Affiliates is or will become a "Sanctioned Entity" or "Sanctioned Person" as described in the Executive Order, the Trading with the Enemy Act or the Foreign Assets Control Regulations or engages or will engage in any dealings or transactions, or be otherwise associated, with any such "Sanctioned Entity" or "Sanctioned Person".

9.25 After Acquired Real Property. If any Borrower or Guarantor hereafter acquires any Real Property, fixtures or any other property (other than any Real Property acquired pursuant to the Option Agreement, as in effect on the date hereof and any improvements or additions of

fixtures or other property to Excluded Property) and such Real Property, fixtures or other property at any location (or series of adjacent, contiguous or related locations, and regardless of the number of parcels) has a fair market value in an amount equal to or greater than \$500,000 (or if a Default or Event of Default exists or shall have occurred and be continuing, then regardless of the fair market value of such assets), without limiting any other rights of Agent or any Lender, or duties or obligations of any Borrower or Guarantor, promptly upon Agent's request, such Borrower or Guarantor shall execute and deliver to Agent a mortgage, deed of trust or deed to secure debt, as Agent may determine, in form and substance reasonably satisfactory to Agent and in form appropriate for recording in the real estate records of the jurisdiction in which such Real Property or other property is located granting to Agent a first and only lien and mortgage on and security interest in such Real Property, fixtures or other property (except for and subject to encumbrances that such Borrower or Guarantor would otherwise be permitted to incur hereunder or as otherwise consented to in writing by Agent) and such other agreements, documents and instruments as Agent may require in connection therewith.

9.26 Costs and Expenses. Borrowers and Guarantors shall pay to Agent on demand all reasonable costs, expenses, filing fees and taxes paid or payable in connection with the preparation, negotiation, execution, delivery, recording, syndication, administration, collection, liquidation, enforcement and defense of the Obligations, Agent's rights in the Collateral, this Agreement, the other Financing Agreements and all other documents related hereto or thereto, including any amendments, supplements or consents which may hereafter be contemplated (whether or not executed) or entered into in respect hereof and thereof, including: (a) all reasonable costs and expenses of filing or recording (including Uniform Commercial Code financing statement filing taxes and fees, documentary taxes, intangibles taxes and mortgage recording taxes and fees, if applicable); (b) reasonable costs and expenses and fees for insurance premiums, environmental audits, title insurance premiums, surveys, assessments, engineering reports and inspections, appraisal fees and search fees, background checks, costs and expenses of remitting loan proceeds, collecting checks and other items of payment, and establishing and maintaining the Concentration Accounts, together with Agent's reasonable and customary charges and fees with respect thereto; (c) reasonable charges, fees or expenses charged by any Issuing Bank in connection with any Letter of Credit; (d) reasonable costs and expenses of preserving and protecting the Collateral; (e) costs and expenses paid or incurred in connection with obtaining payment of the Obligations, enforcing the security interests and liens of Agent, selling or otherwise realizing upon the Collateral, and otherwise enforcing the provisions of this Agreement and the other Financing Agreements or defending any claims made or threatened against Agent or any Lender arising out of the transactions contemplated hereby and thereby (including preparations for and consultations concerning any such matters); (f) all reasonable out-of-pocket expenses and costs heretofore and from time to time hereafter incurred by Agent during the course of periodic field examinations of the Collateral and such Borrower's or Guarantor's operations, plus a per diem charge at Agent's then standard rate for Agent's examiners in the field and office (which rate as of the date hereof is \$1,000 per person per day); and (g) the reasonable fees and disbursements of counsel (including legal assistants) to Agent in connection with any of the foregoing.

9.27 Inactive Subsidiaries.

(a) Except as otherwise provided in Section 9.27(b) below, Borrowers and Guarantors will not permit the Inactive Subsidiary to (i) engage in any business or conduct any operations, (ii) own assets with a book value of more than \$100,000 in the aggregate or (iii) incur any obligations or liabilities in respect of any Indebtedness or otherwise.

(b) In the event that a Borrower or Guarantor intends to have the Inactive Subsidiary commence any business or operations or own assets with a book value of more than \$100,000 in the aggregate or incur any obligations or liabilities in respect of any Indebtedness or otherwise, (i) Borrowers and Guarantors shall give Agent not less than ten (10) days' prior written notice thereof with reasonable detail and specificity and such other information with respect thereto as Agent may request and (ii) at any time thereafter, promptly upon the request of Agent, Borrowers and Guarantors shall cause Inactive Subsidiary to execute and deliver to Agent, in form and substance satisfactory to Agent, a joinder agreement to the Financing Agreements in order to, among other things, make the Inactive Subsidiary a party to this Agreement as a "Guarantor" and a party to any guarantee as a "Guarantor" or pledge agreement as a "Pledgor", and including, but not limited to, supplements and amendments hereto and to any of the other Financing Agreements, authorization to file UCC financing statements, Collateral Access Agreements (to the extent required under Section 9.2 hereof), other agreements, documents or instruments contemplated under Section 5.3 hereof and other consents, waivers, acknowledgments and other agreements from third persons which Agent may deem reasonably necessary or desirable in order to permit, protect and perfect its security interests in and liens upon the assets of the Inactive Subsidiary, corporate resolutions and other organization and authorizing documents of such Person, and favorable opinions of counsel to such person and (iii) upon the satisfaction of each of the conditions set forth in this Section 9.27(b), the Inactive Subsidiary shall cease to be deemed an Inactive Subsidiary for purposes of this Agreement.

9.28 Further Assurances. At the request of Agent at any time and from time to time, Borrowers and Guarantors shall, at their expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be necessary or proper to evidence, perfect, maintain and enforce the security interests and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of this Agreement or any of the other Financing Agreements. Agent may at any time and from time to time request a certificate from an officer of any Borrower or Guarantor representing that all conditions precedent to the making of Loans and providing Letters of Credit contained herein are satisfied. In the event of such request by Agent, Agent and Lenders may, at Agent's option, cease to make any further Loans or provide any further Letters of Credit until Agent has received such certificate and, in addition, Agent has determined that such conditions are satisfied.

## **SECTION 10. EVENTS OF DEFAULT AND REMEDIES**

10.1 Events of Default. The occurrence or existence of any one or more of the following events are referred to herein individually as an "Event of Default", and collectively as "Events of Default":

(a) (i) any Borrower fails to pay any of the Obligations when due or (ii) any Borrower or Guarantor fails to perform any of the covenants contained in Sections 9.3, 9.4, 9.13,

9.14, 9.15, and 9.16 of this Agreement and such failure shall continue for ten (10) days; provided, that, such ten (10) day period shall not apply in the case of: (A) any failure to observe any such covenant which is not capable of being cured at all or within such ten (10) day period or which has been the subject of a prior failure within a six (6) month period or (B) an intentional breach by any Borrower or Guarantor of any such covenant or (iii) any Borrower or Guarantor fails to perform any of the terms, covenants, conditions or provisions contained in this Agreement or any of the other Financing Agreements other than those described in Sections 10.1(a)(i) and 10.1(a)(ii) above;

(b) any representation, warranty or statement of fact made by any Borrower or Guarantor to Agent in this Agreement, the other Financing Agreements or any other written agreement, schedule, confirmatory assignment or otherwise shall when made or deemed made be false or misleading in any material respect;

(c) any Guarantor revokes or terminates or purports to revoke or terminate or fails to perform any of the terms, covenants, conditions or provisions of any guarantee, endorsement or other agreement of such party in favor of Agent or any Lender;

(d) one or more judgments for the payment of money are rendered against any Borrower or Guarantor in excess of \$250,000 in the aggregate (to the extent not covered by insurance where the insurer has assumed responsibility in writing for such judgment) and shall remain undischarged or unvacated for a period in excess of thirty (30) days or execution shall at any time not be effectively stayed, or any judgment other than for the payment of money, or injunction, attachment, garnishment or execution is rendered against any Borrower or Guarantor or any of the Collateral having a value in excess of \$250,000;

(e) any Guarantor (being a natural person or a general partner of an Guarantor which is a partnership) dies or any Borrower or Guarantor, which is a partnership, limited liability company, limited liability partnership or a corporation, dissolves or suspends or discontinues doing business;

(f) any Borrower or Guarantor makes an assignment for the benefit of creditors, makes or sends notice of a bulk transfer or calls a meeting of its creditors or principal creditors in connection with a moratorium or adjustment of the Indebtedness due to them;

(g) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction now or hereafter in effect (whether at law or in equity) is filed against any Borrower or Guarantor or all or any part of its properties and such petition or application is not dismissed within thirty (30) days after the date of its filing or any Borrower or Guarantor shall file any answer admitting or not contesting such petition or application or indicates its consent to, acquiescence in or approval of, any such action or proceeding or the relief requested is granted sooner;

(h) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction now or hereafter

in effect (whether at a law or equity) is filed by any Borrower or Guarantor or for all or any part of its property;

(i) any default in respect of any Indebtedness of any Borrower or Guarantor (other than Indebtedness owing to Agent and Lenders hereunder) or of the ESOT to any Person, in any case in an amount in excess of \$250,000, including , under the ESOP Documents, which default continues for more than the applicable cure period, if any, with respect thereto or any default by any Borrower or Guarantor under any Material Contract, which default continues for more than the applicable cure period, if any, with respect thereto and/or is not waived in writing by the other parties thereto;

(j) any material provision hereof or of any of the other Financing Agreements shall for any reason cease to be valid, binding and enforceable with respect to any party hereto or thereto (other than Agent) in accordance with its terms, or any such party shall challenge the enforceability hereof or thereof, or shall assert in writing, or take any action or fail to take any action based on the assertion that any provision hereof or of any of the other Financing Agreements has ceased to be or is otherwise not valid, binding or enforceable in accordance with its terms, or any security interest provided for herein or in any of the other Financing Agreements shall cease to be a valid and perfected first priority security interest in any of the Collateral purported to be subject thereto (except as otherwise permitted herein or therein);

(k) an ERISA Event shall occur which results in or could reasonably be expected to result in liability of any Borrower in an aggregate amount in excess of \$500,000;

(l) any Change of Control;

(m) the indictment by any Governmental Authority, or as Agent may reasonably and in good faith determine, the threatened indictment by any Governmental Authority of any Borrower or Guarantor of which any Borrower, Guarantor or Agent receives notice, in either case, as to which there is a reasonable possibility of an adverse determination, in the good faith determination of Agent, under any criminal statute, or commencement or threatened commencement of criminal or civil proceedings against such Borrower or Guarantor, pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture of (i) any of the Collateral having a value in excess of \$250,000 or (ii) any other property of any Borrower or Guarantor which is necessary or material to the conduct of its business;

(n) there shall occur any other event, development or condition that would constitute or have a Material Adverse Effect;

(o) [Reserved];

(p) the ESOT fails to be duly qualified under Section 401(a) of the Code or exempt from federal income taxation under Section 501(a) of the Code; or the ESOP shall engage in a non-exempt prohibited transaction which has reasonably been expected to result in liability to Parent in excess of \$250,000; or



(q) there shall be an event of default (after the applicable cure period, if any) under any of the other Financing Agreements.

#### 10.2 Remedies.

(a) At any time an Event of Default exists or has occurred and is continuing, Agent and Lenders shall have all rights and remedies provided in this Agreement, the other Financing Agreements, the UCC and other applicable law, all of which rights and remedies may be exercised without notice to or consent by any Borrower or Guarantor, except as such notice or consent is expressly provided for hereunder or required by applicable law. All rights, remedies and powers granted to Agent and Lenders hereunder, under any of the other Financing Agreements, the UCC or other applicable law, are cumulative, not exclusive and enforceable, in Agent's discretion, alternatively, successively, or concurrently on any one or more occasions, and shall include, without limitation, the right to apply to a court of equity for an injunction to restrain a breach or threatened breach by any Borrower or Guarantor of this Agreement or any of the other Financing Agreements. Subject to Section 12 hereof, Agent may, and at the direction of the Required Lenders shall, at any time or times, proceed directly against any Borrower or Guarantor to collect the Obligations without prior recourse to the Collateral.

(b) Without limiting the foregoing, at any time an Event of Default exists or has occurred and is continuing, Agent may, at its option and shall upon the direction of the Required Lenders, (i) upon notice to Administrative Borrower, accelerate the payment of all Obligations and demand immediate payment thereof to Agent for itself and the benefit of Lenders (provided, that, upon the occurrence of any Event of Default described in Sections 10.1(g) and 10.1(h), all Obligations shall automatically become immediately due and payable), and (ii) terminate the Commitments whereupon the obligation of each Lender to make any Loan and Issuing Bank to issue any Letter of Credit shall immediately terminate (provided, that, upon the occurrence of any Event of Default described in Sections 10.1(g) and 10.1(h), the Commitments and any other obligation of the Agent or a Lender hereunder shall automatically terminate).

(c) Without limiting the foregoing, at any time an Event of Default exists or has occurred and is continuing, Agent may, in its discretion (i) with or without judicial process or the aid or assistance of others, enter upon any premises on or in which any of the Collateral may be located and take possession of the Collateral or complete processing, manufacturing and repair of all or any portion of the Collateral, (ii) require any Borrower or Guarantor, at Borrowers' expense, to assemble and make available to Agent any part or all of the Collateral at any place and time designated by Agent, (iii) collect, foreclose, receive, appropriate, setoff and realize upon any and all Collateral, (iv) remove any or all of the Collateral from any premises on or in which the same may be located for the purpose of effecting the sale, foreclosure or other disposition thereof or for any other purpose, (v) sell, lease, transfer, assign, deliver or otherwise dispose of any and all Collateral (including entering into contracts with respect thereto, public or private sales at any exchange, broker's board, at any office of Agent or elsewhere) at such prices or terms as Agent may deem reasonable, for cash, upon credit or for future delivery, with the Agent having the right to purchase the whole or any part of the Collateral at any such public sale, all of the foregoing being free from any right or equity of redemption of any Borrower or Guarantor, which right or equity of redemption is hereby expressly waived and released by

Borrowers and Guarantors and/or (vi) terminate this Agreement; provided, that, Agent shall not take any of the foregoing actions unless an Event of Default has occurred and is continuing. If any of the Collateral is sold or leased by Agent upon credit terms or for future delivery, the Obligations shall not be reduced as a result thereof until payment therefor is finally collected by Agent. If notice of disposition of Collateral is required by law, ten (10) days prior notice by Agent to Administrative Borrower designating the time and place of any public sale or the time after which any private sale or other intended disposition of Collateral is to be made, shall be deemed to be reasonable notice thereof and Borrowers and Guarantors waive any other notice. In the event Agent institutes an action to recover any Collateral or seeks recovery of any Collateral by way of prejudgment remedy, each Borrower and Guarantor waives the posting of any bond which might otherwise be required. At any time an Event of Default exists or has occurred and is continuing, upon Agent's request, Borrowers will either, as Agent shall specify, furnish cash collateral to Issuing Bank to be used to secure and fund the reimbursement obligations to Issuing Bank in connection with any Letter of Credit Obligations or furnish cash collateral to Agent for the Letter of Credit Obligations. Such cash collateral shall be in the amount equal to one hundred ten (110%) percent of the amount of the Letter of Credit Obligations plus the amount of any fees and expenses payable in connection therewith through the end of the latest expiration date of the Letters of Credit giving rise to such Letter of Credit Obligations.

(d) At any time or times that an Event of Default exists or has occurred and is continuing, Agent may, in its discretion, enforce the rights of any Borrower or Guarantor against any account debtor, secondary obligor or other obligor in respect of any of the Accounts or other Receivables. Without limiting the generality of the foregoing, Agent may, in its discretion, at such time or times (i) notify any or all account debtors, secondary obligors or other obligors in respect thereof that the Receivables have been assigned to Agent and that Agent has a security interest therein and Agent may direct any or all account debtors, secondary obligors and other obligors to make payment of Receivables directly to Agent, (ii) extend the time of payment of, compromise, settle or adjust for cash, credit, return of merchandise or otherwise, and upon any terms or conditions, any and all Receivables or other obligations included in the Collateral and thereby discharge or release the account debtor or any secondary obligors or other obligors in respect thereof without affecting any of the Obligations, (iii) demand, collect or enforce payment of any Receivables or such other obligations, but without any duty to do so, and Agent and Lenders shall not be liable for any failure to collect or enforce the payment thereof nor for the negligence of its agents or attorneys with respect thereto and (iv) take whatever other action Agent may reasonably deem necessary or desirable for the protection of its interests and the interests of Lenders. At any time that an Event of Default exists or has occurred and is continuing, at Agent's request, all invoices and statements sent to any account debtor shall state that the Accounts and such other obligations have been assigned to Agent and are payable directly and only to Agent and Borrowers and Guarantors shall deliver to Agent such originals of documents evidencing the sale and delivery of goods or the performance of services giving rise to any Accounts as Agent may require. In the event any account debtor returns Inventory when an Event of Default exists or has occurred and is continuing, Borrowers shall, upon Agent's request, hold the returned Inventory in trust for Agent, segregate all returned Inventory from all of its other property, dispose of the returned Inventory solely according to Agent's instructions, and not issue any credits, discounts or allowances with respect thereto without Agent's prior written consent.

(e) To the extent that applicable law imposes duties on Agent or any Lender to exercise remedies in a commercially reasonable manner (which duties cannot be waived under such law), each Borrower and Guarantor acknowledges and agrees that it is not commercially unreasonable for Agent or any Lender (i) to fail to incur expenses reasonably deemed significant by Agent or any Lender to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain consents of any Governmental Authority or other third party for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against account debtors, secondary obligors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (iv) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other persons, whether or not in the same business as any Borrower or Guarantor, for expressions of interest in acquiring all or any portion of the Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, (xi) to purchase insurance or credit enhancements to insure Agent or Lenders against risks of loss, collection or disposition of Collateral or to provide to Agent or Lenders a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. Each Borrower and Guarantor acknowledges that the purpose of this Section is to provide non-exhaustive indications of what actions or omissions by Agent or any Lender would not be commercially unreasonable in the exercise by Agent or any Lender of remedies against the Collateral and that other actions or omissions by Agent or any Lender shall not be deemed commercially unreasonable solely on account of not being indicated in this Section. Without limitation of the foregoing, nothing contained in this Section shall be construed to grant any rights to any Borrower or Guarantor or to impose any duties on Agent or Lenders that would not have been granted or imposed by this Agreement or by applicable law in the absence of this Section.

(f) For the purpose of enabling Agent to exercise the rights and remedies hereunder, each Borrower and Guarantor hereby grants to Agent, to the extent assignable, an irrevocable, non-exclusive license (exercisable at any time an Event of Default shall exist or have occurred and for so long as the same is continuing) without payment of royalty or other compensation to any Borrower or Guarantor, to use, assign, license or sublicense any of the trademarks, service-marks, trade names, business names, trade styles, designs, logos and other source of business identifiers and other Intellectual Property and general intangibles now owned or hereafter acquired by any Borrower or Guarantor, wherever the same maybe located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

(g) At any time an Event of Default exists or has occurred and is continuing, Agent may apply the cash proceeds of Collateral actually received by Agent from any sale, lease, foreclosure or other disposition of the Collateral to payment of the Obligations, in whole or in part and in accordance with the terms hereof, whether or not then due or may hold such proceeds as cash collateral for the Obligations. Borrowers and Guarantors shall remain liable to Agent and Lenders for the payment of any deficiency with interest at the highest rate provided for herein and all costs and expenses of collection or enforcement, including attorneys' fees and expenses.

(h) Without limiting the foregoing, upon the occurrence of a Default or an Event of Default, (i) Agent and Lenders may, at Agent's option, and upon the occurrence of an Event of Default at the direction of the Required Lenders, Agent and Lenders shall, without notice, (A) cease making Loans or arranging for Letters of Credit or reduce the lending formulas or amounts of Loans and Letters of Credit available to Borrowers and/or (B) terminate any provision of this Agreement providing for any future Loans to be made by Agent and Lenders or Letters of Credit to be issued by Issuing Bank and (ii) Agent may, at its option, establish such Reserves as Agent determines, without limitation or restriction, notwithstanding anything to the contrary contained herein.

(i) Lenders hereby irrevocably authorize the Agent, with the consent of the Required Lenders, to submit a bid at a public or private sale in connection with the purchase of all or any portion of the Collateral, in which any of the Obligations may be used and applied as a credit on account of the purchase price (a "credit bid") and purchase at any such sale (either directly or through one or more entities established for such purpose) all or any portion of the Collateral on behalf of and for the benefit of the Lenders (but not as agent for any individual Lender or Lenders, unless the Required Lenders shall otherwise agree in writing). Each Lender agrees that, except with the written consent of the Agent and the Required Lenders, it will not exercise any right that it might otherwise have to credit bid at any sales of all or any portion of the Collateral conducted under the provisions of the UCC or the Bankruptcy Code, foreclosure sales or other similar dispositions of Collateral

## **SECTION 11. JURY TRIAL WAIVER; OTHER WAIVERS AND CONSENTS; GOVERNING LAW**

### **11.1 Governing Law; Choice of Forum; Service of Process; Jury Trial Waiver.**

(a) The validity, interpretation and enforcement of this Agreement and the other Financing Agreements (except as otherwise provided therein) and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of California but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of California.

(b) Borrowers, Guarantors, Agent, Lenders and Issuing Bank irrevocably consent and submit to the non-exclusive jurisdiction of the state courts of Los Angeles County, State of California or the United States District Court for the Central District of California whichever Agent may elect, and waive any objection based on venue or forum non conveniens

with respect to any action instituted therein arising under this Agreement or any of the other Financing Agreements or in any way connected with or related or incidental to the dealings of the parties hereto in respect of this Agreement or any of the other Financing Agreements or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agree that any dispute with respect to any such matters shall be heard only in the courts described above (except that Agent and Lenders shall have the right to bring any action or proceeding against any Borrower or Guarantor or its or their property in the courts of any other jurisdiction which Agent deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against any Borrower or Guarantor or its or their property).

(c) Each Borrower and Guarantor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified mail (return receipt requested) directed to its address set forth herein and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the U.S. mails, or, at Agent's option, by service upon any Borrower or Guarantor (or Administrative Borrower on behalf of such Borrower or Guarantor) in any other manner provided under the rules of any such courts.

(d) BORROWERS, GUARANTORS, AGENT, LENDERS AND ISSUING BANK EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. BORROWERS, GUARANTORS, AGENT, LENDERS AND ISSUING BANK EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY BORROWER, ANY GUARANTOR, AGENT, ANY LENDER OR ISSUING BANK MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(e) Agent, Lenders and Issuing Bank shall not have any liability to any Borrower or Guarantor (whether in tort, contract, equity or otherwise) for losses suffered by such Borrower or Guarantor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Agent, such Lender and Issuing Bank, that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any such litigation, Agent, Lenders and Issuing Bank shall be entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Agreement. Each Borrower and Guarantor: (i) certifies that neither Agent, any Lender, Issuing Bank nor any representative, agent or attorney acting for or on behalf of Agent,

any Lender or Issuing Bank has represented, expressly or otherwise, that Agent, Lenders and Issuing Bank would not, in the event of litigation, seek to enforce any of the waivers provided for in this Agreement or any of the other Financing Agreements and (ii) acknowledges that in entering into this Agreement and the other Financing Agreements, Agent, Lenders and Issuing Bank are relying upon, among other things, the waivers and certifications set forth in this Section 11.1 and elsewhere herein and therein.

(f) If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by the Loan Agreement or any other Financing Agreement, (i) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee or referees to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision, provided that at the option of Agent, any such issues pertaining to a 'provisional remedy' as defined in California Code of Civil Procedure Section 128.8 shall be heard and determined by the court, and (ii) Borrowers and Guarantors shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

11.2 Waiver of Notices. Each Borrower and Guarantor hereby expressly waives demand, presentment, protest and notice of protest and notice of dishonor with respect to any and all instruments and chattel paper, included in or evidencing any of the Obligations or the Collateral, and any and all other demands and notices of any kind or nature whatsoever with respect to the Obligations, the Collateral and this Agreement, except such as are expressly provided for herein. No notice to or demand on any Borrower or Guarantor which Agent or any Lender may elect to give shall entitle such Borrower or Guarantor to any other or further notice or demand in the same, similar or other circumstances.

### 11.3 Amendments and Waivers.

(a) Neither this Agreement nor any other Financing Agreement nor any terms hereof or thereof may be amended, waived, discharged or terminated unless such amendment, waiver, discharge or termination is in writing signed by Agent and the Required Lenders or at Agent's option, by Agent with the authorization or consent of the Required Lenders, and as to amendments to any of the Financing Agreements (other than with respect to any provision of Section 12 hereof), by any Borrower and such amendment, waiver, discharge or termination shall be effective and binding as to all Lenders and Issuing Bank only in the specific instance and for the specific purpose for which given; except, that, no such amendment, waiver, discharge or termination shall:

(i) reduce the interest rate or any fees or extend the time of payment of principal, interest or any fees or reduce the principal amount of any Loan or Letters of Credit, in each case without the consent of each Lender directly affected thereby,

(ii) increase the Commitment of any Lender over the amount thereof then in effect or provided hereunder, in each case without the consent of the Lender directly affected thereby,

(iii) release any Collateral (except as expressly required hereunder or under any of the other Financing Agreements or applicable law and except as permitted under Section 12.11(b) hereof), without the consent of Agent and all of Lenders,

(iv) reduce any percentage specified in the definition of Required Lenders, without the consent of Agent and all of Lenders,

(v) consent to the assignment or transfer by any Borrower or Guarantor of any of their rights and obligations under this Agreement, without the consent of Agent and all of Lenders,

(vi) amend, modify or waive any terms of this Section 11.3 hereof, without the consent of Agent and all of Lenders, or

(vii) increase the advance rates constituting part of the Borrowing Base or increase the Inventory Loan Limit or the Letter of Credit Limit, without the consent of Agent and all of Lenders.

(b) Agent, Lenders and Issuing Bank shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its or their rights, powers and/or remedies unless such waiver shall be in writing and signed as provided herein. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Agent, any Lender or Issuing Bank of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Agent, any Lender or Issuing Bank would otherwise have on any future occasion, whether similar in kind or otherwise.

(c) Notwithstanding anything to the contrary contained in Section 11.3(a) above, in connection with any amendment, waiver, discharge or termination, in the event that any Lender whose consent thereto is required shall fail to consent or fail to consent in a timely manner (such Lender being referred to herein as a "Non-Consenting Lender"), but the consent of any other Lenders to such amendment, waiver, discharge or termination that is required are obtained, if any, then Wells Fargo shall have the right, but not the obligation, at any time thereafter, and upon the exercise by Wells Fargo of such right, such Non-Consenting Lender shall have the obligation, to sell, assign and transfer to Wells Fargo or such Eligible Transferee as Wells Fargo may specify, the Commitment of such Non-Consenting Lender and all rights and interests of such Non-Consenting Lender pursuant thereto. Wells Fargo shall provide the Non-Consenting Lender with prior written notice of its intent to exercise its right under this Section, which notice shall specify on date on which such purchase and sale shall occur. Such purchase and sale shall be pursuant to the terms of an Assignment and Acceptance (whether or not executed by the Non-Consenting Lender), except that on the date of such purchase and sale, Wells Fargo, or such Eligible Transferee specified by Wells Fargo, shall pay to the Non-Consenting Lender (except as Wells Fargo and such Non-Consenting Lender may otherwise agree) the amount equal to: (i) the principal balance of the Loans held by the Non-Consenting Lender outstanding as of the close of business on the business day immediately preceding the effective date of such purchase and sale, plus (ii) amounts accrued and unpaid in respect of interest and fees payable to the Non-Consenting Lender to the effective date of the purchase (but

in no event shall the Non-Consenting Lender be deemed entitled to any early termination fee), minus (iii) the amount of the closing fee received by the Non-Consenting Lender pursuant to the terms hereof or of any of the other Financing Agreements multiplied by the fraction, the numerator of which is the number of months remaining in the then current term of the Credit Facility and the denominator of which is the number of months in the then current term thereof. Such purchase and sale shall be effective on the date of the payment of such amount to the Non-Consenting Lender and the Commitment of the Non-Consenting Lender shall terminate on such date.

(d) The consent of Agent shall be required for any amendment, waiver or consent affecting the rights or duties of Agent hereunder or under any of the other Financing Agreements, in addition to the consent of the Lenders otherwise required by this Section and the exercise by Agent of any of its rights hereunder with respect to Reserves or Eligible Accounts or Eligible Inventory shall not be deemed an amendment to the advance rates provided for in this Section 11.3. The consent of Issuing Bank shall be required for any amendment, waiver or consent affecting the rights or duties of Issuing Bank hereunder or under any of the other Financing Agreements, in addition to the consent of the Lenders otherwise required by this Section, provided, that, the consent of Issuing Bank shall not be required for any other amendments, waivers or consents. Notwithstanding anything to the contrary contained in Section 11.3(a) above, (i) in the event that Agent shall agree that any items otherwise required to be delivered to Agent as a condition of the initial Loans and Letters of Credit hereunder may be delivered after the date hereof, Agent may, in its discretion, agree to extend the date for delivery of such items or take such other action as Agent may deem appropriate as a result of the failure to receive such items as Agent may determine or may waive any Event of Default as a result of the failure to receive such items, in each case without the consent of any Lender and (ii) Agent may consent to any change in the type of organization, jurisdiction of organization or other legal structure of any Borrower, Guarantor or any of their Subsidiaries and amend the terms hereof or of any of the other Financing Agreements as may be necessary or desirable to reflect any such change, in each case without the approval of any Lender.

(e) The consent of Agent and each Bank Product Provider that is providing any Bank Products and has outstanding any such Bank Products at such time that are secured hereunder shall be required for any amendment, waiver or consent to the priority of payment of Obligations arising under or pursuant to any Bank Products as set forth in Section 6.4 hereof. In no event shall the consent or approval of any Bank Product Provider be required for any amendment, waiver or consent under this Agreement or the other Financing Agreements, except as provided in the immediately preceding sentence.

11.4 Waiver of Counterclaims. Each Borrower and Guarantor waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto.

11.5 Indemnification. Each Borrower and Guarantor shall, jointly and severally, indemnify and hold Agent, each Lender and Issuing Bank, and their respective officers, directors, agents, employees, advisors and counsel and their respective Affiliates (each such person being an "Indemnitee"), harmless from and against any and all losses, claims, damages,



liabilities, costs or expenses (including attorneys' fees and expenses) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other Financing Agreements, any of the Purchase Agreements, or any undertaking or proceeding related to any of the transactions contemplated hereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs, and the fees and expenses of counsel except that Borrowers and Guarantors shall not have any obligation under this Section 11.5 to indemnify an Indemnitee with respect to a matter covered hereby resulting from the gross negligence or willful misconduct of such Indemnitee as determined pursuant to a final, non-appealable order of a court of competent jurisdiction (but without limiting the obligations of Borrowers or Guarantors as to any other Indemnitee). To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, Borrowers and Guarantors shall pay the maximum portion which it is permitted to pay under applicable law to Agent and Lenders in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, no Borrower or Guarantor shall assert, and each Borrower and Guarantor hereby waives, any claim against any Indemnitee, on any theory of liability for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Financing Agreements or any undertaking or transaction contemplated hereby. No Indemnitee referred to above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or any of the other Financing Agreements or the transaction contemplated hereby or thereby, except for damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined pursuant to a final, non-appealable order of a court of competent jurisdiction (but without limiting the exculpation as to any other Indemnitee (other than any officers, directors, agents or employees of the Indemnitee whose gross negligence or willful misconduct resulted in such damages)). All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the payment of the Obligations and the termination or non-renewal of this Agreement.

## **SECTION 12. THE AGENT**

12.1 Appointment, Powers and Immunities. Each Lender and Issuing Bank irrevocably designates, appoints and authorizes Wells Fargo to act as Agent hereunder and under the other Financing Agreements with such powers as are specifically delegated to Agent by the terms of this Agreement and of the other Financing Agreements, together with such other powers as are reasonably incidental thereto. Agent (a) shall have no duties or responsibilities except those expressly set forth in this Agreement and in the other Financing Agreements, and shall not by reason of this Agreement or any other Financing Agreement be a trustee or fiduciary for any Lender; (b) shall not be responsible to Lenders for any recitals, statements, representations or warranties contained in this Agreement or in any of the other Financing Agreements, or in any certificate or other document referred to or provided for in, or received by any of them under, this Agreement or any other Financing Agreement, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Financing Agreement or any other document referred to or provided for herein or therein or for any failure by any

Borrower or any Guarantor or any other Person to perform any of its obligations hereunder or thereunder; and (c) shall not be responsible to Lenders for any action taken or omitted to be taken by it hereunder or under any other Financing Agreement or under any other document or instrument referred to or provided for herein or therein or in connection herewith or therewith, except for its own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Agent may employ agents and attorneys in fact and shall not be responsible for the negligence or misconduct of any such agents or attorneys in fact selected by it in good faith. Agent may deem and treat the payee of any note as the holder thereof for all purposes hereof unless and until the assignment thereof pursuant to an agreement (if and to the extent permitted herein) in form and substance satisfactory to Agent shall have been delivered to and acknowledged by Agent.

12.2 Reliance by Agent. Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, telecopy, telex, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Agent. As to any matters not expressly provided for by this Agreement or any other Financing Agreement, Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or thereunder in accordance with instructions given by the Required Lenders or all of Lenders as is required in such circumstance, and such instructions of such Agents and any action taken or failure to act pursuant thereto shall be binding on all Lenders.

### 12.3 Events of Default.

(a) Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or an Event of Default or other failure of a condition precedent to the Loans and Letters of Credit hereunder, unless and until Agent has received written notice from a Lender, or Borrower specifying such Event of Default or any unfulfilled condition precedent, and stating that such notice is a "Notice of Default or Failure of Condition". In the event that Agent receives such a Notice of Default or Failure of Condition, Agent shall give prompt notice thereof to the Lenders. Agent shall (subject to Section 12.7) take such action with respect to any such Event of Default or failure of condition precedent as shall be directed by the Required Lenders to the extent provided for herein; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to or by reason of such Event of Default or failure of condition precedent, as it shall deem advisable in the best interest of Lenders. Without limiting the foregoing, and notwithstanding the existence or occurrence and continuance of an Event of Default or any other failure to satisfy any of the conditions precedent set forth in Section 4 of this Agreement to the contrary, unless and until otherwise directed by the Required Lenders, Agent may, but shall have no obligation to, continue to make Loans and Issuing Bank may, but shall have no obligation to, issue or cause to be issued any Letter of Credit for the ratable account and risk of Lenders from time to time if Agent believes making such Loans or issuing or causing to be issued such Letter of Credit is in the best interests of Lenders.

(b) Except with the prior written consent of Agent, no Lender or Issuing Bank may assert or exercise any enforcement right or remedy in respect of the Loans, Letter of Credit

Obligations or other Obligations, as against any Borrower or Guarantor or any of the Collateral or other property of any Borrower or Guarantor.

12.4 Wells Fargo in its Individual Capacity. With respect to its Commitment and the Loans made and Letters of Credit issued or caused to be issued by it (and any successor acting as Agent), so long as Wells Fargo shall be a Lender hereunder, it shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as Agent, and the term "Lender" or "Lenders" shall, unless the context otherwise indicates, include Wells Fargo in its individual capacity as Lender hereunder. Wells Fargo (and any successor acting as Agent) and its Affiliates may (without having to account therefor to any Lender) lend money to, make investments in and generally engage in any kind of business with Borrowers (and any of its Subsidiaries or Affiliates) as if it were not acting as Agent, and Wells Fargo and its Affiliates may accept fees and other consideration from any Borrower or Guarantor and any of its Subsidiaries and Affiliates for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

12.5 Indemnification. Lenders agree to indemnify Agent and Issuing Bank (to the extent not reimbursed by Borrowers hereunder and without limiting any obligations of Borrowers hereunder) ratably, in accordance with their Pro Rata Shares, for any and all claims of any kind and nature whatsoever that may be imposed on, incurred by or asserted against Agent (including by any Lender) arising out of or by reason of any investigation in or in any way relating to or arising out of this Agreement or any other Financing Agreement or any other documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby (including the costs and expenses that Agent is obligated to pay hereunder) or the enforcement of any of the terms hereof or thereof or of any such other documents, provided, that, no Lender shall be liable for any of the foregoing to the extent it arises from the gross negligence or willful misconduct of the party to be indemnified as determined by a final non-appealable judgment of a court of competent jurisdiction. The foregoing indemnity shall survive the payment of the Obligations and the termination or non-renewal of this Agreement.

12.6 Non-Reliance on Agent and Other Lenders. Each Lender agrees that it has, independently and without reliance on Agent or other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis of Borrowers and Guarantors and has made its own decision to enter into this Agreement and that it will, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or any of the other Financing Agreements. Agent shall not be required to keep itself informed as to the performance or observance by any Borrower or Guarantor of any term or provision of this Agreement or any of the other Financing Agreements or any other document referred to or provided for herein or therein or to inspect the properties or books of any Borrower or Guarantor. Agent will use reasonable efforts to provide Lenders with any information received by Agent from any Borrower or Guarantor which is required to be provided to Lenders or deemed to be requested by Lenders hereunder and with a copy of any Notice of Default or Failure of Condition received by Agent from any Borrower or any Lender; provided, that, Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Agent's own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of

competent jurisdiction. Except for notices, reports and other documents expressly required to be furnished to Lenders by Agent or deemed requested by Lenders hereunder, Agent shall not have any duty or responsibility to provide any Lender with any other credit or other information concerning the affairs, financial condition or business of any Borrower or Guarantor that may come into the possession of Agent.

12.7 Failure to Act. Except for action expressly required of Agent hereunder and under the other Financing Agreements, Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction from Lenders of their indemnification obligations under Section 12.5 hereof against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action.

12.8 Additional Loans. Agent shall not make any Revolving Loans or Issuing Bank provide any Letter of Credit to any Borrower on behalf of Lenders intentionally and with actual knowledge that such Revolving Loans or Letter of Credit would cause the aggregate amount of the total outstanding Revolving Loans and Letters of Credit to such Borrower to exceed the Borrowing Base of such Borrower, without the prior consent of all Lenders, except, that, Agent may make such additional Revolving Loans or Issuing Bank may provide such additional Letter of Credit on behalf of Lenders, intentionally and with actual knowledge that such Revolving Loans or Letter of Credit will cause the total outstanding Revolving Loans and Letters of Credit to such Borrower to exceed the Borrowing Base of such Borrower, as Agent may deem necessary or advisable in its discretion, provided, that: (a) the total principal amount of the additional Revolving Loans or additional Letters of Credit to any Borrower which Agent may make or provide after obtaining such actual knowledge that the aggregate principal amount of the Revolving Loans equal or exceed the Borrowing Bases of Borrowers, plus the amount of Special Agent Advances made pursuant to Section 12.11(a)(ii) hereof then outstanding, shall not exceed the aggregate amount equal to ten (10) percent of the Maximum Credit and shall not cause the total principal amount of the Loans and Letters of Credit to exceed the Maximum Credit and (b) no such additional Revolving Loan or Letter of Credit shall be outstanding more than ninety (90) days after the date such additional Revolving Loan or Letter of Credit is made or issued (as the case may be), except as the Required Lenders may otherwise agree. Each Lender shall be obligated to pay Agent the amount of its Pro Rata Share of any such additional Revolving Loans or Letters of Credit.

12.9 Concerning the Collateral and the Related Financing Agreements. Each Lender authorizes and directs Agent to enter into this Agreement and the other Financing Agreements. Each Lender agrees that any action taken by Agent or Required Lenders in accordance with the terms of this Agreement or the other Financing Agreements and the exercise by Agent or Required Lenders of their respective powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

12.10 Field Audit, Examination Reports and other Information; Disclaimer by Lenders. By signing this Agreement, each Lender:

(a) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report and report with

respect to the Borrowing Base prepared or received by Agent (each field audit or examination report and report with respect to the Borrowing Base being referred to herein as a "Report" and collectively, "Reports"), appraisals with respect to the Collateral and financial statements with respect to Parent and its Subsidiaries received by Agent;

(b) expressly agrees and acknowledges that Agent (i) does not make any representation or warranty as to the accuracy of any Report, appraisal or financial statement or (ii) shall not be liable for any information contained in any Report, appraisal or financial statement;

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

(d) agrees to keep all Reports confidential and strictly for its internal use in accordance with the terms of Section 13.5 hereof, and not to distribute or use any Report in any other manner.

#### 12.11 Collateral Matters.

(a) Agent may, at its option, from time to time, at any time on or after an Event of Default and for so long as the same is continuing or upon any other failure of a condition precedent to the Loans and Letters of Credit hereunder, make such disbursements and advances ("Special Agent Advances") which Agent, in its sole discretion, (i) deems necessary or desirable either to preserve or protect the Collateral or any portion thereof or (ii) to enhance the likelihood or maximize the amount of repayment by Borrowers and Guarantors of the Loans and other Obligations, provided, that, (A) the aggregate principal amount of the Special Agent Advances pursuant to this clause (ii) outstanding at any time, plus the then outstanding principal amount of the additional Loans and Letters of Credit which Agent may make or provide as set forth in Section 12.8 hereof, shall not exceed the amount equal to ten (10%) percent of the Maximum Credit and (B) the aggregate principal amount of the Special Agent Advances pursuant to this clause (ii) outstanding at any time, plus the then outstanding principal amount of the Loans, shall not exceed the Maximum Credit, except at Agent's option, provided, that, to the extent that the aggregate principal amount of Special Agent Advances plus the then outstanding principal amount of the Loans exceed the Maximum Credit the Special Agent Advances that are in excess of the Maximum Credit shall be for the sole account and risk of Agent and notwithstanding anything to the contrary set forth below, no Lender shall have any obligation to provide its share of such Special Agent Advances in excess of the Maximum Credit, or (iii) to pay any other amount chargeable to any Borrower or Guarantor pursuant to the terms of this Agreement or any of the other Financing Agreements consisting of (A) costs, fees and expenses and (B) payments to Issuing Bank in respect of any Letter of Credit Obligations. The Special Agent Advances shall be repayable on demand and together with all interest thereon shall constitute Obligations secured by the Collateral. Special Agent Advances shall not constitute Loans but shall otherwise constitute Obligations hereunder. Interest on Special Agent Advances shall be payable at the Interest Rate then applicable to Prime Rate Loans and shall be payable on

demand. Without limitation of its obligations pursuant to Section 6.11, each Lender agrees that it shall make available to Agent, upon Agent's demand, in immediately available funds, the amount equal to such Lender's Pro Rata Share of each such Special Agent Advance. If such funds are not made available to Agent by such Lender, such Lender shall be deemed a Defaulting Lender and Agent shall be entitled to recover such funds, on demand from such Lender together with interest thereon for each day from the date such payment was due until the date such amount is paid to Agent at the Federal Funds Rate for each day during such period (as published by the Federal Reserve Bank of New York or at Agent's option based on the arithmetic mean determined by Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of the three leading brokers of Federal funds transactions in New York City selected by Agent) and if such amounts are not paid within three (3) days of Agent's demand, at the highest Interest Rate provided for in Section 3.1 hereof applicable to Prime Rate Loans.

(b) Lenders hereby irrevocably authorize Agent, at its option and in its discretion to release any security interest in, mortgage or lien upon, any of the Collateral (i) upon termination of the Commitments and payment and satisfaction of all of the Obligations and delivery of cash collateral to the extent required under Section 13.1 below, or (ii) constituting property being sold or disposed of if Administrative Borrower or any Borrower or Guarantor certifies to Agent that the sale or disposition is made in compliance with Section 9.7 hereof (and Agent may rely conclusively on any such certificate, without further inquiry), or (iii) constituting property in which any Borrower or Guarantor did not own an interest at the time the security interest, mortgage or lien was granted or at any time thereafter, or (iv) having a value in the aggregate in any twelve (12) month period of less than \$5,000,000 and to the extent Agent may release its security interest in and lien upon any such Collateral pursuant to the sale or other disposition thereof, such sale or other disposition shall be deemed consented to by Lenders, or (v) if required or permitted under the terms of any of the other Financing Agreements, including any intercreditor agreement, or (vi) approved, authorized or ratified in writing by all of Lenders. Except as provided above, Agent will not release any security interest in, mortgage or lien upon, any of the Collateral without the prior written authorization of all of Lenders. Upon request by Agent at any time, Lenders will promptly confirm in writing Agent's authority to release particular types or items of Collateral pursuant to this Section. In no event shall the consent or approval of Issuing Bank to any release of Collateral be required.

(c) Without any manner limiting Agent's authority to act without any specific or further authorization or consent by the Required Lenders, each Lender agrees to confirm in writing, upon request by Agent, the authority to release Collateral conferred upon Agent under this Section. Agent shall (and is hereby irrevocably authorized by Lenders to) execute such documents as may be necessary to evidence the release of the security interest, mortgage or liens granted to Agent upon any Collateral to the extent set forth above; provided, that, (i) Agent shall not be required to execute any such document on terms which, in Agent's opinion, would expose Agent to liability or create any obligations or entail any consequence other than the release of such security interest, mortgage or liens without recourse or warranty and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any security interest, mortgage or lien upon (or obligations of any Borrower or Guarantor in respect of) the Collateral retained by such Borrower or Guarantor.

(d) Agent shall have no obligation whatsoever to any Lender, Issuing Bank or any other Person to investigate, confirm or assure that the Collateral exists or is owned by any Borrower or Guarantor or is cared for, protected or insured or has been encumbered, or that any particular items of Collateral meet the eligibility criteria applicable in respect of the Loans or Letters of Credit hereunder, or whether any particular reserves are appropriate, or that the liens and security interests granted to Agent pursuant hereto or any of the Financing Agreements or otherwise have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent in this Agreement or in any of the other Financing Agreements, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, subject to the other terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its discretion, given Agent's own interest in the Collateral as a Lender and that Agent shall have no duty or liability whatsoever to any other Lender or Issuing Bank.

12.12 Agency for Perfection. Each Lender and Issuing Bank hereby appoints Agent and each other Lender and Issuing Bank as agent and bailee for the purpose of perfecting the security interests in and liens upon the Collateral of Agent in assets which, in accordance with Article 9 of the UCC can be perfected only by possession (or where the security interest of a secured party with possession has priority over the security interest of another secured party) and Agent and each Lender and Issuing Bank hereby acknowledges that it holds possession of any such Collateral for the benefit of Agent as secured party. Should any Lender or Issuing Bank obtain possession of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver such Collateral to Agent or in accordance with Agent's instructions.

12.13 Agent May File Proofs of Claim.

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Borrower or Guarantor, Agent (irrespective of whether the principal of any Loan or Letter of Credit Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations (other than obligations under Bank Products to which Agent is not a party) that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of Lenders, Issuing Bank and Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of Lenders, Issuing Bank and Agent and their respective agents and counsel and all other amounts due Lenders, Issuing Bank and Agent allowed in such judicial proceeding; and

(ii) 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 Issuing Bank to make such payments to Agent and, in the event that Agent shall consent to the making of such payments directly to Lenders and Issuing Bank, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, and any other amounts due Agent.

(b) Nothing contained herein shall be deemed to authorize Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize Agent to vote in respect of the claim of any Lender in any such proceeding.

12.14 Successor Agent. Agent may resign as Agent upon thirty (30) days' notice to Lenders and Parent. If Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for Lenders. If no successor agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with Lenders and Parent, a successor agent from among Lenders. Upon the acceptance by the Lender so selected of its appointment as successor agent hereunder, such successor agent shall succeed to all of the rights, powers and duties of the retiring Agent and the term "Agent" as used herein and in the other Financing Agreements shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 12 shall inure to its benefit as to any actions taken or omitted by it while it was Agent under this Agreement. If no successor agent has accepted appointment as Agent by the date which is thirty (30) days after the date of a retiring Agent's notice of resignation, the retiring Agent's resignation shall nonetheless thereupon become effective and Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

12.15 Other Agent Designations. Agent may at any time and from time to time determine that a Lender may, in addition, be a "Co-Agent", "Syndication Agent", "Documentation Agent" or similar designation hereunder and enter into an agreement with such Lender to have it so identified for purposes of this Agreement. Any such designation shall be effective upon written notice by Agent to Administrative Borrower of any such designation. Any Lender that is so designated as a Co-Agent, Syndication Agent, Documentation Agent or such similar designation by Agent shall have no right, power, obligation, liability, responsibility or duty under this Agreement or any of the other Financing Agreements other than those applicable to all Lenders as such. Without limiting the foregoing, the Lenders so identified shall not have or be deemed to have any fiduciary relationship with any Lender and no Lender shall be deemed to have relied, nor shall any Lender rely, on a Lender so identified as a Co-Agent, Syndication Agent, Documentation Agent or such similar designation in deciding to enter into this Agreement or in taking or not taking action hereunder.

### **SECTION 13. TERM OF AGREEMENT; MISCELLANEOUS**

#### **13.1 Term**



(a) This Agreement and the other Financing Agreements shall become effective as of the date set forth on the first page hereof and shall continue in full force and effect for a term ending on March 2, 2015 (the "Maturity Date"). Borrowers may terminate this Agreement at any time upon ten (10) days prior written notice to Agent (which notice shall be irrevocable) and Agent may, at its option, and shall at the direction of Required Lenders, terminate this Agreement at any time upon the occurrence and during the continuance of an Event of Default. Upon the Maturity Date or any other effective date of termination of the Financing Agreements, Borrowers shall pay to Agent all outstanding and unpaid Obligations and shall furnish cash collateral to Agent (or at Agent's option, a letter of credit issued for the account of Borrowers and at Borrowers' expense, in form and substance reasonably satisfactory to Agent, by an issuer reasonably acceptable to Agent and payable to Agent as beneficiary) in such amounts as Agent determines are reasonably necessary to secure Agent, Lenders and Issuing Bank from loss, cost, damage or expense, including reasonable attorneys' fees and expenses, in connection with any contingent Obligations, including issued and outstanding Letter of Credit Obligations and checks or other payments provisionally credited to the Obligations and/or as to which Agent or any Lender has not yet received final and indefeasible payment (and including any contingent liability of Agent or any Lender to any bank at which deposit accounts of any Borrower are maintained under any Deposit Account Control Agreement) and for any of the Obligations arising under or in connection with any Bank Products in such amounts as Agent may reasonable require (unless such Obligations arising under or in connection with any Bank Products are paid in full in cash and terminated in a manner reasonably satisfactory to Agent). The amount of such cash collateral (or letter of credit, as Agent may determine) as to any Letter of Credit Obligations shall be in the amount equal to one hundred ten (110%) percent of the amount of the Letter of Credit Obligations plus the amount of any fees and expenses payable in connection therewith through the end of the latest expiration date of the date of the Letters of Credit giving rise to such Letter of Credit Obligations. Such payments in respect of the Obligations and cash collateral shall be remitted by wire transfer in Federal funds to the Agent Payment Account or such other bank account of Agent, as Agent may, in its discretion, designate in writing to Administrative Borrower for such purpose. Interest shall be due until and including the next Business Day, if the amounts so paid by Borrowers to the Agent Payment Account or other bank account designated by Agent are received in such bank account later than 12:00 noon, Los Angeles time.

(b) No termination of the Commitments, this Agreement or any of the other Financing Agreements shall relieve or discharge any Borrower or Guarantor of its respective duties, obligations and covenants under this Agreement or any of the other Financing Agreements until all Obligations have been fully and finally discharged and paid, and Agent's continuing security interest in the Collateral and the rights and remedies of Agent and Lenders hereunder, under the other Financing Agreements and applicable law, shall remain in effect until all such Obligations have been fully and finally discharged and paid. Accordingly, each Borrower and Guarantor waives any rights it may have under the UCC to demand the filing of termination statements with respect to the Collateral and Agent shall not be required to send such termination statements to Borrowers or Guarantors, or to file them with any filing office, unless and until this Agreement shall have been terminated in accordance with its terms and all Obligations paid and satisfied in full in immediately available funds.

(c) If for any reason this Agreement is terminated prior to the first anniversary of the date hereof, in view of the impracticality and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of Agent's and each Lender's lost profits as a result thereof, Borrowers agree to pay to Agent, for the benefit of Lenders, upon the effective date of such termination, an early termination fee in the amount equal to one (1%) of the Maximum Credit. Such early termination fee shall be presumed to be the amount of damages sustained by Agent and Lenders as a result of such early termination and Borrowers and Guarantors agree that it is reasonable under the circumstances currently existing (including, but not limited to, the borrowings that are reasonably expected by Borrowers hereunder and the interest, fees and other charges that are reasonably expected to be received by Agent and Lenders pursuant to the Credit Facility). In addition, Agent and Lenders shall be entitled to such early termination fee upon the occurrence of any Event of Default described in Sections 10.1(g) and 10.1(h) hereof, even if Agent and Lenders do not exercise the right to terminate this Agreement, but elect, at their option, to provide financing to any Borrower or permit the use of cash collateral under the United States Bankruptcy Code. The early termination fee provided for in this Section 13.1 shall be deemed included in the Obligations.

(d) Agent shall release any security interest in, mortgage or lien upon, any of the Collateral (i) upon termination of the Commitments and payment and satisfaction of all of the Obligations and delivery of cash collateral to the extent required under Section 13.1 above, or (ii) constituting property being sold or disposed of if Administrative Borrower or any Borrower or Guarantor certifies to Agent that the sale or disposition is made in compliance with Section 9.7 hereof (and Agent may rely conclusively on any such certificate, without further inquiry), or (iii) constituting property in which any Borrower or Guarantor did not own an interest at the time the security interest, mortgage or lien was granted or at any time thereafter, or (iv) having a value in the aggregate in any twelve (12) month period of less than \$5,000,000, or (v) if required or permitted under the terms of any of the other Financing Agreements, including any intercreditor agreement, or (vi) approved, authorized or ratified in writing by all of Lenders. Agent shall execute such documents as may be necessary to evidence the release of the security interest, mortgage or liens granted to Agent upon any Collateral to the extent set forth above; provided, that, (i) Agent shall not be required to execute any such document on terms which, in Agent's opinion, would expose Agent to liability or create any obligations or entail any consequence other than the release of such security interest, mortgage or liens without recourse or warranty and (2) such release shall not in any manner discharge, affect or impair the Obligations or any security interest, mortgage or lien upon (or obligations of Borrowers or Guarantors in respect of) the Collateral retained by Borrowers or Guarantors.

### 13.2 Interpretative Provisions.

(a) All terms used herein which are defined in Article 1, Article 8 or Article 9 of the UCC shall have the meanings given therein unless otherwise defined in this Agreement.

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires.

(c) All references to any Borrower, Guarantor, Agent and Lenders pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns.

(d) The words “hereof”, “herein”, “hereunder”, “this Agreement” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(e) The word “including” when used in this Agreement shall mean “including, without limitation” and the word “will” when used in this Agreement shall be construed to have the same meaning and effect as the word “shall”.

(f) An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 11.3 or is cured in a manner satisfactory to Agent, if such Event of Default is capable of being cured as determined by Agent.

(g) All references to the terms “good faith” or “reasonable” or “reasonably” used herein or in the other Financing Agreements when applicable to Agent or any Lender shall mean, notwithstanding anything to the contrary contained herein or in the UCC, honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing based on how an asset-based lender with similar rights providing a credit facility of the type set forth herein would act in similar circumstances at the time with the information then available to it. Borrowers and Guarantors shall have the burden of proving any unreasonableness or lack of good faith on the part of Agent or any Lender alleged by any Borrower or Guarantor at any time.

(h) Any accounting term used in this Agreement shall have, unless otherwise specifically provided herein, the meaning customarily given in accordance with GAAP, and all financial computations hereunder shall be computed unless otherwise specifically provided herein, in accordance with GAAP as consistently applied and using the same method for inventory valuation as used in the preparation of the financial statements of Parent most recently received by Agent prior to the date hereof. Notwithstanding anything to the contrary contained in GAAP or any interpretations or other pronouncements by the Financial Accounting Standards Board or otherwise, the term “unqualified opinion” as used herein to refer to opinions or reports provided by accountants shall mean an opinion or report that is unqualified and also does not include any explanation, supplemental comment or other comment concerning the ability of the applicable person to continue as a going concern or the scope of the audit.

(i) Unless otherwise indicated herein, all references to time of day refer to Pacific Standard Time or Pacific daylight saving time, as in effect in Los Angeles, California on such day. 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”.

(j) Unless otherwise expressly provided herein, (i) references herein to any agreement, document or instrument shall be deemed to include all subsequent amendments,

modifications, supplements, extensions, renewals, restatements or replacements with respect thereto, but only to the extent the same are not prohibited by the terms hereof or of any other Financing Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, recodifying, supplementing or interpreting the statute or regulation.

(k) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(l) This Agreement and other Financing Agreements may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their terms.

(m) This Agreement and the other Financing Agreements are the result of negotiations among and have been reviewed by counsel to Agent and the other parties, and are the products of all parties. Accordingly, this Agreement and the other Financing Agreements shall not be construed against Agent or Lenders merely because of Agent's or any Lender's involvement in their preparation.

### 13.3 Notices.

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next Business Day, one (1) Business Day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. Notices delivered through electronic communications shall be effective to the extent set forth in Section 13.3(b) below. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to any Borrower or Guarantor:

c/o Farmer Bros. Co.  
20333 South Normandie Avenue  
Torrance, CA 90502  
Attention: Chief Executive Officer  
Telephone No.: 310-787-5200  
Telecopy No.: 310-320-2430

with a copy to:

Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP  
199 S. Los Robles Ave., Suite 600  
Pasadena, CA 91101  
Attention: John Anglin, Esq.  
Telephone No.: 626-535-1900  
Telecopy No.: 626-577-7764

If to Agent or Issuing Bank:

Wells Fargo Bank, National Association  
successor by merger to Wachovia Bank,  
National Association  
2450 Colorado Avenue, Suite 300 West  
Santa Monica, CA 90404  
Attention: Dennis A. King  
Telephone: (310) 453-7220  
Telecopy No.: (866) 615-7803

(b) Notices and other communications to Lenders and Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Agent or as otherwise determined by Agent. Agent or any Borrower or Guarantor 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 Agent otherwise requires, (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 given during the normal business hours of the recipient, such notice 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 communications is available and identifying the website address therefor.

13.4 Partial Invalidity. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

#### 13.5 Confidentiality.

(a) Agent, each Lender and Issuing Bank shall use all reasonable efforts to keep confidential, in accordance with its customary procedures for handling confidential information and safe and sound lending practices, any non-public information supplied to it by any Borrower or any Guarantor pursuant to this Agreement relating to financial information, production, product information, customers or vendors which is clearly and conspicuously marked as confidential at the time such information is furnished by such Borrower to Agent, such Lender or Issuing Bank, provided, that, nothing contained herein shall limit the disclosure of any such information: (i) to the extent required by statute, rule, regulation, subpoena or court order, (ii) to bank examiners and other regulators, auditors and/or accountants, in connection with any litigation to which Agent, such Lender or Issuing Bank is a party, (iii) to any Lender or Participant (or prospective Lender or Participant) or Issuing Bank or to any Affiliate of any Lender so long as such Lender, Participant (or prospective Lender or Participant), Issuing Bank or Affiliate shall have been instructed to treat such information as confidential in accordance

with this Section 13.5, or (iv) to counsel for Agent, any Lender, Participant (or prospective Lender or Participant) or Issuing Bank.

(b) In the event that Agent, any Lender or Issuing Bank receives a request or demand to disclose any confidential information pursuant to any subpoena or court order, Agent or such Lender or Issuing Bank, as the case may be, agrees (i) to the extent permitted by applicable law or if permitted by applicable law, to the extent Agent or such Lender or Issuing Bank determines in good faith that it will not create any risk of liability to Agent or such Lender or Issuing Bank, Agent or such Lender or Issuing Bank will promptly notify Administrative Borrower of such request so that Administrative Borrower may seek a protective order or other appropriate relief or remedy and (ii) if disclosure of such information is required, disclose such information and, subject to reimbursement by Borrowers of Agent's or such Lender's or Issuing Bank's expenses, cooperate with Administrative Borrower in the reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the disclosed information which Administrative Borrower so designates, to the extent permitted by applicable law or if permitted by applicable law, to the extent Agent or such Lender or Issuing Bank determines in good faith that it will not create any risk of liability to Agent or such Lender or Issuing Bank.

(c) In no event shall this Section 13.5 or any other provision of this Agreement, any of the other Financing Agreements or applicable law be deemed: (i) to apply to or restrict disclosure of information that has been or is made public by any Borrower, Guarantor or any third party without breach of this Section 13.5 or otherwise become generally available to the public other than as a result of a disclosure in violation hereof, (ii) to apply to or restrict disclosure of information that was or becomes available to Agent, any Lender (or any Affiliate of any Lender) or Issuing Bank on a non-confidential basis from a person other than a Borrower or Guarantor, (iii) to require Agent, any Lender or Issuing Bank to return any materials furnished by a Borrower or Guarantor to Agent, a Lender or Issuing Bank or prevent Agent, a Lender or Issuing Bank from responding to routine informational requests in accordance with the Code of Ethics for the Exchange of Credit Information promulgated by The Robert Morris Associates or other applicable industry standards relating to the exchange of credit information. The obligations of Agent, Lenders and Issuing Bank under this Section 13.5 shall supersede and replace the obligations of Agent, Lenders and Issuing Bank under any confidentiality letter signed prior to the date hereof or any other arrangements concerning the confidentiality of information provided by any Borrower or Guarantor to Agent or any Lender. In addition, Agent and Lenders may disclose information relating to the Credit Facility to Gold Sheets and other publications, with such information to consist of deal terms and other information customarily found in such publications and that Wells Fargo may otherwise use the corporate name and logo of Borrowers and Guarantors or deal terms in "tombstones" or other advertisements, public statements or marketing materials.

**13.6 Successors.** This Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon and inure to the benefit of and be enforceable by Agent, Lenders, Issuing Bank, Borrowers, Guarantors and their respective successors and assigns, except that Borrower may not assign its rights under this Agreement, the other Financing Agreements and any other document referred to herein or therein without the prior written consent of Agent and Lenders. Any such purported assignment without such

express prior written consent shall be void. No Lender may assign its rights and obligations under this Agreement without the prior written consent of Agent, except as provided in Section 13.7 below. The terms and provisions of this Agreement and the other Financing Agreements are for the purpose of defining the relative rights and obligations of Borrowers, Guarantors, Agent, Lenders and Issuing Bank with respect to the transactions contemplated hereby and there shall be no third party beneficiaries of any of the terms and provisions of this Agreement or any of the other Financing Agreements.

13.7 Assignments; Participations.

(a) Each Lender may, with the prior written consent of Agent, assign all or, if less than all, a portion equal to at least \$5,000,000 in the aggregate for the assigning Lender, of such rights and obligations under this Agreement to one or more Eligible Transferees (but not including for this purpose any assignments in the form of a participation), each of which assignees shall become a party to this Agreement as a Lender by execution of an Assignment and Acceptance; provided, that, (i) such transfer or assignment will not be effective until recorded by Agent on the Register and (ii) Agent shall have received for its sole account payment of a processing fee from the assigning Lender or the assignee in the amount of \$5,000.

(b) Agent shall maintain a register of the names and addresses of Lenders, their Commitments and the principal amount of their Loans (the "Register"). Agent shall also maintain a copy of each Assignment and Acceptance delivered to and accepted by it and shall modify the Register to give effect to each Assignment and Acceptance. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and any Borrowers, Guarantors, Agent and Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by Administrative Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(c) Upon such execution, delivery, acceptance and recording, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and to the other Financing Agreements and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, have the rights and obligations (including, without limitation, the obligation to participate in Letter of Credit Obligations) of a Lender hereunder and thereunder and the assigning Lender shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under this Agreement.

(d) By execution and delivery of an Assignment and Acceptance, the assignor and assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any of the other Financing Agreements or the execution, legality, enforceability, genuineness, sufficiency or value of this Agreement or any of the other Financing Agreements furnished pursuant hereto, (ii) the assigning Lender makes no representation or warranty and assumes no

responsibility with respect to the financial condition of any Borrower, Guarantor or any of their Subsidiaries or the performance or observance by any Borrower or Guarantor of any of the Obligations; (iii) such assignee confirms that it has received a copy of this Agreement and the other Financing Agreements, together with such other documents and information it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such assignee will, independently and without reliance upon the assigning Lender, Agent and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Financing Agreements, (v) such assignee appoints and authorizes Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the other Financing Agreements as are delegated to Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement and the other Financing Agreements are required to be performed by it as a Lender. Agent and Lenders may furnish any information concerning any Borrower or Guarantor in the possession of Agent or any Lender from time to time to assignees and Participants.

(e) Each Lender may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Agreement and the other Financing Agreements (including, without limitation, all or a portion of its Commitments and the Loans owing to it and its participation in the Letter of Credit Obligations, without the consent of Agent or the other Lenders); provided, that, (i) such Lender's obligations under this Agreement (including, without limitation, its Commitment hereunder) and the other Financing Agreements shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and Borrowers, Guarantors, the other Lenders and Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Financing Agreements, and (iii) the Participant shall not have any rights under this Agreement or any of the other Financing Agreements (the Participant's rights against such Lender in respect of such participation to be those set forth in the agreement executed by such Lender in favor of the Participant relating thereto) and all amounts payable by any Borrower or Guarantor hereunder shall be determined as if such Lender had not sold such participation.

(f) Nothing in this Agreement shall prevent or prohibit any Lender from pledging its Loans hereunder to a Federal Reserve Bank in support of borrowings made by such Lenders from such Federal Reserve Bank; provided, that, no such pledge shall release such Lender from any of its obligations hereunder or substitute any such pledgee for such Lender as a party hereto.

(g) Borrowers and Guarantors shall assist Agent or any Lender permitted to sell assignments or participations under this Section 13.7 in whatever manner reasonably necessary in order to enable or effect any such assignment or participation, including (but not limited to) the execution and delivery of any and all agreements, notes and other documents and instruments as shall be requested and the delivery of informational materials, appraisals or other documents for, and the participation of relevant management in meetings and conference calls with, potential Lenders or Participants. Borrowers shall certify the correctness, completeness and



accuracy, in all material respects, of all descriptions of Borrowers and Guarantors and their affairs provided, prepared or reviewed by any Borrower or Guarantor that are contained in any selling materials and all other information provided by it and included in such materials.

(h) Any Lender that is an Issuing Bank may at any time assign all of its Commitments pursuant to this Section 13.7. If such Issuing Bank ceases to be Lender, it may, at its option, resign as Issuing Bank and such Issuing Bank's obligations to issue Letters of Credit shall terminate but it shall retain all of the rights and obligations of Issuing Bank hereunder with respect to Letters of Credit outstanding as of the effective date of its resignation and all Letter of Credit Obligations with respect thereto (including the right to require Lenders to make Revolving Loans or fund risk participations in outstanding Letter of Credit Obligations), shall continue.

13.8 Entire Agreement. This Agreement, the other Financing Agreements, any supplements hereto or thereto, and any instruments or documents delivered or to be delivered in connection herewith or therewith represents the entire agreement and understanding concerning the subject matter hereof and thereof between the parties hereto, and supersedes all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written. In the event of any inconsistency between the terms of this Agreement and any schedule or exhibit hereto, the terms of this Agreement shall govern.

13.9 USA Patriot Act. Each Lender subject to the USA PATRIOT Act (Title III of Pub.L. 107-56 (signed into law October 26, 2001) (the "Act") hereby notifies Borrowers and Guarantors that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies each person or corporation who opens an account and/or enters into a business relationship with it, which information includes the name and address of Borrowers and Guarantors and other information that will allow such Lender to identify such person in accordance with the Act and any other applicable law. Borrowers and Guarantors are hereby advised that any Loans or Letters of Credit hereunder are subject to satisfactory results of such verification.

13.10 Counterparts, Etc. This Agreement or any of the other Financing Agreements may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement or any of the other Financing Agreements by facsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Agreement or any of such other Financing Agreements. Any party delivering an executed counterpart of any such agreement by facsimile or other electronic method of transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of such agreement.

#### **SECTION 14. ACKNOWLEDGMENT AND RESTATEMENT**

14.1 Existing Obligations. Each Borrower and Guarantor hereby acknowledges, confirms and agrees that Borrowers and Guarantors are indebted to Wells Fargo for: (a) Loans and advances to Borrowers under the Existing Loan Agreement, as of the close of business on September 9, 2011, in the aggregate principal amount of \$35,285,010 and (b) Letter of Credit

Obligations (as defined in the Existing Loan Agreement) incurred at the request or for the benefit of Borrowers in the aggregate principal amount of \$9,019,350, together with all interest accrued and accruing thereon (to the extent applicable), and all fees, costs, expenses and other charges relating thereto, all of which are unconditionally owing by Borrowers and Guarantors to Wells Fargo, without offset, defense or counterclaim of any kind, nature or description whatsoever.

14.2 Acknowledgment of Security Interests. Each Borrower and Guarantor hereby acknowledges, confirms and agrees that Agent, for itself and the ratable benefit of Secured Parties, has and shall continue to have a security interest in and lien upon the Collateral heretofore granted by such Borrower or Guarantor to Wells Fargo pursuant to the Existing Financing Agreements to secure the Obligations, as well as any Collateral granted by any Borrower or Guarantor under this Agreement or under any of the other Financing Agreements or otherwise granted to or held by Agent or any Lender. The liens and security interests of Agent, for itself and the ratable benefit of Secured Parties, in the Collateral shall be deemed to be continuously granted and perfected from the earliest date of the granting and perfection of such liens and security interests, whether under the Existing Loan Agreement, this Agreement or any other Financing Agreements.

14.3 Existing Financing Agreements. Each Borrower and Guarantor hereby acknowledges, confirms and agrees that: (a) the Existing Financing Agreements have been duly executed and delivered by Borrowers and Guarantors and are in full force and effect as of the date hereof and (b) the agreements and obligations of Borrowers and Guarantors contained in the Existing Financing Agreements constitute the legal, valid and binding obligations of each Borrower and Guarantor, as the case may be, enforceable against such Borrower or Guarantor, in accordance with their respective terms and no Borrower has a valid defense to the enforcement of such obligations and (c) Agent and Lenders are entitled to all of the rights and remedies provided for in or arising pursuant to the Existing Financing Agreements.

14.4 Restatement.

(a) Except as otherwise stated in Section 14.2 hereof and this Section 14.4, as of the date hereof, the terms, conditions, agreements, covenants, representations and warranties set forth in the Existing Loan Agreement are hereby amended and restated in their entirety, and as so amended and restated, replaced and superseded, by the terms, conditions, agreements, covenants, representations and warranties set forth in this Agreement and the other Financing Agreements, except that nothing herein or in the other Financing Agreements shall impair or adversely affect the continuation of the liability of Borrowers and Guarantors for the Existing Loans and the Existing Letters of Credit and all accrued and unpaid interest thereon and fees, costs, expenses and other charges with respect thereto and the security interests, liens, hypothecs and other interests in the Collateral heretofore granted, pledged and/or assigned by Borrowers or Guarantors to Existing Lender, Agent or any other Secured Party (whether directly, indirectly or otherwise).

(b) The amendment and restatement contained herein shall not, in any manner, be construed to constitute payment of, or impair, limit, cancel or extinguish, or constitute a novation in respect of, the Existing Loans, the Existing Letters of Credit and all

accrued and unpaid interest thereon and fees with respect thereto, and the liens and security interests securing such obligations and liabilities, which shall not in any manner be impaired, limited, terminated, waived or released, but shall continue in full force and effect in favor of Agent for the benefit of itself and Secured Parties.

(c) All of the Existing Loans, the Existing Letters of Credit and all accrued and unpaid interest thereon and fees with respect thereto shall be deemed Obligations of Borrowers and Guarantors pursuant to the terms hereof. The principal amount of the Existing Loans and the amount of the Existing Letters of Credit outstanding as of the date hereof shall be allocated to the Revolving Loans and Letters of Credit hereunder in such manner and in such amounts as Agent shall determine in accordance with the terms hereof.

IN WITNESS WHEREOF, Agent, Lenders, Borrowers and Guarantors have caused these presents to be duly executed as of the day and year first above written.

AGENT

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Agent and Issuing Bank

By: /s/ Dennis A. King  
Name: Dennis A. King  
Title: Vice President

BORROWERS

FARMER BROS. CO.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Interim Co-Chief Executive Officer

LENDERS

WELLS FARGO BANK, NATIONAL  
ASSOCIATION

By: /s/ Dennis A. King  
Name: Dennis A. King  
Title: Vice President

COFFEE BEAN INTERNATIONAL, INC.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Assistant-Treasurer and Director

Commitment: \$85,000,000

COFFEE BEAN HOLDING CO., INC.

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer and CFO

GUARANTORS

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer and CFO

FBC FINANCE COMPANY

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer

By: /s/ Jeffrey Wahba  
Name: Jeffrey Wahba  
Title: Treasurer

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EXHIBIT A  
to  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT  
ASSIGNMENT AND ACCEPTANCE AGREEMENT

A-1

EXHIBIT B  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Form of Borrowing Base Certificate

B-1

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EXHIBIT C  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Information Certificate

C-1

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EXHIBIT D  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Compliance Certificate

D-1



EXHIBIT E  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Investment Liquidity Certificate

E-1

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SCHEDULE 1.63  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Existing Letters of Credit

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SCHEDULE 1.107  
TO  
AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Permitted Holders

AMENDMENT NO. 1  
FARMER BROS. CO. RETIREMENT PLAN

The Plan named above gives the Employer the right to amend it at any time. According to that right, the Plan is amended effective June 30, 2011, as follows:

By striking the first sentence from the definition of **Accrual Service** in the DEFINITIONS SECTION of Article I and substituting the following:

**Accrual Service** means an Employee's Period of Service credited on or before June 30, 2011.

By adding the following after the first paragraph of the definition of **Accrual Service** in the DEFINITIONS SECTION of Article I:

Accrual Service shall be frozen on and after June 30, 2011 for purposes of determining the Accrued Benefit on such date; however, for purposes of determining a Participant's Early Retirement Age, Disability Retirement Date, or the deferred monthly retirement benefit for an Inactive Participant beginning on his Early Retirement Date according to the VESTED BENEFITS SECTION of Article V, Accrual Service shall continue to be credited for Periods of Service on and after June 30, 2011.

By striking the first paragraph from the definition of **Average Compensation** in the DEFINITIONS SECTION of Article I and substituting the following:

**Average Compensation** means, on any given date before June 30, 2011, the average of an Employee's Monthly Compensation for those 60 consecutive calendar months of his Accrual Service (all such months, if less than 60) which give the highest average out of the 120 latest calendar months of his Accrual Service (all such months, if less than 120).

By adding the following after the last paragraph of the definition of Average Compensation in the DEFINITIONS SECTION of Article I:

On any given date on or after June 30, 2011, an Employee's Average Compensation shall be his Average Compensation as of June 30, 2011.

By adding the following as the final paragraph of the ACCRUED BENEFIT SECTION of Article IV:

On and after June 30, 2011, the Accrued Benefit is frozen and no additional benefits shall accrue on and after such date.

This amendment is made an integral part of the aforesaid Plan and is controlling over the terms of said Plan with respect to the particular items addressed expressly herein. All other provisions of the Plan remain unchanged and controlling.

Unless otherwise stated on any page of this amendment, eligibility for benefits and the amount of any benefits payable to or on behalf of an individual who is an Inactive Participant on the effective date(s) stated above, shall be determined according to the provisions of the aforesaid Plan as in effect on the day before he became an Inactive Participant.

Signing this amendment, the Employer, as plan sponsor, has made the decision to adopt this plan amendment. The Employer is acting in reliance on its own discretion and on the legal and tax advice of its own advisors, and not that of any member of the Principal Financial Group or any representative of a member company of the Principal Financial Group.

Signed this 11 day of MAY, 2011

FARMERS BROS. CO

By \_\_\_\_\_ /s/ Jeffrey Wahba  
CFO  
Title

Amendment No. 1

**EMPLOYMENT AGREEMENT**  
**(Farmer Bros. Co. / Garrett)**

This Employment Agreement ("Agreement") is made and entered into as of December 1, 2010 between FARMER BROS. CO., a Delaware corporation (the "Company"), and LARRY B. GARRETT ("Garrett") who agree as follows:

1. **Employment:** The Company hereby employs Garrett, and Garrett accepts employment from the Company, on the terms and conditions herein stated.

2. **Term of Employment:** The term of Garrett's employment under this Agreement will commence on December 1, 2010 or on such other date as Garrett and the Company's Chief Financial Officer ("CFO") may mutually agree (the "Commencement Date") and shall end when terminated under Section 7 below.

3. **Duties:** Garrett shall serve as General Counsel of the Company, reporting to the CFO but having direct access to Chief Executive Officer ("CEO"). As such his general responsibilities shall include oversight responsibility for the Company's legal affairs and service as the Company's primary labor and employment law attorney. In addition to his general responsibilities, Garrett shall also perform such other legal or management duties as are directed by the Company's CEO, CFO or Board of Directors ("Board"). Garrett shall also serve as Assistant Secretary at the pleasure of the Board. Garrett shall devote to the Company's business substantially all of his working time. Service as a director of for-profit organizations shall require approval of the Board.

4. **Base Salary:** Garrett shall receive an annual base salary of \$270,000 payable in accordance with the Company's normal payroll practice. The annual base salary amount shall be reviewed annually by the Company and can be adjusted upward or downward by the Company from time to time but shall not be reduced below \$270,000 per annum.

5. **Bonuses:** Garrett shall be entitled to participate in the Company's 2005 Incentive Compensation Plan or any successor plan ("Plan") each year, commencing with the Company's 2011 fiscal year, so long as the Plan remains in effect and one or more of the Company's other executive officers who are full-time Company employees ("Senior Executives") also participate. Under the terms of the Plan, the Compensation Committee will, in its discretion, determine the Performance Criteria and all other variables by which Garrett's bonus for such year will be measured. The Target Award, as defined in the Plan, shall be an amount equal to fifty percent (50%) (the "Applicable Percentage") of Garrett's base annual salary, except that the Applicable Percentage for fiscal 2011 shall be 29.17% to reflect a proration for Garrett's Commencement Date. Performance criteria for Garrett's fiscal 2011 Target Award shall be determined by the Compensation Committee, in consultation with management, after the Commencement Date. Except as provided otherwise in this Section 5, Garrett's participation in the Plan is subject to all Plan terms and conditions. Under the terms of the Plan, no bonus is earned until awarded by the Compensation Committee after completion of the fiscal year, and the Compensation Committee may, in its discretion, reduce, entirely eliminate or increase the bonus indicated by the Performance Criteria and other Plan factors. Garrett acknowledges receipt of a copy of the Plan.

## 6. Benefits:

A. The Company will provide to Garrett all benefits and perquisites provided by the Company from time to time to its Senior Executives, subject to the eligibility requirements and the terms and conditions of the benefit plans and perquisite policies. For the avoidance of doubt, Garrett's benefit package includes twenty (20) days paid vacation per contract year (i.e., the year ending on each anniversary of the Commencement Date) but excludes participation in the Company's defined benefit pension plan. Other included benefits and perquisites presently consist of group health insurance (PPO or HMO), participation in the Company's 2007 Omnibus Plan as provided below, life insurance, key person life insurance, business travel insurance, 401(k) plan, employee stock ownership plan, cell phone, company credit card, and expense reimbursement, and may include use of an automobile or an automobile allowance in accordance with Company policy for Senior Executives which is presently being revised. Not all of the foregoing benefits are 100% Company paid.

B. Garrett shall be entitled to participate in the Company's 2007 Omnibus Plan as administered by the Company's Compensation Committee. On December 9, 2010, Garrett shall be granted 12,000 stock options and 1,800 shares of restricted stock. The strike price of the options will be the closing price of the Company's stock on such date. The terms and conditions of the options and restricted stock shall be the same as those applicable to the grants made to the Company's Senior Executives in fiscal 2010. Garrett shall be entitled to such future grants under the 2007 Omnibus Plan as are awarded to him by the Compensation Committee from time to time in its discretion.

C. The Company reserves the right to alter or discontinue any or all such benefits and perquisites, provided they are so altered or discontinued as to all Senior Executives.

D. The Company shall reimburse Garrett for the following expenses incurred by Garrett related to Garrett's relocation to Southern California:

1. Broker's commissions not to exceed six percent (6%) on the sale of his San Francisco residence.
2. Documentary transfer taxes on sale of his San Francisco residence.
3. Actual and reasonable costs of an approved moving company, to include the cost of packing, moving, partial unpacking and insurance of inventoried personal property at replacement cost.
4. Mileage at standard Company rate and reasonable meal expense for a one-day automobile trip from Bay Area to Southern California.
5. Reasonable rent for up to sixty (60) days of temporary housing.

Reimbursements will be made against submitted supporting documentation.

## 7. Termination:

A. Garrett's employment is terminable by the Company for good and sufficient cause ("Cause") which shall consist only of: (i) a repeated refusal to follow reasonable directions from the CEO, CFO or Board after a warning; (ii) a material breach of any of Garrett's fiduciary duties to the Company (a breach involving dishonesty or personal gain shall be deemed material regardless of the amount involved); (iii) conviction of a felony; (iv) commission of a willful violation of any law, rule or regulation involving moral turpitude; (v) commission of a willful or grossly negligent act, omission or course of conduct which has a material adverse effect on the Company; or (vi) commission of a material breach by Garrett of this Agreement which breach, if curable, is not cured within a reasonable time after written notice from the CEO, CFO or Board describing the nature of the breach in reasonable detail.

B. Garrett's employment shall terminate upon Garrett's resignation, with or without "Good Reason," as defined below, death or permanent mental or physical incapacity. "Permanent Incapacity" shall be deemed to have occurred if Garrett has been unable to perform substantially all of his employment duties under Section 3 on a substantially full time basis by reason of a mental or physical condition for a period of ninety (90) consecutive days or for more than one hundred eighty days (180) in any period of three hundred sixty-five (365) consecutive days.

"Good Reason" shall consist only of (i) the Company's material breach of this Agreement, (ii) a material reduction in Garrett's responsibilities, duties or authority, or (iii) a material relocation of Garrett's principal place of employment more than fifty (50) miles from its present location; provided, however, that any such condition shall not constitute "Good Reason" unless both (x) Garrett provides written notice to the Company describing the condition claimed to constitute Good Reason in reasonable detail within ninety (90) days of the initial existence of such condition, and (y) the Company fails to remedy such condition within thirty (30) days of receiving such written notice thereof; and provided, further, that in all events the termination of Garrett's employment with the Company shall not be treated as a termination for "Good Reason" unless such termination occurs not more than one (1) year following the initial existence of the condition claimed to constitute "Good Reason."

C. Garrett's employment shall terminate at the election of the Company at any time without Cause.

## 8. Payments upon Termination: The following amounts are payable upon termination of Garrett's employment, as applicable:

A. In the event of a termination for any reason, base salary at the then existing rate, shall be prorated and paid through the effective termination date, along with accrued and untaken vacation (subject to the Company's vacation policy). If termination is due to Garrett's death or Permanent Incapacity, the Company shall also pay to Garrett upon termination an additional lump sum severance amount equal to the Target Award under the Company's 2005 Incentive Compensation Plan which is applicable to Garrett for the fiscal year in which termination is effective or, if termination takes place before a Target Award for the then current fiscal year has been assigned to Garrett, the Applicable Percentage of Garrett's then annual base salary, in either case prorated for the partial fiscal year ending on the effective termination date.

B. If termination occurs at the election of the Company without Cause or by Garrett's resignation with Good Reason: Garrett will receive as severance (i) an amount equal to



his base salary at the rate in effect on the date of termination for a period of six (6) months, (ii) partially Company-paid COBRA coverage under the Company's health care plan for himself and his spouse for one (1) year after the effective termination date (the Company will pay the same percentage of the coverage cost that it would have paid had Garrett's employment not terminated) and (iii) an amount equal to one hundred percent (100%) of Garrett's Target Award for the fiscal year in which the date of termination occurs (or, if no Target Award has been assigned to Garrett as of the date of termination, the average bonus paid by the Company to Garrett for the last three (3) completed fiscal years or for the number of completed fiscal years that Garrett has been in the employ of the Company if fewer than three, prior to the termination date), such amount to be prorated for the partial fiscal year in which the termination date occurs. Garrett is not obligated to seek other employment as a condition to receipt of the payments called for by this Section 8B, and Garrett's earnings, income or profits from other employment or business activities after termination of his employment shall not reduce the Company's payment obligations under this Section 8B. Subject to Section 8C and Section 12J(ii), the amount referred to in clause (i) above shall be paid in installments in accordance with the Company's standard payroll practices commencing in the month following the month in which Garrett's Separation from Service occurs, and the amount referred to in clause (iii) above shall be paid in a lump sum within thirty (30) days after the end of the Company's fiscal year in which Garrett's Separation from Service occurs. As used herein, a "Separation from Service" occurs when Garrett dies, retires, or otherwise has a termination of employment with the Company that constitutes a "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h)(1), without regard to the optional alternative definitions available thereunder. Salary continuation payments shall commence, and the additional severance amount shall be paid, only when the release required by Section 8C below has become effective.

C. As a condition to receiving the applicable payments under Section 8B above, Garrett must execute and deliver to the Company within twenty-one (21) days following the termination of his employment (or such longer period as may be required under applicable law) a general release of claims against the Company other than claims to the payments called for by this Agreement, such release to be in form and content substantially as attached hereto as Exhibit A, and said release shall have become effective under applicable laws, including the Age Discrimination in Employment Act of 1967, as amended.

D. All benefits other than the entitlement to payments under Section 8B shall terminate automatically upon termination of Garrett's employment except to the extent otherwise provided in the Company benefit plans or by law.

E. Except as provided in this Section 8 or by applicable Company benefit plans or laws, Garrett shall not be entitled to any payments of any kind in connection with the termination of his employment by the Company.

**9. Employee Handbook and Company Policies:** So long as he is employed by the Company, Garrett shall comply with, and shall be entitled to rights as set forth in the Company's Employee Handbook which may be revised from time to time and other Company policies as in effect and communicated to Garrett from time to time. In the event that there is a conflict or contradiction between the contents of the Employee Handbook or other such Company policies and the provisions of this Agreement, then the provisions of this Agreement will prevail.

## 10. Confidential Information, Intellectual Property:

A. Garrett acknowledges that during the course of his employment with the Company, he will be given or will have access to non-public and confidential business information of the Company which will include information concerning pending or potential transactions, financial information concerning the Company, information concerning the Company's product formulas and processes, information concerning the Company's business plans and strategies, information concerning Company personnel and vendors, and other non-public proprietary information of the Company (all collectively called "Confidential Information"). All of the Confidential Information constitutes "trade secrets" under the Uniform Trade Secrets Act. Garrett covenants and agrees that during and after the term of his employment by the Company he will not disclose such information or any part thereof to anyone outside the Company or use such information for any purpose other than the furtherance of the Company's interests without the prior written consent of the CEO, CFO or Board.

B. Garrett further covenants that for a period of two (2) years after his employment by the Company terminates, he will not, directly or indirectly, overtly or tacitly, induce, attempt to induce, solicit or encourage (i) any customer or prospective customer of the Company to cease doing business with, or not to do business with, the Company or (ii) any employee of the Company to leave the Company.

C. The Company and Garrett agree that the covenants set forth in this Section 10 are reasonably necessary for the protection of the Company's Confidential Information and that a breach of the foregoing covenants will cause the Company irreparable damage not compensable by monetary damages, and that in the event of such breach or threatened breach, at the Company's election, an action may be brought in a court of competent jurisdiction seeking a temporary restraining order and a preliminary injunction against such breach or threatened breach notwithstanding the arbitration and reference provisions of Section 12F below. Upon the court's decision on the application for a preliminary injunction, the court action shall be stayed and the remainder of the dispute submitted to arbitration or reference under Section 12F. The prevailing party in such legal action shall be entitled to recover its costs of suit including reasonable attorneys' fees.

D. The Company shall own all rights in and to the results, proceeds and products of Garrett's services hereunder, including without limitation, all ideas and intellectual property created or developed by Garrett and which is related to Garrett's employment.

**11. Integration with Change in Control Severance Agreement:** If Garrett becomes eligible for benefits under Section 3 of the Change in Control Severance Agreement executed concurrently herewith, the benefits provided by Section 4 of that Agreement shall be in lieu of, and not in addition to, the benefits provided by Section 8B of this Agreement.

## 12. Miscellaneous:

A. This Agreement and the Change in Control Severance Agreement and Indemnification Agreement entered into concurrently herewith contain the entire agreement of the parties on the subject of Garrett's employment by the Company, all prior and contemporaneous agreements, promises or understandings being merged herein. This Agreement can be modified only by a writing signed by both parties hereto.

B. Garrett cannot assign this Agreement or delegate his duties hereunder. Subject to the preceding sentence, this Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

C. No waiver of any provision or consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the party to be bound and then only to the specific purpose, extent and instance so provided. This Agreement may be executed in counterparts (and by facsimile signature), each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

D. Each party shall execute and deliver such further instruments and take such other action as may be necessary or appropriate to consummate the transactions herein contemplated and to carry out the intent of the parties hereto.

E. This Agreement shall be construed in a fair and reasonable manner and not pursuant to any principle requiring that ambiguities be strictly construed against the party who caused same to exist.

F. (i) All disputes arising under or in connection with this Agreement, shall be submitted to a mutually agreeable arbitrator, or if the parties are unable to agree on an arbitrator within fifteen (15) days after a written demand for arbitration is made by either party, to JAMS/Endispute ("JAMS") or successor organization, for binding arbitration in Los Angeles County by a single arbitrator who shall be a former California Superior Court judge. Except as may be otherwise provided herein, the arbitration shall be conducted under the California Arbitration Act, Code of Civil Procedure 1280 et seq. The parties shall have the discovery rights provided in Code of Civil Procedure 1283.05 and 1283.1. The arbitration hearing shall be commenced within ninety (90) days after the selection of an arbitrator by mutual agreement or, absent such mutual agreement, the filing of the application with JAMS by either party hereto, and a decision shall be rendered by the arbitrator within thirty (30) days after the conclusion of the hearing. The arbitrator shall have complete authority to interpret this Section 12F and to render any and all relief, legal and equitable, appropriate under California law, including the award of punitive damages where legally available and warranted. The arbitrator shall award costs of the proceeding, including reasonable attorneys' fees and the arbitrator's fee and costs, to the party determined to have substantially prevailed. Judgment on the award can be entered in a court of competent jurisdiction.

(ii) The foregoing notwithstanding, if the amount in controversy exceeds \$200,000, exclusive of attorneys' fees and costs, the matter shall be litigated in the Los Angeles County Superior Court as a regular non-jury civil action except that a former California Superior Court Judge selected by the parties or by JAMS, as hereinabove provided, shall be appointed as referee to try all issues of fact and law, without a jury, pursuant to California Code of Civil Procedure §638 et seq. The parties hereto expressly waive a trial by jury. Judgment entered on the decision of the referee shall be appealable as a judgment of the Superior Court. The prevailing party shall be entitled to receive its reasonable attorneys' fees and costs from the other party.

G. Payments to Garrett are subject to payroll deductions and withholdings if and to the extent required by law. Salary payments will be reduced on a dollar-for-dollar basis by payments received by Garrett for disability under governmental or Company paid disability insurance programs. Payments to Garrett under Section 8B are conditioned upon his continuing compliance with Sections 10A and 10B.

H. All provisions of this Agreement which must survive the termination of this Agreement to give them their intended effect shall so survive.

I. If any provision of this Agreement is determined to be unenforceable as illegal or contrary to public policy, it shall be deemed automatically amended to the extent necessary to render it enforceable provided the intent of the parties as expressed herein will not thereby be frustrated. Otherwise the unenforceable provision shall be severed from the remaining provisions which shall remain in effect.

J. (i) It is intended that any amounts payable under this Agreement shall either be exempt from or comply with Section 409A of the Internal Revenue Code (including the Treasury regulations and other published guidance relating thereto) ("Code Section 409A") so as not to subject Garrett to payment of any additional tax, penalty or interest imposed under Code Section 409A. The provisions of this Agreement shall be construed and interpreted to avoid the imputation of any such additional tax, penalty or interest under Code Section 409A yet preserve (to the nearest extent reasonably possible) the intended benefit payable to Garrett.

(ii) Notwithstanding any provision of this Agreement to the contrary, if Garrett is a "specified employee" within the meaning of Treasury Regulation Section 1.409A-1(i) as of the date of Garrett's Separation from Service, Garrett shall not be entitled to any payment or benefit pursuant to Section 8B until the earlier of (i) the date which is six (6) months after Garrett's Separation from Service for any reason other than death, or (ii) the date of Garrett's death. Any amounts otherwise payable to Garrett upon or in the six (6) month period following Garrett's Separation from Service that are not so paid by reason of this Section 12K(ii) shall be paid (without interest) as soon as practicable (and in all events within thirty (30) days) after the date that is six (6) months after Garrett's Separation from Service (or, if earlier, as soon as practicable, and in all events within thirty (30) days, after the date of Garrett's death). The provisions of this Section 12J(ii) shall only apply if, and to the extent, required to avoid the imputation of any tax, penalty or interest pursuant to Code Section 409A.

(iii) To the extent that any benefits pursuant to Section 8B(ii) or reimbursements pursuant to Section 6 are taxable to Garrett, any reimbursement payment due to Garrett pursuant to such provision shall be paid to Garrett on or before the last day of Garrett's taxable year following the taxable year in which the related expense was incurred. The benefits and reimbursements pursuant to such provisions are not subject to liquidation or exchange for another benefit and the amount of such benefits and reimbursements that Garrett receives in one taxable year shall not affect the amount of such benefits or reimbursements that Garrett receives in any other taxable year.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

COMPANY:

FARMER BROS. CO.,  
a Delaware corporation

By: /s/ Roger M. Lavery III  
Roger M. Lavery III  
President and Chief Executive Officer

GARRETT:

/s/ Larry B. Garrett  
Larry B. Garrett

[SIGNATURE PAGE TO EMPLOYMENT AGREEMENT  
(FARMER BROS. CO. / GARRETT)]

**EXHIBIT A**  
**RELEASE AGREEMENT**

I understand that my position with Farmer Bros. Co. (the "Company") terminated effective \_\_\_\_\_, 20\_\_\_\_ (the "Separation Date"). The Company has agreed that if I choose to sign this Agreement, the Company will pay me severance benefits (minus the standard withholdings and deductions) pursuant to the terms of the Employment Agreement entered into as of \_\_\_\_\_, 2010 between myself and the Company. I understand that I am not entitled to this severance payment unless I sign this Agreement. I understand that in addition to this severance, the Company will pay me all of my accrued salary and vacation, to which I am entitled by law regardless of whether I sign this release.

In consideration for the severance payment I am receiving under this Agreement, I acknowledge and agree that I am bound by the provisions of Sections 10A and 10B of my Employment Agreement and hereby release the Company and its current and former officers, directors, agents, attorneys, employees, shareholders, and affiliates from any and all claims, liabilities, demands, causes of action, attorneys' fees, damages, or obligations of every kind and nature, whether they are known or unknown, arising at any time prior to the date I sign this Agreement. This general release includes, but is not limited to: all federal and state statutory and common law claims related to my employment or the termination of my employment or related to breach of contract, tort, wrongful termination, discrimination, wages or benefits, or claims for any form of compensation. This release is not intended to release any claims I have or may have against any of the released parties for (a) indemnification as a director, officer, agent or employee under applicable law, charter document or agreement, (b) severance and other termination benefits specifically provided for in my Employment Agreement which constitutes a part of the consideration for this release, (c) health or other insurance benefits based on claims already submitted or which are covered claims properly submitted in the future, (d) vested rights under pension, retirement or other benefit plans, or (e) in respect of events, acts or omissions occurring after the date of this Release Agreement. In releasing claims unknown to me at present, I am waiving all rights and benefits under Section 1542 of the California Civil Code, and any law or legal principle of similar effect in any jurisdiction: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the federal Age Discrimination in Employment Act of 1967, as amended ("ADEA"). I also acknowledge that the consideration given for the waiver in the above paragraph is in addition to anything of value to which I was already entitled. I have been advised by this writing, as required by the ADEA that: (a) my waiver and release do not apply to any claims that may arise after my signing of this Agreement; (b) I should consult with an attorney prior to executing this release; (c) I have twenty-one (21) days within which to consider this release (although I may choose to voluntarily execute this release earlier); (d) I have seven (7) days following the execution of this release to revoke the Agreement; and (e) this Agreement will not be effective until the eighth day after this Agreement has been signed both by me and by the Company.

I accept and agree to the terms and conditions stated above:

---

Larry B. Garrett

[EXHIBIT A]

**SUBSIDIARIES OF FARMER BROS. CO.**

Farmer Bros. Co., a Delaware corporation

FBC Finance Company, a California corporation

Coffee Bean Holding Co., Inc., a Delaware corporation

Sierra Herb Company, Inc., a California corporation

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-157169) pertaining to the Farmer Bros. Co. 2007 Omnibus Plan of our reports dated September 12, 2011, with respect to the consolidated financial statements of Farmer Bros. Co. and the effectiveness of internal control over financial reporting of Farmer Bros. Co., included in its Annual Report (Form 10-K) for the year ended June 30, 2011.

/s/ ERNST & YOUNG LLP

Los Angeles, California  
September 12, 2011



**Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Jeffrey A. Wahba, certify that:

1. I have reviewed this Annual Report on Form 10-K of Farmer Bros. Co.;

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;

(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: September 12, 2011

/s/ JEFFREY A. WAHBA

---

**Jeffrey A. Wahba**  
**Interim Co-Chief Executive Officer**  
**(principal executive officer)**  
**Treasurer and Chief Financial Officer**  
**(principal financial and accounting officer)**

**Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Patrick G. Criteser certify that:

1. I have reviewed this Annual Report on Form 10-K of Farmer Bros. Co.;

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;

(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: September 12, 2011

/s/ PATRICK G. CRITESER

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Patrick G. Criteser  
Interim Co-Chief Executive Officer  
(principal executive officer)

**Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Farmer Bros. Co. (the "Company") on Form 10-K for the fiscal year ended June 30, 2011, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jeffrey A. Wahba, Interim Co-Chief Executive Officer, Treasurer and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Dated: September 12, 2011

/s/ JEFFREY A. WAHBA

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**Jeffrey A. Wahba**  
**Interim Co-Chief Executive Officer**  
**(principal executive officer)**  
**Treasurer and Chief Financial Officer**  
**(principal financial and accounting officer)**

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of Farmer Bros. Co. (the "Company") on Form 10-K for the fiscal year ended June 30, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Patrick G. Criteser, Interim Co-Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Dated: September 12, 2011

/s/ PATRICK G. CRITESER

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**Patrick G. Criteser**  
**Interim Co-Chief Executive Officer**  
**(principal executive officer)**

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**Farmer Bros Co.****Properties****Executive Offices**

20333 South Normandie Avenue, Torrance, California\*  
 120 W. Whitehall Avenue, Northlake, Illinois  
 9120 N.E. Alderwood Rd., Portland, Oregon

**Plants**

20333 South Normandie Avenue, Torrance, California\*  
 9120 N.E. Alderwood Rd., Portland, Oregon  
 235 N Norwood Ave., Houston, Texas

**Distribution Centers**

20333 South Normandie Avenue, Torrance, California\*  
 120 W. Whitehall Ave., Northlake, Illinois  
 75 State Street, Moonachie, New Jersey  
 13131 Broadway Ext., Oklahoma City, Oklahoma\*  
 235 N Norwood Ave., Houston, Texas  
 9120 N.E. Alderwood Rd., Portland, Oregon

**Branch Warehouses**

*Arizona*  
 FLAGSTAFF\*  
 2385 N. Walgreen Street

*Arizona*  
 LAKE HAVASU\*  
 1105 Aviation Dr.

*Arizona*  
 PHOENIX\*  
 1060 W. Alameda Dr.  
 Tempe

*Arizona*  
 TUCSON\*  
 3818 South Evans Blvd.

*Arizona*  
 YUMA  
 3914 E. 41<sup>ST</sup> Place Ste 4

*Arkansas*  
 FAYETTEVILLE  
 543 Madison  
 Springdale

*Arkansas*  
 LITTLE ROCK  
 7630 Hardin Drive  
 North Little Rock

*California*  
 BAKERSFIELD\*  
 8802 Swigert Ct.

*California*  
 BISHOP\*  
 324 E. Clarke Street

California  
CASTROVILLE\*  
11460 Commercial Parkway

California  
CHICO\*  
480 Ryan Ave., Ste 100

California  
RIALTO\*  
2751 S. Lilac Ave.

California  
EUREKA  
417 W. Wabash Ave.

California  
FRESNO\*  
4576 N. Bendel

California  
LANCASTER\*  
42138 7th Street West

California  
LOS ANGELES SF VALLEY\*  
9373 Remick Ave.  
Arleta

California  
OAKLAND\*  
9845 Kitty Lane

California  
PALM SPRINGS\*  
72205 Corporate Way  
Thousand Palms

California  
SACRAMENTO\*  
2450 Boatman Ave.

California  
SAN DIEGO\*  
7855 Ostrow St., B

California  
SAN JOSE\*  
1462 Seareel Pl.

California  
SAN LUIS OBISPO\*  
3450 Broad St.

California  
SANTA ANA\*  
3921 W. Segerstrom Ave.

California  
SANTA FE SPRINGS\*  
9901 Bell Ranch Road

California  
SANTA ROSA\*  
470 E. Todd Rd.

California  
STOCKTON\*  
4243 Arch Road

California  
TORRANCE\*  
20333 S. Normandie Ave.

California  
VENTURA\*  
1350 Stellar Dr.  
Oxnard

California  
VICTORVILLE\*  
17190 Yuma St.

Colorado  
COLORADO SPRINGS  
6150 Stadia Court.

Colorado  
DENVER\*  
5595 Joliet Street

Colorado  
FORT COLLINS\*  
4500 Innovation Drive

Colorado  
GRAND JUNCTION\*  
2848 Chipeta Ave., #B

Connecticut  
WATERBURY  
61 Mattatuck Heights Rd.

Florida  
MEDLEY  
9314 NW 102 St.

Florida  
ORLANDO  
7100 TPC Dr. Ste 650

*Florida*  
TAMPA  
4717 Oak Fair Blvd.

*Georgia*  
ATLANTA  
1400 Northbrook Parkway 300-370  
Suwanee

*Idaho*  
BOISE  
7235 Bethel Street

*Idaho*  
IDAHO FALLS\*  
805 S. Saturn Ave.

*Idaho*  
TWIN FALLS  
258 6th Ave. W

*Illinois*  
MOLINE  
2950 38th Avenue

*Illinois*  
NORTHLAKE  
100 W. Whitehall Av.

*Illinois*  
SPRINGFIELD  
3430 Constitution Dr. #122

*Indiana*  
EVANSVILLE  
1905 N. Kentucky Ave.

*Indiana*  
INDIANAPOLIS\*  
1417 Southeastern Ave.

*Indiana*  
MERRILLVILLE  
1503 E. 91st Dr.

*Iowa*  
DES MOINES  
1662 N.E. 55th Ave.

*Iowa*  
OMAHA\*  
3217 Nebraska Ave.  
Council Bluffs

*Kansas*  
WICHITA  
427 S. Washington

*Louisiana*  
SHREVEPORT  
4113 Metro Dr

*Maryland*  
JESSUP  
8268 Preston Ct.

*Massachusetts*  
NORTH BILLERICA  
18 Esquire Rd.

*Michigan*  
PLYMOUTH  
9260 General Dr.

*Michigan*  
SAGINAW  
3691 Fashion Square Bl.

*Michigan*  
GRAND RAPIDS/WYOMING  
3322 Lousma Southeast Ste 503&504

*Minnesota*  
BRAINERD  
414 South 7th St.

*Minnesota*  
DULUTH  
4314 Enterprise Cr.

*Minnesota*  
ROCHESTER  
7700 Air Commerce Drive #104

*Missouri*  
KANSAS CITY\*  
9 N.E. Skyline Dr.

*Missouri*  
SPRINGFIELD  
540A N.Cederbrook

*Missouri*  
ST. LOUIS\*  
12832 Pennridge Dr.  
Bridgeton

*Montana*  
BILLINGS\*  
2625 Enterprise Ave.

*Montana*  
GREAT FALLS\*  
2600 16th St. N.E.  
Black Eagle

*Montana*  
MISSOULA  
2751 Charlo St.

*Nebraska*  
NORTH PLATTE  
601 Sioux Meadow

*Nevada*  
CARSON CITY\*  
3880 Technology Way

*Nevada*  
ELKO\*  
460 S. A Street

*Nevada*  
LAS VEGAS\*  
4612 Industry Center Dr.

*Nevada*  
LAS VEGAS  
6435 S. Valley View Ste. B

*Nevada*  
ST. GEORGE  
988 W. Sunset Blvd., 4 & 5

*New Jersey*  
HAMMONTON  
590 South Egg Harbor Dr.

*New Jersey*  
MOONACHIE  
75 State St.

*New Mexico*  
ALBUQUERQUE\*  
5911 Office Blvd.

*New Mexico*  
FARMINGTON  
1414 Schofield Lane

*New Mexico*  
ROSWELL\*  
710 E. College

*New York*  
EAST SYRACUSE  
6816 Ellicott Dr.

*North Carolina*  
CHARLOTTE  
1859 Lindbergh St. Unit 500

*North Dakota*  
BISMARCK  
2001 3<sup>rd</sup> Street SE  
Mandin

*North Dakota*  
FARGO  
710 38th St. N.W.- Unit B,C,D

*North Dakota*  
GRAND FORKS  
2402 N. 42nd St.

*Ohio*  
CINCINNATI  
4784 Interstate Drive Building #2

*Ohio*  
COLUMBUS  
2543 Westbelt Dr.

*Ohio*  
LIMA  
1658 W. Breese Rd.

*Ohio*  
VALLEY VIEW  
9090 Bank Road

*Oklahoma*  
OKLAHOMA CITY\*  
13131Broadway Ext.

*Oklahoma*  
TULSA  
170 S. 123 E. Pl.

*Oregon*  
BEND  
20409 N.W. Cady Way

*Oregon*  
EUGENE  
2495 Unit C Prairie Rd.

*Oregon*  
MEDFORD  
777 East Vilas Rd.  
Central Point

*Oregon*  
PORTLAND\*  
7515 N.E. 33rd Dr.

*Pennsylvania*  
CRANBERRY TOWNSHIP  
215 Commerce Park Dr.

*Pennsylvania*  
STROUDSBERG  
201A North 1st St.

*South Dakota*  
RAPID CITY\*  
2030 Creek Dr.

*South Dakota*  
SIOUX FALLS  
926 W. Cherokee



*Tennessee*  
MEMPHIS\*  
5753 E. Shelby Dr., Ste 1

*Texas*  
AMARILLO  
2100 SE 10<sup>th</sup> Ave.

*Texas*  
AUSTIN\*  
2004 Lamar Dr., Round Rock

*Texas*  
CORPUS CHRISTI  
3909 Wow Road

*Texas*  
DALLAS/FT. WORTH\*  
744 Avenue H East  
Arlington

*Texas*  
EL PASO\*  
1325 Don Haskins Dr.

*Texas*  
HOUSTON  
6300 West by NW Blvd. Ste 400

*Texas*  
HOUSTON  
235 N. Norwood Ave.

*Texas*  
LUBBOCK  
1608 D. N. University

*Texas*  
McALLEN\*  
1312 E. Laurel

*Texas*  
ODESSA  
2017 W. 7th

*Texas*  
SAN ANTONIO\*  
4930 Center Park

*Texas*  
WICHITA FALLS  
1404 Beverly Drive

*Utah*  
SALT LAKE CITY\*  
2230 So. 2000 West

*Washington*  
SEATTLE\*  
8660 Willows Rd.  
Redmond

*Washington*  
SPOKANE\*  
E. 10915 Montgomery Dr.

*Washington*  
TACOMA  
9412 Front Street  
Lakewood

*Washington*  
YAKIMA\*  
2301 S. 18th Street  
Union Gap

*Wisconsin*  
EAU CLAIRE  
124 Race

*Wisconsin*  
LA CROSSE  
1236 Clinton St.

*Wisconsin*  
LITTLE CHUTE  
700 Moasis Dr.

*Wisconsin*  
MADISON  
4021 Owl Creek Drive

*Wisconsin*  
PEWAUKEE  
W 232 N 2960 Roundy Circle W Ste 100

*Wisconsin*  
SCHOFIELD  
3613 Schofield Ave.

*Wyoming*  
CASPER\*  
2170 N. Old Salt Creek Hwy.

*\*owned*