

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

FORM 10-Q

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended April 30, 2005

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file number 1-8929

ABM INDUSTRIES INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

94-1369354

(I.R.S. Employer
Identification No.)

160 Pacific Avenue, Suite 222, San Francisco, California

(Address of principal executive offices)

94111

(Zip Code)

Registrant's telephone number, including area code: 415/733-4000

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 such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes No

Number of shares of common stock outstanding as of May 31, 2005: 49,805,406.

[Table of Contents](#)

ABM INDUSTRIES INCORPORATED
FORM 10-Q
For the three months and six months ended April 30, 2005

Table of Contents

PART I. FINANCIAL INFORMATION	2
Item 1. Financial Statements (Unaudited)	2
Notes to Consolidated Financial Statements	6
Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations	19
Item 3. Quantitative and Qualitative Disclosures About Market Risk	38
Item 4. Controls and Procedures	38
PART II. OTHER INFORMATION	39
Item 1. Legal Proceedings	39
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds	40
Item 4. Submission of Matters to a Vote of Security Holders	41
Item 6. Exhibits	42
SIGNATURES	43
EXHIBIT INDEX	44
Exhibit 10.3	
Exhibit 10.4	
Exhibit 10.5	
EXHIBIT 31.1	
EXHIBIT 31.2	
EXHIBIT 32.1	

PART I. FINANCIAL INFORMATION**Item 1. Financial Statements (Unaudited)**

ABM INDUSTRIES INCORPORATED AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(in thousands, except share amounts)	April 30, 2005	October 31, 2004
ASSETS		
Current assets		
Cash and cash equivalents	\$ 52,513	\$ 63,369
Trade accounts receivable, net	326,151	307,237
Inventories	20,383	20,554
Deferred income taxes	42,362	40,918
Prepaid expenses and other current assets	46,177	38,607
Assets held for sale	13,912	14,441
Total current assets	501,498	485,126
Investments and long-term receivables	9,495	10,450
Property, plant and equipment, at cost		
Land and buildings	5,066	5,054
Transportation equipment	14,453	14,039
Machinery and other equipment	81,515	77,506
Leasehold improvements	14,968	14,176
	116,002	110,775
Less accumulated depreciation and amortization	(82,968)	(79,584)
Property, plant and equipment, net	33,034	31,191
Goodwill, net of accumulated amortization	233,378	225,495
Other intangibles, at cost	37,313	30,278
Less accumulated amortization	(10,822)	(7,988)
Other intangibles, net	26,491	22,290
Deferred income taxes	49,134	48,802
Other assets	18,900	19,170
Total assets	\$871,930	\$ 842,524

(Continued)

ABM INDUSTRIES INCORPORATED AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(in thousands, except share amounts)	April 30, 2005	October 31, 2004
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Trade accounts payable	\$ 42,975	\$ 42,553
Income taxes payable	2,674	10,065
Liabilities held for sale	4,184	3,926
Accrued liabilities:		
Compensation	62,004	64,350
Taxes — other than income	19,038	18,162
Insurance claims	72,010	67,662
Other	52,677	47,710
Total current liabilities	255,562	254,428
Retirement plans and other non-current liabilities	25,006	25,658
Insurance claims	127,168	120,277
Total liabilities	407,736	400,363
Stockholders' equity		
Preferred stock, \$0.01 par value; 500,000 shares authorized; none issued	—	—
Common stock, \$0.01 par value; 100,000,000 shares authorized; 53,969,000 and 52,707,000 shares issued at April 30, 2005 and October 31, 2004, respectively	540	527
Additional paid-in capital	196,821	178,543
Accumulated other comprehensive loss	(245)	(108)
Retained earnings	336,295	328,258
Cost of treasury stock (4,212,000 and 4,000,000 shares at April 30, 2005 and October 31, 2004), respectively	(69,217)	(65,059)
Total stockholders' equity	464,194	442,161
Total liabilities and stockholders' equity	\$871,930	\$ 842,524

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

ABM INDUSTRIES INCORPORATED AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF INCOME

(In thousands except per share amounts)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004 As Restated	2005	2004 As Restated
Revenues				
Sales and other income	\$ 639,555	\$ 580,923	\$ 1,277,720	\$ 1,142,558
Gain on insurance claim	1,195	—	1,195	—
Total revenues	640,750	580,923	1,278,915	1,142,558
Expenses				
Operating expenses and cost of goods sold	576,726	526,748	1,155,583	1,037,715
Selling, general and administrative	50,331	41,558	95,038	81,557
Intangible amortization	1,478	1,077	2,834	1,945
Interest	241	241	493	491
Total expenses	628,776	569,624	1,253,948	1,121,708
Income from continuing operations before income taxes	11,974	11,299	24,967	20,850
Income taxes	1,850	4,019	6,780	7,418
Income from continuing operations	10,124	7,280	18,187	13,432
Income from discontinued operations, net of income taxes	387	60	248	243
Net income	\$ 10,511	\$ 7,340	\$ 18,435	\$ 13,675
Net income per common share — Basic				
From continuing operations	\$ 0.20	\$ 0.15	\$ 0.36	\$ 0.28
From discontinued operations	0.01	—	0.01	—
	\$ 0.21	\$ 0.15	\$ 0.37	\$ 0.28
Net income per common share — Diluted				
From continuing operations	\$ 0.20	\$ 0.15	\$ 0.36	\$ 0.28
From discontinued operations	—	—	—	—
	\$ 0.20	\$ 0.15	\$ 0.36	\$ 0.28
Average common and common equivalent shares				
Basic	49,730	48,713	49,461	48,613
Diluted	50,702	50,145	50,552	49,965
Dividends declared per common share	\$ 0.105	\$ 0.10	\$ 0.21	\$ 0.20

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

ABM INDUSTRIES INCORPORATED AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE SIX MONTHS ENDED APRIL 30, 2005 AND 2004

(in thousands)	2005	2004 As Restated
Cash flows from operating activities:		
Net income	\$ 18,435	\$ 13,675
Less income from discontinued operations	(248)	(243)
Income from continuing operations	18,187	13,432
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and intangible amortization	9,763	8,525
Provision for bad debts	504	2,067
Gain on sale of assets	(66)	(84)
Increase in deferred income taxes	(2,740)	(4,003)
Increase in trade accounts receivable	(12,279)	(5,075)
Decrease (increase) in inventories	171	(1,192)
(Increase) decrease in prepaid expenses and other current assets	(7,422)	1,579
Decrease (increase) in other assets	306	(3,516)
(Decrease) increase in income taxes payable	(6,315)	2,103
(Decrease) increase in retirement plans accrual	(652)	476
Increase in insurance claims liability	11,239	7,057
Increase in trade accounts payable and other accrued liabilities	2,015	13,400
Total adjustments to net income	(5,476)	21,337
Net cash flows from continuing operating activities	12,711	34,769
Net operational cash flows from discontinued operations	1,062	(28,943)
Net cash provided by operating activities	13,773	5,826
Cash flows from investing activities:		
Additions to property, plant and equipment	(9,368)	(6,139)
Proceeds from sale of assets	1,204	241
Decrease in investments and long-term receivables	955	1,536
Purchase of businesses	(16,558)	(46,467)
Net investing cash flows from discontinued operations	(31)	(7)
Net cash used in investing activities	(23,798)	(50,836)
Cash flows from financing activities:		
Common stock issued	13,725	5,662
Common stock purchases	(4,158)	(1,689)
Dividends paid	(10,398)	(9,735)
Net cash used in financing activities	(831)	(5,762)
Net decrease in cash and cash equivalents	(10,856)	(50,772)
Cash and cash equivalents beginning of period	63,369	110,947
Cash and cash equivalents end of period	\$ 52,513	\$ 60,175
Supplemental Data:		
Cash paid for income taxes	\$ 15,835	\$ 39,983
Non-cash investing activities:		
Common stock issued for business acquired	\$ 3,490	\$ —

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

ABM INDUSTRIES INCORPORATED AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. General

In the opinion of management, the accompanying unaudited consolidated financial statements contain all material adjustments necessary to present fairly ABM Industries Incorporated (ABM) and subsidiaries' (the Company) financial position as of April 30, 2005 and the results of operations for the three and six months then ended, and cash flows for the six months then ended. These adjustments are of a normal, recurring nature, except as otherwise noted.

The information included in this Form 10-Q should be read in conjunction with the Management's Discussion and Analysis, the consolidated financial statements and the notes thereto included in the Company's Form 10-K Annual Report for the fiscal year ended October 31, 2004, as filed with the Securities and Exchange Commission.

Certain reclassifications of prior year amounts have been made to conform with the current year presentation.

On May 27, 2005, the Company entered into an agreement to sell substantially all of the operating assets of its wholly owned subsidiary, CommAir Mechanical Services (Mechanical). As a result of this event, the assets and liabilities of Mechanical have been segregated and classified as held for sale and its operating results and cash flows have been reported as a discontinued operation in the accompanying consolidated financial statements of the Company. See Note 10.

2. Previous Restatement of Prior Periods

During the preparation of the financial statements for the year ended October 31, 2004, the Company concluded that the methodology it was using to estimate its self-insurance reserves in its previously issued financial statements was not in accordance with generally accepted accounting principles (GAAP) and therefore restated its previously issued financial statements in connection with the preparation of the financial statements included in its Annual Report on Form 10-K for the year ended October 31, 2004. As a result of the decision to restate, the Company further determined to make additional corrections to its financial statements. The effects of the restatement for the correction of these errors on the three and six months ended April 30, 2004 are shown below:

(in thousands)	Three Months Ended April 30, 2004	Six Months Ended April 30, 2004
Insurance	\$ (434)	\$ (1,058)
Intangible amortization	1,468	899
Software amortization	(135)	(270)
Increase (decrease) in income from continuing operations before income taxes	899	(429)
Income taxes	343	(164)
Increase (decrease) in income from continuing operations, net of income taxes	\$ 556	\$ (265)

Detailed information on the restatement is included in the Company's Form 10-K Annual Report for the fiscal year ended October 31, 2004, as filed with the Securities and Exchange Commission.

3. Net Income per Common Share

[Table of Contents](#)

The Company has reported its earnings in accordance with Statement of Financial Accounting Standard (SFAS) No. 128, "Earnings per Share." Basic net income per common share is based on the weighted average number of shares outstanding during the period. Diluted net income per common share is based on the weighted average number of shares outstanding during the period, including common stock equivalents. Stock options account for the entire difference between basic average common shares outstanding and diluted average common shares outstanding. The calculation of net income per common share is as follows:

(in thousands, except per share data)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004 As Restated	2005	2004 As Restated
Net income available to common stockholders	\$ 10,511	\$ 7,340	\$ 18,435	\$ 13,675
Average common shares outstanding — Basic	49,730	48,713	49,461	48,613
Effect of dilutive securities:				
Stock options	972	1,432	1,091	1,352
Average common shares outstanding — Diluted	50,702	50,145	50,552	49,965
Net income per common share — Basic	\$ 0.21	\$ 0.15	\$ 0.37	\$ 0.28
Net income per common share — Diluted	\$ 0.20	\$ 0.15	\$ 0.36	\$ 0.28

For purposes of computing diluted net income per common share for each quarter, weighted average common share equivalents do not include stock options with an exercise price that exceeds the average fair market value of the Company's common shares for the quarter (*i.e.*, "out-of-the-money" options). For the three months ended April 30, 2005 and 2004, options to purchase common shares of 0.4 million and 0.3 million, respectively, at weighted average exercise prices of \$21.32 and \$18.30, respectively, were excluded from the computation.

4. Stock-Based Compensation

The Company accounts for stock-based employee compensation plans, including purchase rights issued under the Employee Stock Purchase Plan, using the intrinsic value method under the recognition and measurement principles of Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees." The Company's application of APB Opinion No. 25 does not result in compensation cost because the exercise price of the options is equal to or greater than the fair value of the stock at the grant date. Under the intrinsic value method, if the fair value of the stock is greater than the exercise price at the grant date, the excess is amortized to compensation expense over the estimated service life of the recipient.

On March 24, 2005, the Company amended its 2002 Price-Vested Performance Stock Option Plan (2002 Plan) to permit the Company to make grants with exercise prices at or above the fair market value of the Company's common stock on the date of grant. Prior to the amendment, the 2002 Plan called for all grants to have exercise prices equal to the fair market value of the Company's common stock on the day of grant.

As all options granted since October 31, 1995 had exercise prices equal to or greater than the market value of the underlying common stock on the date of grant, no stock-based employee compensation cost was reflected in net income for the three and six months ended April 30, 2005 and 2004, except for \$42,000 of compensation expense recorded in the first three months of 2005 due to the accelerated vesting of options for 4,000 common shares in connection with the termination of an employee on December 7, 2004. The following table illustrates the effect on net income and earnings per

[Table of Contents](#)

share if the Company had applied the fair value recognition provisions of SFAS No. 123, "Accounting for Stock-Based Compensation," to all outstanding employee options granted after October 31, 1995 using the retroactive restatement method:

(in thousands, except per share data)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004 As Restated	2005	2004 As Restated
Net income, as reported	\$ 10,511	\$ 7,340	\$ 18,435	\$ 13,675
Deduct: Stock-based employee compensation cost, net of tax effect, that would have been included in net income if the fair value method had been applied	712	420	1,501	1,044
Net income, pro forma	\$ 9,799	\$ 6,920	\$ 16,934	\$ 12,631
Net income per common share — Basic				
As reported	\$ 0.21	\$ 0.15	\$ 0.37	\$ 0.28
Pro forma	\$ 0.20	\$ 0.14	\$ 0.34	\$ 0.26
Net income per common share — Diluted				
As reported	\$ 0.20	\$ 0.15	\$ 0.36	\$ 0.28
Pro forma	\$ 0.19	\$ 0.14	\$ 0.33	\$ 0.25

For purposes of calculating the effect on net income and earnings per share if the Company had applied the fair value recognition provisions of SFAS No. 123, the fair value of stock-based awards to employees is calculated through the use of option pricing models. The use of these models requires subjective assumptions, including future stock price volatility and expected time to exercise, which can have a significant effect on the calculated values. The Company's calculations were made using the Black-Scholes option pricing model with the following weighted average assumptions:

	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Expected life from the date of grant	7.9 years	8.2 years	6.7 years	7.2 years
Expected stock price volatility average	20.1%	26.3%	21.8%	24.8%
Expected dividend yield	1.9%	2.2%	2.0%	2.4%
Risk-free interest rate	4.5%	3.5%	4.0%	3.7%
Weighted average fair value of grants	\$ 5.62	\$ 4.94	\$ 5.21	\$ 4.12

The Company's pro forma calculations are based on a single option valuation approach. The computed pro forma fair value of the options awards are amortized over the required vesting periods. For purposes of the pro forma calculations, should options vest earlier, the remaining unrecognized value is recognized immediately and stock option forfeitures are recognized as they occur.

In December 2004, the Financial Accounting Standards Board (FASB) issued SFAS No. 123R, "Share-Based Payment." This statement is a revision to SFAS No. 123 and supercedes APB Opinion No. 25. SFAS No. 123R establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods or services, primarily focusing on the accounting for transactions in which an entity obtains employee services in share-based payment transactions. Entities will be required to measure the cost of employee services received in exchange for an award of equity

[Table of Contents](#)

instruments based on the grant-date fair value of the award (with limited exceptions). That cost will be recognized over the period during which an employee is required to provide service. SFAS No. 123R is effective as of the beginning of the first annual reporting period that begins after June 15, 2005. In accordance with the standard, the Company will adopt SFAS No. 123R effective November 1, 2005. The Company believes that the impact that the adoption of SFAS No. 123R will have on its financial position or results of operations will approximate the magnitude of the stock-based employee compensation costs disclosed in this note.

5. Revenue Presentation

The Company's Parking segment reports both revenues and expenses recognized, in equal amounts, for costs directly reimbursed from its managed parking lot clients in accordance with Emerging Issues Task Force (EITF) Issue No. 01-14, "Income Statement Characterization of Reimbursements Received for Out-of-Pocket Expenses Incurred." Parking sales related solely to the reimbursement of expenses totaled \$56.1 million and \$52.2 million for the three months ended April 30, 2005 and 2004, respectively, and \$114.5 million and \$106.0 million for the six months ended April 30, 2005 and 2004, respectively.

6. Insurance

The Company self-insures certain insurable risks such as general liability, automobile, property damage, and workers' compensation. Commercial policies are obtained to provide for \$150.0 million of coverage for certain risk exposures above the self-insured retention limits (i.e., deductibles). For claims incurred after November 1, 2002, substantially all of the self-insured retentions increased from \$0.5 million (inclusive of legal fees) to \$1.0 million (exclusive of legal fees) except for California workers' compensation insurance which increased to \$2.0 million effective April 14, 2003. However, effective April 14, 2005, the deductible for California workers' compensation insurance was decreased from \$2.0 million to \$1.0 million per occurrence, plus an additional \$1.0 million annually in the aggregate, due to improvements in general insurance market conditions.

The Company uses an independent actuary to annually evaluate the Company's estimated claim costs and liabilities and accrues self-insurance reserves in an amount that is equal to the actuarial point estimate. Using the annual actuarial report, management develops annual insurance costs for each operation, expressed as a rate per \$100 of exposure (labor and revenue) to estimate insurance costs on a quarterly basis. Additionally, management monitors new claims and claim development to assess the adequacy of the insurance reserves. The estimated future charge is intended to reflect the recent experience and trends. Trend analysis is complex and highly subjective. The interpretation of trends requires the knowledge of all factors affecting the trends that may or may not be reflective of adverse development (e.g., change in regulatory requirements and change in reserving methodology). If the trends suggest that the frequency or severity of claims incurred has increased, the Company might be required to record additional expenses for self-insurance liabilities. Additionally, the Company uses third party service providers to administer its claims and the performance of the service providers and transfers between administrators can impact the cost of claims and accordingly the amounts reflected in insurance reserves. The estimated liability for claims incurred but unpaid at April 30, 2005 and October 31, 2004 was \$199.2 million and \$187.9 million, respectively.

In connection with certain self-insurance programs, the Company had standby letters of credit at April 30, 2005 and October 31, 2004 supporting estimated unpaid liabilities in the amounts of \$109.0 million and \$88.3 million, respectively.

7. Variable Interest Entities

The Company has investments in two low income housing tax credit partnerships. Purchased in 1995 and 1998, these limited partnerships, organized by independent third parties and sold as investments, are variable interest entities as defined by FASB Financial Interpretation (FIN) No. 46R, a revision to FIN 46, "Consolidation of Variable Interest Entities." In accordance with FIN 46R, these

[Table of Contents](#)

partnerships are not consolidated in the Company's consolidated financial statements because the Company is not the primary beneficiary of the partnerships. At April 30, 2005 and October 31, 2004, the at-risk book value of these investments totaled \$3.4 million and \$3.9 million, respectively.

8. Goodwill and Other Intangibles

Goodwill. The changes in the carrying amount of goodwill for the six months ended April 30, 2005 were as follows (acquisitions are discussed in Note 9):

(in thousands)

Segment	Balance as of October 31, 2004	Initial Payments for Acquisitions	Contingent Amounts	Balance as of April 30, 2005
Janitorial	\$ 139,221	\$ 3,650	\$ 1,193	\$ 144,064
Parking	28,749	—	314	29,063
Security	37,605	2,470	—	40,075
Engineering	2,174	—	—	2,174
Lighting	17,746	—	256	18,002
Total	\$ 225,495	\$ 6,120	\$ 1,763	\$ 233,378

The \$2.5 million increase in Security's goodwill includes \$1.0 million that resulted from recording a deferred tax liability from the Sentinel Guard Systems (Sentinel) transaction in the first quarter of 2005. See Note 9, "Acquisitions."

Other Intangibles. The changes in the gross carrying amount and accumulated amortization of intangibles other than goodwill for the six months ended April 30, 2005 were as follows (acquisitions are discussed in Note 9):

(in thousands)	Gross Carrying Amount			Accumulated Amortization		
	October 31, 2004	Additions	April 30, 2005	October 31, 2004	Additions	April 30, 2005
Customer contracts and related relationships	\$ 21,217	\$ 6,985	\$ 28,202	\$ (3,546)	\$ (1,939)	\$ (5,485)
Trademarks and trade names	3,000	50	3,050	(570)	(387)	(957)
Other (contract rights, etc.)	6,061	—	6,061	(3,872)	(508)	(4,380)
Total	\$ 30,278	\$ 7,035	\$ 37,313	\$ (7,988)	\$ (2,834)	\$ (10,822)

The weighted average remaining lives as of April 30, 2005 and the amortization expense for the three and six months ended April 30, 2005 and 2004 of intangibles other than goodwill, as well as the estimated amortization expense for such intangibles for each of the five succeeding fiscal years are as follows:

(\$ in thousands)	Weighted Average Remaining Life (Years)	Amortization Expense				Estimated Amortization Expense				
		Three Months Ended April 30,		Six Months Ended April 30,		Years Ending October 31,				
		2005	2004	2005	2004	2006	2007	2008	2009	2010
Customer contracts and related relationships	10.8	\$1,032	\$ 607	\$1,939	\$ 1,126	\$3,780	\$3,379	\$2,978	\$2,577	\$2,176
Trademarks and trade names	3.9	200	123	387	173	540	540	540	203	—
Other (contract rights, etc.)	4.3	246	347	508	646	674	78	70	61	61
Total	9.8	\$1,478	\$ 1,077	\$2,834	\$ 1,945	\$4,994	\$3,997	\$3,588	\$2,841	\$2,237

The customer relationship intangible assets are being amortized using the sum-of-the-years-digits method over their useful lives consistent with the estimated useful life considerations used in the determination of their fair values. The accelerated method of amortization reflects the pattern in which the

economic benefits of the customer relationship intangible asset are expected to be realized. Trademarks and trade names are being amortized over their useful lives using the straight-line method. Other intangible assets, consisting principally of contract rights, are being amortized over the contract periods using the straight-line method.

9. Acquisitions

Acquisitions have been accounted for using the purchase method of accounting. The operating results generated by the companies and businesses acquired have been included in the accompanying consolidated financial statements from their respective dates of acquisition. The excess of the purchase price (including contingent amounts) over fair value of the net tangible and intangible assets acquired is included in goodwill. Most purchase agreements provide for initial payments and contingent payments based on the annual pre-tax income or other financial parameters for subsequent periods ranging generally from two to five years.

Cash paid for acquisitions, including initial payments and contingent amounts based on subsequent performance, was \$16.6 million and \$46.5 million in the six months ended April 30, 2005 and 2004, respectively. Of those payment amounts, \$1.8 million and \$2.3 million were the contingent amounts paid in the six months ended April 30, 2005 and 2004, respectively, on earlier acquisitions as provided by the respective purchase agreements. In addition, shares of ABM's common stock with a fair market value of \$3.5 million at the date of issuance were issued in the six months ended April 30, 2005 as payment for business acquired.

The Company made the following acquisitions during the six months ended April 30, 2005:

On November 1, 2004, the Company acquired substantially all of the operating assets of Sentinel, a Los Angeles-based company, from Tracerton Enterprises, Inc. Sentinel, with annual revenues in excess of \$13.0 million, was a provider of security officer services primarily to high-rise, commercial and residential structures. In addition to its Los Angeles business, Sentinel also operated an office in San Francisco. The total purchase price was \$5.3 million, which included an initial payment of \$3.5 million in shares of ABM's common stock, the assumption of liabilities totaling approximately \$1.7 million and \$0.1 million of professional fees. Of the total purchase price, \$2.4 million was allocated to customer relationship intangible asset, \$0.1 million to trademarks and trade names, \$1.3 million to customer accounts receivable and other assets and \$1.5 million to goodwill. Additionally, because of the tax-free nature of this transaction to the seller, the Company recorded a \$1.0 million deferred tax liability on the difference between the recorded fair market value and the seller's tax basis of the net assets acquired. Goodwill was increased by the same amount. Additional consideration includes contingent payments, based on achieving certain revenue and profitability targets over a three-year period, estimated to be between \$0.5 million and \$0.75 million per year, payable in shares of ABM's common stock.

On December 22, 2004, the Company acquired the operating assets of Colin Service Systems, Inc. (Colin), a facility services company based in New York, for an initial payment of \$13.6 million in cash. Under certain conditions, additional consideration may include an estimated \$1.9 million payment upon the collection of the acquired receivables and three annual contingent cash payments each for approximately \$1.1 million, which are based on achieving annual revenue targets over a three-year period. With annual revenues in excess of \$70 million, Colin was a provider of professional onsite management, commercial office cleaning, specialty cleaning, snow removal and engineering services. Of the total initial payment, \$3.6 million was allocated to customer relationship intangible assets, \$6.4 million to customer accounts receivable and other assets and \$3.6 million to goodwill.

On March 4, 2005, the Company acquired the operating assets of Amguard Security and Patrol Services (Amguard), based in Germantown, Maryland, for \$1.1 million in cash. Additional consideration includes a contingent payment in the amount of \$0.45 million, subject to reduction in the event certain revenue targets are not achieved. With annual revenues in excess of \$4.5 million, Amguard was a provider of security officer services, primarily to high-rise, commercial and residential structures. Of the

[Table of Contents](#)

total initial payment, \$1.0 million was allocated to customer relationship intangible assets and \$0.1 million to other assets.

The Company made the following acquisitions during the six months ended April 30, 2004:

On March 15, 2004, the Company acquired substantially all of the operating assets of Security Services of America, LLC (SSA), a North Carolina limited liability company and wholly owned subsidiary of SSA Holdings II, LLC. SSA, also known as "Silverhawk Security Specialists" and "Elite Protection Services," provided full service private security and investigative services to a diverse client base that includes small, medium and large businesses throughout the Southeast and Midwest regions of the United States. The total acquisition cost included an initial cash payment of \$40.7 million, net of liabilities assumed totaling \$0.3 million, plus contingent payments equal to 20% to 25% of adjusted earnings before interest and taxes, depending upon the level of actual earnings, for each of the years in the five-year period following the date of acquisition. Of the total purchase price, \$7.1 million was allocated to customer relationship intangible asset and \$2.7 million to trademarks and trade names. Additionally, \$2.2 million of the total purchase price was allocated to fixed and other tangible assets and \$29.0 million to goodwill.

On April 2, 2004, the Company acquired substantially all of the commercial janitorial assets of the Northeast United States Division of Initial Contract Services, Inc., a provider of janitorial services based in New York. The acquisition included key accounts throughout the Northeast region totaling approximately 50 buildings. The total acquisition cost included an initial cash payment of \$3.5 million, of which \$0.9 million was allocated to customer relationship intangible asset, \$1.8 million to accounts receivable and \$0.8 million to other assets, plus annual contingent payments for each of the years in the five-year period following the acquisition date, calculated as follows: 3% of the acquired operation's revenues for the first and second year, 2% for the third and fourth year, and 1% for the fifth year.

Due to the size of these acquisitions, individually and in aggregate, pro forma information is not included in the consolidated financial statements.

10. Discontinued Operations

On May 27, 2005, the Company entered into a Sale Agreement, with Carrier Corporation, a wholly owned subsidiary of United Technologies Corporation (Carrier), to sell substantially all of the operating assets of Mechanical. The sale was completed on June 2, 2005.

The operating assets sold included customer contracts, accounts receivable, facility leases and other assets, as well as rights to the name "CommAir Mechanical Services." The consideration paid was \$32 million in cash, subject to certain adjustments, and Carrier's assumption of trade payables and accrued liabilities. ABM will realize a pre-tax gain of approximately \$21 million in the third quarter of 2005.

Less than \$0.3 million of Mechanical's operating assets, representing its water treatment business, were not sold to Carrier but are held for sale.

The assets and liabilities of Mechanical have been segregated and classified as held for sale and the operating results and cash flows have been reported as a discontinued operation in the accompanying consolidated financial statements. Income taxes have been allocated using the estimated combined federal and state tax rates applicable to Mechanical for each of the periods presented. The prior periods presented have been reclassified.

Assets and liabilities of Mechanical included in the accompanying consolidated balance sheet were as follows at April 30, 2005 and October 31, 2004:

[Table of Contents](#)

(in thousands)	April 30, 2005	October 31, 2004
Trade accounts receivable, net	\$ 9,492	\$ 10,476
Inventories	2,234	1,706
Property, plant and equipment, net	139	163
Goodwill, net of accumulated amortization	1,952	1,952
Other	95	144
Total assets	13,912	14,441
Trade accounts payable	2,403	2,682
Accrued liabilities:		
Compensation	354	476
Taxes — other than income	223	204
Other	1,204	564
Total liabilities	4,184	3,926
Net assets	\$ 9,728	\$ 10,515

The operating results of Mechanical for the three and six months ended April 30, 2005 and 2004 are shown below.

(In thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Revenues	\$ 11,105	\$ 9,422	\$ 20,303	\$ 18,610
Income before income taxes	\$ 400	\$ 99	\$ 171	\$ 401
Income taxes	157	39	67	158
Income from discontinued operation, net of income taxes	\$ 243	\$ 60	\$ 104	\$ 243

On August 15, 2003, the Company sold substantially all of the operating assets of Amtech Elevator Services, Inc., a wholly owned subsidiary of ABM that represented the Company's Elevator segment, to Otis Elevator Company, a wholly owned subsidiary of United Technologies Corporation (Otis Elevator). The operating assets sold included customer contracts, accounts receivable, facility leases and other assets, as well as a perpetual license to the name "Amtech Elevator Services." The consideration in connection with the sale included \$112.4 million in cash and Otis Elevator's assumption of trade payables and accrued liabilities. The Company realized a gain on the sale of \$52.7 million, which is net of \$32.7 million of income taxes, of which \$30.5 million was paid with the extension of the federal and state income tax returns on January 15, 2004. This payment has been reported as a discontinued operation in the accompanying consolidated statements of cash flows.

In June 2005, the Company settled litigation that arose from and was directly related to the operations of Elevator prior to its disposal. An estimated liability was recorded on the date of disposal. The settlement amount was less than the estimated liability by \$0.2 million, pre-tax. This difference was recorded as income from discontinued operation in the second quarter of 2005 as shown below.

(In thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Income before income taxes	\$ 233	\$ —	\$ 233	\$ —
Income taxes	89	—	89	—
Income from discontinued operation, net of income taxes	\$ 144	\$ —	\$ 144	\$ —

11. Line of Credit Facility

On May 25, 2005 (effective time), ABM terminated its \$250 million three-year syndicated line of credit scheduled to expire on July 1, 2005 (old Facility) and replaced the old Facility with a new \$300 million five-year syndicated line of credit scheduled to expire on May 25, 2010 (new Facility). Under the old Facility, no compensating balances were required and the interest rate was determined at the time of borrowing based on the London Interbank Offered Rate (LIBOR) plus a spread of 0.875% to 1.50% or, for overnight borrowings, at the prime rate plus a spread of 0.00% to 0.25% or, for overnight to one week, at the Interbank Offered Rate (IBOR) plus a spread of 0.875% to 1.50%. The spreads for LIBOR, prime and IBOR borrowings were based on ABM's leverage ratio. The old Facility called for a commitment fee payable quarterly, in arrears, of 0.175%, based on the average, daily, unused portion. For purposes of this calculation, irrevocable standby letters of credit issued primarily in conjunction with ABM's self-insurance program and cash borrowings were considered to be outstanding amounts. As of April 30, 2005 and October 31, 2004, the total outstanding amounts under the old Facility were \$118.6 million and \$96.5 million, respectively, in the form of standby letters of credit. The Company was in compliance with all covenants at those dates.

Under the new Facility, no compensating balances are required and the interest rate is determined at the time of borrowing based on LIBOR plus a spread of 0.375% to 1.125% or, for overnight loan borrowings, at the prime rate or, for overnight to one week, at IBOR plus a spread of 0.375% to 1.125%. The spreads for LIBOR, prime and IBOR borrowings are based on ABM's leverage ratio. The new Facility calls for a non-use fee payable quarterly, in arrears, of 0.125%, based on the average, daily, unused portion. For purposes of this calculation, irrevocable standby letters of credit issued primarily in conjunction with ABM's self-insurance program and cash borrowings are considered to be outstanding amounts. The standby letters of credit outstanding under the old Facility at the effective time remained outstanding under the new Facility.

The new Facility includes usual and customary covenants for a credit facility of this type, including covenants limiting liens, dispositions, fundamental changes, investments, indebtedness, and certain transactions and payments. In addition, the new Facility also requires that ABM maintain three financial covenants: (1) a fixed charge coverage ratio greater than or equal to 1.50 to 1.0 at fiscal quarter-end; (2) a leverage ratio of less than or equal to 3.25 to 1.0 at fiscal quarter-end; and (3) consolidated net worth greater than or equal to the sum of (i) \$341,941,000, (ii) an amount equal to 50% of the consolidated net income earned in each full fiscal quarter ending after the effective time (with no deduction for a net loss in any such fiscal quarter) and (iii) an amount equal to 100% of the aggregate increases in stockholders' equity of ABM and its subsidiaries after the effective time by reason of the issuance and sale of capital stock or other equity interests of ABM or any subsidiary, including upon any conversion of debt securities of ABM into such capital stock or other equity interests, but excluding by reason of the issuance and sale of capital stock pursuant to ABM's employee stock purchase plans, employee stock option plans and similar programs.

12. Comprehensive Income

[Table of Contents](#)

Comprehensive income consists of net income and other related gains and losses affecting stockholders' equity that, under GAAP, are excluded from net income. For the Company, such other comprehensive income items consist of unrealized foreign currency translation gains and losses. Comprehensive income for the three and six months ended April 30, 2005 and 2004 approximated net income.

13. Treasury Stock

On March 11, 2003, ABM's Board of Directors authorized the purchase of up to 2.0 million shares of ABM's outstanding common stock at any time through December 31, 2003. The Company purchased 1.4 million shares under this authorization at a cost of \$21.1 million (an average price per share of \$15.04) through October 31, 2003. In the two months ended December 31, 2003, the Company purchased 0.1 million shares at a cost of \$1.7 million (an average price per share of \$16.90).

On December 9, 2003, ABM's Board of Directors authorized the purchase of up to 2.0 million shares of ABM's outstanding common stock at any time through December 31, 2004. The Company purchased 0.5 million shares under this authorization at a cost of \$9.4 million (an average price per share of \$18.77) through October 31, 2004. No purchases were made in the two months ended December 31, 2004 when this authorization expired.

On March 7, 2005, ABM's Board of Directors authorized the purchase of up to 2.0 million shares of ABM's outstanding common stock at any time through October 31, 2005. The Company purchased 0.2 million shares under this authorization at a cost of \$4.2 million (an average price per share of \$19.64) through April 30, 2005.

14. Employee Benefit Plans

Retirement and Post-Retirement Plans

The net cost of the defined benefit retirement plans and the post-retirement benefit plan for the three and six months ended April 30, 2005 and 2004 were as follows:

(in thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Defined Benefit Plans				
Service cost	\$ 48	\$ 79	\$ 98	\$ 161
Interest	136	146	280	292
Net expense	\$ 184	\$ 225	\$ 378	\$ 453
Post-Retirement Benefit Plan				
Service cost	\$ 10	\$ 10	\$ 20	\$ 20
Interest	67	69	135	138
Net expense	\$ 77	\$ 79	\$ 155	\$ 158

The defined benefit plans include the Company's retirement agreements for approximately 54 current and former directors and senior executives (Supplemental Executive Retirement Plan) and an unfunded severance pay plan covering certain qualified employees (Service Award Benefit Plan). The Supplemental Executive Retirement Plan was amended effective December 31, 2002 to preclude new participants and the Service Award Benefit Plan was amended effective January 1, 2002 to no longer award any further benefits. The Service Award Benefit Plan was further amended effective April 6, 2005 to require only a lump-sum distribution of benefits, where previously two annual payments were required. In addition, participants currently receiving annual payments are to receive any remaining unpaid benefits as soon as administratively possible. The post-retirement benefit plan is the Company's unfunded post-retirement death benefit plan.

401(k) Plan

The Company made matching 401(k) contributions required by the 401(k) plan for the three months ended April 30, 2005 and 2004 in the amounts of \$1.4 million and \$1.2 million, respectively, and for the six months ended April 30, 2005 and 2004 in the amounts of \$2.9 million and \$2.5 million, respectively.

Deferred Compensation Plan

The Company has an unfunded deferred compensation plan available to executive, management, administrative or sales employees whose annualized base salary exceeds \$95,000. The plan allows employees to make pre-tax contributions from one to twenty percent of their compensation. The deferred amount earns interest equal to the prime interest rate on the last day of the calendar quarter up to six percent. If the prime rate exceeds six percent, the deferred compensation interest rate is equal to six percent plus one half of the excess over six percent. The average interest rates credited to the deferred compensation amounts for the three months ended April 30, 2005 and 2004 were 5.83% and 4.08%, respectively, and for the six months ended April 30, 2005 and 2004 were 5.63% and 4.04%, respectively. At April 30, 2005, there were 81 active participants and 27 retired or terminated employees participating in the plan.

(in thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Employee contributions	\$ 257	\$ 302	\$ 637	\$ 696
Interest accrued	\$ 142	\$ 109	\$ 283	\$ 213
Payments	\$ (276)	\$ (172)	\$ (2,391)	\$ (502)

Pension Plan Under Collective Bargaining

Certain qualified employees of the Company are covered under union-sponsored collectively bargained multi-employer defined benefit plans. Contributions paid for these plans were \$9.1 million and \$10.3 million in the three months ended April 30, 2005 and 2004, respectively, and \$17.4 million and \$15.9 million in the six months ended April 30, 2005 and 2004, respectively. The decrease in contribution payments in the second quarter of 2005 compared to the second quarter of 2004 was primarily due to a payment for the first quarter of 2004 that was not made until the second quarter of 2004. These plans are not administered by the Company and contributions are determined in accordance with provisions of negotiated labor contracts.

15. Segment Information

Under the criteria of SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," Janitorial, Parking, Security, Engineering, and Lighting are reportable segments. On November 1, 2004, Facility Services merged with Engineering. The operating results of Facility Services for the prior period have been reclassified to Engineering from the Other segment for comparative purposes. The operating results of Mechanical, also previously included in the Other segment, are reported separately under discontinued operations and are excluded from the table below, see "Discontinued Operations." As a result of the reclassifications of Facility Services and Mechanical, Other segment no longer exists. Corporate expenses are not allocated.

[Table of Contents](#)

(in thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004 As Restated	2005	2004 As Restated
Sales and other income				
Janitorial	\$381,457	\$355,331	\$757,580	\$705,936
Parking	99,180	93,670	200,306	187,528
Security	72,652	52,098	145,763	92,974
Engineering	57,127	50,683	115,175	100,119
Lighting	28,787	28,937	58,203	55,550
Corporate	352	204	693	451
	\$639,555	\$580,923	\$1,277,720	\$1,142,558
Operating profit (loss)				
Janitorial	\$10,198	\$11,484	\$22,630	\$23,799
Parking	2,448	1,822	4,836	2,811
Security	2,367	1,716	5,454	3,193
Engineering	3,180	2,892	6,181	5,417
Lighting	813	666	1,494	1,284
Corporate	(7,986)	(7,040)	(16,330)	(15,163)
Operating profit	11,020	11,540	24,265	21,341
Gain on insurance claim	1,195	—	1,195	—
Interest expense	(241)	(241)	(493)	(491)
Income from continuing operations before income taxes	\$11,974	\$11,299	\$24,967	\$20,850

16. Contingencies

During the quarter ended April 30, 2005, the Company recorded a charge of \$6.3 million for damages, court-awarded fees and other amounts awarded to the plaintiff in the case named *Forbes v. ABM*, as well as other costs (including interest through April 30, 2005) following the Washington Court of Appeals' April 21, 2005 denial of ABM's appeal of an earlier jury verdict. This gender discrimination lawsuit was originally filed in the State of Washington against ABM by a former employee of a subsidiary of ABM in September 1999. On May 19, 2003, a Washington state court jury for the Spokane County Superior Court awarded \$4.0 million in damages to the plaintiff. The court later awarded costs of \$0.7 million to the plaintiff, pre-judgment interest in the amount of \$0.3 million and an additional \$0.8 million to mitigate the federal tax impact of the plaintiff's award. When the awards were made, the Company believed it had been denied a fair trial and appealed the verdict on the grounds that several key rulings by the court were incorrect and resulted in substantial prejudice to the Company. The Company also believed that the original verdict would be reversed because it was excessive and inconsistent with the law and the evidence. Because it believed the awards would be reversed and it would prevail in a new trial, the Company did not record any liability on its financial statements previously. Although the Company retains its beliefs in respect of the merits of the case and intends to appeal to the Washington State Supreme Court, the Company took the charge in the quarter ended April 30, 2005 in recognition of the loss of its first appeal. The \$6.3 million estimated liability was included in other accrued liabilities as of April 30, 2005.

In 1998, ABM's parking subsidiary leased a parking facility in Houston, Texas, owned by a limited partnership jointly owned by affiliates of American National Insurance Company (ANICO) and partners associated with Gerry Albright (Albright affiliates.) In June 2003, the ANICO affiliates notified the Albright affiliates that they would sell their interest in the parking facility. The Albright affiliates accepted the offer and attempted to secure financing. In connection with certain proposed financing for the Albright affiliates,

Table of Contents

ABM's parking subsidiary was asked to submit an estoppel certificate and on that certificate it set forth certain claims under the lease. The Albright affiliates subsequently did not close the transaction and the ANICO affiliates acquired the interest in the parking facility held by the Albright affiliates. On December 5, 2003, the Albright affiliates filed a lawsuit against ABM, its parking subsidiary, and certain ANICO affiliates. The complaint alleged that ABM breached its obligations under the parking facility lease and committed tortious interference, the ANICO affiliates breached fiduciary responsibilities under the partnership agreement, and that ABM and ANICO were engaged in a conspiracy. Subsequently, claims against ANICO were dismissed. The Albright affiliates assert damages consisting of (1) the value of the parking facility in excess of the purchase price at the time of the proposed purchase by the Albright affiliates (\$1.8 million); (2) lost future revenues from the operation of the parking facility (\$15.4 million); (3) future appreciation of the property during the remainder of the parking facility lease (a range from \$9.9 million to \$39.0 million); (4) exemplary damages; and (5) attorneys' fees. This matter is currently before the Federal District Court in Houston, Texas. ABM believes that it acted in good faith under the terms of the lease and is not liable to the Albright affiliates for their damages related to their inability to secure financing.

In December 1997, ABM's parking subsidiary entered into a five-year agreement with the City of Dallas to perform parking management services for the Love Field Airport. This agreement provided for a minimum annual guarantee payment (MAG) to the City. The Company believes that reductions to the number of stalls in the managed parking area that occurred commencing August 4, 2001 and the opening of a new parking area and other actions required adjustment of the agreement, including the amount of the MAG. Although an exchange between the parties took place as to terms of an amendment, no amendment was executed. ABM's parking subsidiary did, however, continue performing parking management services until April 2004, when the agreement was terminated. On July 12, 2004, the City of Dallas filed a complaint in Texas State Court in Dallas alleging a breach of contract by ABM's parking subsidiary for underpayment of the MAG by \$1.8 million, and in May 2005 amended that complaint to allege fraud and negligent misrepresentation by ABM's parking subsidiary. The matter is currently in the discovery phase. ABM believes that it acted in good faith and is not liable to the City of Dallas for payments in excess of \$0.1 million which the Company accrued, under the terms of the agreement, in 2003.

On February 1, 2005, the Office of Federal Contract Compliance Programs (OFCCP), a division of the US Department of Labor, notified ABM's security subsidiary of an alleged violation of federal affirmative action laws based on a statistical hiring disparity (shortfall) between men and women during 2002. (There was no statistically significant shortfall in 2001, or since 2002.) On April 8, 2005, the OFCCP verbally advised ABM that it was seeking back pay in the amount of \$1.2 million to remedy the alleged disparity. ABM believes, however, that it has strong defenses to the OFCCP's allegations and that the damages paid, if any, will amount to significantly less than \$1.2 million. Because the amount of the damages cannot be estimated at this time, the Company has not taken a charge on its financial statements in connection with this matter.

ABM and some of its subsidiaries have been named defendants in certain other litigation arising in the ordinary course of business. In the opinion of management, based on advice of legal counsel, such matters should have no material effect on the Company's financial position, results of operations or cash flows.

17. Income Taxes

The effective tax rates for the three months ended April 30, 2005 and 2004 were 15.5% and 35.6%, respectively, and 27.2% and 35.6% for the six months ended April 30, 2005 and 2004, respectively. A \$2.7 million income tax benefit was recorded in the second quarter of 2005 resulting from the favorable settlement of the audit of prior years' state tax returns (tax years 2000 to 2003) in May 2005. An estimated liability was accrued in prior years for the separate income tax returns filed with that state for the years under audit because the intercompany charges were not supported by a recent formal transfer pricing study. The estimated liability was greater than the settlement amount. The income tax benefit was

[Table of Contents](#)

partially offset by the effect of a higher level of pre-tax income in the three months and six months ended April 30, 2005 compared to the same periods in 2004, with the estimated federal tax credits remaining substantially the same in all periods. In addition, the effective tax rates for 2005 reflect a higher estimated state income tax rate due to the combined income tax return filing requirements in certain states where separate income tax returns were previously filed.

18. Subsequent Events

On May 25, 2005, ABM terminated its \$250 million three-year syndicated line of credit scheduled to expire on July 1, 2005 and replaced it with a new \$300 million five-year syndicated line of credit scheduled to expire on May 25, 2010. See Note 11.

On May 27, 2005, the Company entered into a Sale Agreement with Carrier to sell substantially all of the operating assets of Mechanical. The sale was completed on June 2, 2005. See Note 10.

In June 2005, the Company paid \$4.5 million in additional state and city income taxes and interest due for tax years 2000 to 2003 in settlement of a state tax audit. See Note 17.

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

Overview

ABM Industries Incorporated ("ABM") and its subsidiaries (the "Company") provide janitorial, parking, security, engineering and lighting services for thousands of commercial, industrial, institutional and retail facilities in hundreds of cities throughout the United States and in British Columbia, Canada. The largest segment of the Company's business is Janitorial which generated over 59% of the Company's sales and other income (hereinafter called "Sales") and over 55% of its operating profit before corporate expenses for the first six months of 2005. In May 2005, after the period covered by this report, the Company entered into an agreement to sell substantially all of the operating assets of its wholly owned subsidiary, CommAir Mechanical Services ("Mechanical"), its mechanical operations. The sale was completed on June 2, 2005.

The Company's Sales are substantially based on the performance of labor-intensive services at contractually specified prices. Janitorial and other maintenance service contracts are either fixed-price or "cost-plus" (*i.e.*, the customer agrees to reimburse the agreed upon amount of wages and benefits, payroll taxes, insurance charges and other expenses plus a profit percentage). In addition to services defined within the scope of the contract, the Company also generates Sales from extra services (also known as "tag sales"), such as when the customer requires additional cleaning or emergency repair services, with extra services frequently providing higher margins. The quarterly profitability of fixed-price contracts is impacted by the variability of the number of work days in the quarter.

The majority of the Company's contracts are for one-year periods, but are subject to termination by either party after 30 to 90 days' written notice. Upon renewal of the contract, the Company may renegotiate the price although competitive pressures and customers' price-sensitivity could inhibit the Company's ability to pass on cost increases. Such cost increases include, but are not limited to, wage, benefit, payroll tax (including unemployment insurance tax), workers' compensation and general liability insurance increases. However, for some renewals the Company is able to restructure the scope and terms of the contract to maintain profit margin.

Sales have historically been the major source of cash for the Company, while payroll expenses, which are substantially related to Sales, have been the largest use of cash. Hence operating cash flows

Table of Contents

significantly depend on the Sales level and timing of collections, as well as the quality of the customer accounts receivable. The timing and level of the payments to suppliers and other vendors, as well as the magnitude of self-insured claims, also affect operating cash flows. The Company's management views operating cash flows as a good indicator of financial strength. Strong operating cash flows provide opportunities for growth both internally and through acquisitions.

The Company's most recent acquisitions significantly contributed to the growth in Sales and operating profit in the first six months of 2005 from the same period in 2004. The Company also experienced internal growth in Sales in the first six months of 2005. Internal growth in Sales represents not only Sales from new customers, but also expanded services or increases in the scope of work for existing customers. In the long run, achieving the desired levels of Sales and profitability will depend on the Company's ability to gain and retain, at acceptable profit margins, more customers than it loses, pass on cost increases to customers, and keep overall costs down to remain competitive, particularly against privately owned companies that typically have the lower cost advantage.

In the short-term, management is focused on pursuing new business and integrating its most recent acquisitions. In the long-term, management continues to focus the Company's financial and management resources on those businesses it can grow to be a leading national service provider.

Liquidity and Capital Resources

(in thousands)	April 30, 2005	October 31, 2004	Change
Cash and cash equivalents	\$ 52,513	\$ 63,369	\$(10,856)
Working capital	\$245,936	\$230,698	\$ 15,238

(in thousands)	Six Months Ended April 30, 2005	2004	Change
Cash provided by operating activities from continuing operations	\$ 12,711	\$ 34,769	\$(22,058)
Net cash used in investing activities	\$(23,798)	\$(50,836)	\$ 27,038
Net cash used in financing activities	\$ (831)	\$ (5,762)	\$ 4,931

Funds provided from operations and bank borrowings have historically been the sources for meeting working capital requirements, financing capital expenditures and acquisitions, and paying cash dividends. As of April 30, 2005 and October 31, 2004, the Company's cash and cash equivalents totaled \$52.5 million and \$63.4 million, respectively. The cash balance at April 30, 2005 declined from October 31, 2004 primarily due to \$14.7 million initial cash payment made for the purchase of operations of Colin Service Systems, Inc. ("Colin"), acquired on December 22, 2004 and Amguard Security and Patrol Services ("Amguard") acquired on March 1, 2005, \$10.4 million cash dividends and \$4.2 million cash payments for the purchases of 0.2 million shares of ABM's common stock, offset in part by cash from operations.

Working Capital. Working capital increased by \$15.2 million to \$245.9 million at April 30, 2005 from \$230.7 million at October 31, 2004 primarily due to the increase in trade accounts receivable, resulting from the increase in Sales, partially offset by the portions of initial cash payments for acquisitions allocated to goodwill and other intangibles. The largest component of working capital consists of trade accounts receivable, which totaled \$326.2 million at April 30, 2005, compared to \$307.2 million at October 31, 2004. These amounts were net of allowances for doubtful accounts of \$7.7 million and \$8.2 million at April 30, 2005 and October 31, 2004, respectively. As of April 30, 2005, accounts receivable that were over 90 days past due had increased \$2.8 million to \$21.1 million (6.3% of the total outstanding) from \$18.3 million (5.8% of the total outstanding) at October 31, 2004.

Cash Flows from Operating Activities. During the first six months of 2005 and 2004, operating activities from continuing operations generated net cash of \$12.7 million and \$34.8 million, respectively. Operating cash from continuing operations decreased in the first six months of 2005 from the first six

[Table of Contents](#)

months of 2004 primarily due to slower payments by some large customers in 2005 and higher income tax payments due to higher estimated taxable income in 2005 and combined tax return filing in states where separate tax returns were previously filed and the effect of the timing of other recurring payments.

Cash Flows from Investing Activities. Net cash used in investing activities in the first six months of 2005 was \$23.8 million, compared to \$50.8 million in the first six months of 2004. The decrease was primarily due to the purchase of businesses in the first six months of 2005 totaling \$16.6 million, compared to \$46.5 million in the first six months of 2004, as well as higher additions to property, plant and equipment in 2005 mostly invested in communication and information technologies.

Cash Flows from Financing Activities. Net cash used in financing activities was \$0.8 million in the first six months of 2005 while \$5.8 million was used in the first six months of 2004. This was primarily due to more cash generated from the issuance of ABM's common stock under employee stock purchase plans in the first six months of 2005 compared to the same period of 2004, partially offset by higher common stock purchases and dividend payments in the first six months of 2005. The 1985 employee stock purchase plan terminated upon issuance of all the available shares in November 2003. A new employee stock purchase plan was approved by the stockholders in March 2004 and the first offering period began on August 1, 2004. The Company purchased 0.2 million shares of ABM's common stock in the first six months of 2005 at a cost of \$4.2 million (an average price per share of \$19.64,) while 0.1 million shares were purchased in the first six months of 2004 at a cost of \$1.7 million (an average price per share of \$16.90).

Line of Credit. On May 25, 2005 (the "effective time"), ABM terminated its \$250 million three-year syndicated line of credit scheduled to expire on July 1, 2005 (the "old Facility") and replaced the old Facility with a new \$300 million five-year syndicated line of credit scheduled to expire on May 25, 2010 (the "new Facility").

Under the new Facility, no compensating balances are required and the interest rate is determined at the time of borrowing based on the London Interbank Offered Rate ("LIBOR") plus a spread of 0.375% to 1.125% or, for overnight loan borrowings, at the prime rate or, for overnight to one week, at the Interbank Offered Rate ("IBOR") plus a spread of 0.375% to 1.125%. The spreads for LIBOR, prime and IBOR borrowings are based on ABM's leverage ratio. The new Facility calls for a non-use fee payable quarterly, in arrears, of 0.125%, based on the average, daily, unused portion. For purposes of this calculation, irrevocable standby letters of credit issued primarily in conjunction with ABM's self-insurance program and cash borrowings are considered to be outstanding amounts. As of April 30, 2005, the total outstanding amounts under the old Facility were \$118.6 million, in the form of standby letters of credit; these standby letters of credit are now outstanding under the new Facility.

The new Facility includes usual and customary covenants for a credit facility of this type, including covenants limiting liens, dispositions, fundamental changes, investments, indebtedness, and certain transactions and payments. In addition, the new Facility also requires that ABM maintain three financial covenants: (1) a fixed charge coverage ratio greater than or equal to 1.50 to 1.0 at fiscal quarter-end; (2) a leverage ratio of less than or equal to 3.25 to 1.0 at fiscal quarter-end; and (3) consolidated net worth greater than or equal to the sum of (i) \$341,941,000, (ii) an amount equal to 50% of the consolidated net income earned in each full fiscal quarter ending after the effective time (with no deduction for a net loss in any such fiscal quarter) and (iii) an amount equal to 100% of the aggregate increases in stockholders' equity of ABM and its subsidiaries after the effective time by reason of the issuance and sale of capital stock or other equity interests of ABM or any subsidiary, including upon any conversion of debt securities of ABM into such capital stock or other equity interests, but excluding by reason of the issuance and sale of capital stock pursuant to ABM's employee stock purchase plans, employee stock option plans and similar programs.

Cash Requirements

[Table of Contents](#)

The Company is contractually obligated to make future payments under non-cancelable operating lease agreements for various facilities, vehicles and other equipment. As of April 30, 2005, future contractual payments were as follows:

(in thousands)	Payments Due By Period				
	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Contractual Obligations					
Operating Leases	\$183,860	\$45,380	\$59,931	\$32,968	\$45,581

Additionally, the Company has the following commercial commitments and other long-term liabilities:

(in thousands)	Amounts of Commitment Expiration Per Period				
	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Commercial Commitments					
Standby Letters of Credit	\$118,560	\$118,560	—	—	—
Surety Bonds	58,225	43,227	\$14,978	\$20	—
Total	\$176,785	\$161,787	\$14,978	\$20	—

(in thousands)	Payments Due By Period				
	Total	Less than 1 year	1 - 3 years	4 - 5 years	After 5 years
Other Long-Term Liabilities					
Retirement Plans	\$41,259	\$2,152	\$5,062	\$5,017	\$29,028

The Company uses surety bonds, principally performance and payment bonds, to guarantee performance under various customer contracts in the normal course of business. These bonds typically remain in force for one to five years and may include optional renewal periods. At April 30, 2005, outstanding surety bonds totaled approximately \$58.2 million. The Company does not believe these bonds will be required to be drawn upon.

Not included in the retirement plans in the table above are union-sponsored collectively bargained multi-employer defined benefit plans under which certain union employees of the Company are covered. These plans are not administered by the Company and contributions are determined in accordance with provisions of negotiated labor contracts. Contributions paid for these plans were \$17.4 million and \$15.9 million in the six months ended April 30, 2005 and 2004, respectively.

The Company self-insures certain insurable risks such as general liability, automobile, property damage, and workers' compensation. Commercial policies are obtained to provide for \$150.0 million of coverage for certain risk exposures above the self-insured retention limits (*i.e.*, deductibles). For claims incurred after November 1, 2002, substantially all of the self-insured retentions increased from \$0.5 million (inclusive of legal fees) to \$1.0 million (exclusive of legal fees) except for the California workers' compensation insurance which increased to \$2.0 million effective April 14, 2003. However, effective April 14, 2005, the deductible for California workers' compensation insurance was decreased from \$2.0 million to \$1.0 million per occurrence, plus an additional \$1.0 million annually in the aggregate, due to improvements in general insurance market conditions. The estimated liability for claims incurred but unpaid at April 30, 2005 and October 31, 2004 was \$199.2 million and \$187.9 million, respectively.

The self-insurance claims paid or accrued for payment in the first six months of 2005 and 2004 were \$30.9 million and \$30.2 million, respectively. Claim payments vary based on the frequency and/or severity of claims incurred and timing of the settlements and therefore may have an uneven impact on the Company's cash balances.

In connection with the gender discrimination lawsuit against ABM in the state of Washington in the case named *Forbes v. ABM* (see Note 16 of Notes to Consolidated Financial Statements,) the Company recorded a charge of \$6.3 million for damages, court-awarded fees and other amounts awarded to the plaintiff, as well as other costs (including interest through April 30, 2005) in the second quarter of 2005 following the Washington Court of Appeals' April 21, 2005 denial of ABM's appeal of an earlier jury verdict.

The Company retains its beliefs in the merits of the case and it had appealed to the Washington State Supreme Court.

In June 2005, the Company paid \$4.5 million in additional state and city income taxes and interest due for tax years 2000 to 2003 in settlement of a state tax audit. See Note 18 of Notes to Consolidated Financial Statements.

The Company has begun the process of installing a Voice over Internet Protocol ("VoIP") technology that will allow the entire Company to make telephone calls using the Company's private network instead of a regular (or analog) phone line. The VoIP project is estimated to cost \$6.1 million and is expected to be completed before the end of this fiscal year.

The Company has no other significant commitments for capital expenditures and believes that the current cash and cash equivalents, cash generated from operations, the \$32.0 million sales proceeds received in June 2005 from the sale of Mechanical and the new Facility will be sufficient to meet the Company's cash requirements for the long term.

Insurance Claims Related to the Destruction of the World Trade Center in New York City on September 11, 2001

The Company had commercial insurance policies covering business interruption, property damage and other losses related to the World Trade Center ("WTC") complex in New York, which was the Company's largest single job-site with annual Sales of approximately \$75.0 million (3% of the Company's consolidated Sales for 2001). As of October 31, 2004, Zurich Insurance ("Zurich") had paid partial settlements totaling \$13.8 million, of which \$10.0 million was for business interruption and \$3.8 million for property damage, which substantially settled the property portion of the claim. The Company realized a pre-tax gain of \$10.0 million in 2002 on the proceeds received.

In December 2001, Zurich filed a Declaratory Judgment Action in the Southern District of New York claiming the loss of the business profit falls under the policy's contingent business interruption sub-limit of \$10.0 million. On June 2, 2003, the court ruled on certain summary judgment motions in favor of Zurich. Thereafter, the Company appealed the court's rulings.

On February 9, 2005, the United States Court of Appeals for the Second Circuit granted summary judgment in favor of ABM on the Company's insurance claims for business interruption losses resulting from the WTC terrorist attack. The Court also ruled that ABM is entitled to recovery for the extra expenses the Company incurred after September 11, 2001, which include millions of dollars related to increased unemployment claims and costs associated with the redeployment of WTC personnel at other facilities. The Court rejected the arguments of Zurich to limit the Company's business interruption coverage and returned the case to the Southern District of New York for determination of appropriate additional compensation under the policy. ABM will continue to pursue its claims against Zurich. Under the policy, coverage for business interruption and other related losses is capped at \$127.4 million. ABM believes its losses exceed \$100.0 million, of which the \$10.0 million described above has been paid under the contingent business interruption sub-limit. On February 24, 2005, Zurich filed a motion to have its appeal heard by the Second Circuit Court of Appeals sitting en banc. Zurich's motion is pending.

On March 30, 2005, the Company signed the Sworn Statement in Proof of Loss which entitled the Company to receive an indemnity payment from Zurich of \$1.5 million, representing the Company's recovery of certain accounts receivable from customers that cannot be collected due to loss of paperwork in the destruction of WTC, additional claimed business personal property and business income loss. On May 9, 2005, this indemnity payment was received. The Company realized a pre-tax gain of \$1.2 million on this indemnity payment in the second quarter of 2005.

Under Emerging Issues Task Force ("EITF") Issue No. 01-10, "Accounting for the Impact of the Terrorist Attacks of September 11, 2001," the Company has not recognized future amounts it expects to recover from its business interruption insurance as income. Any gain from insurance proceeds is

[Table of Contents](#)

considered a contingent gain and, under Statement of Financial Accounting Standard ("SFAS") No. 5, "Accounting for Contingencies," can only be recognized as income in the period when any and all contingencies for that portion of the insurance claim have been resolved.

Environmental Matters

The Company's operations are subject to various federal, state and/or local laws regulating the discharge of materials into the environment or otherwise relating to the protection of the environment, such as discharge into soil, water and air, and the generation, handling, storage, transportation and disposal of waste and hazardous substances. These laws generally have the effect of increasing costs and potential liabilities associated with the conduct of the Company's operations, although historically they have not had a material adverse effect on the Company's financial position, results of operations, or cash flows.

The Company is currently involved in three environmental matters: one involving alleged potential soil contamination at a former Company facility in Arizona, one involving alleged potential soil and groundwater contamination at a Company facility in Florida, and one involving an alleged de minimis contribution to a landfill in Southern California. While it is difficult to predict the ultimate outcome of these matters, based on information currently available, management believes that none of these matters, individually or in the aggregate, are reasonably likely to have a material adverse effect on the Company's financial position, results of operations, or cash flows. As any liability related to these matters is neither probable nor estimable, no accruals have been made related to these matters.

Off-Balance Sheet Arrangements

The Company is party to a variety of contractual agreements under which it may be obligated to indemnify the other party for certain matters. Primarily, these agreements are standard indemnification arrangements in its ordinary course of business. Pursuant to these arrangements, the Company may agree to indemnify, hold harmless and reimburse the indemnified parties for losses suffered or incurred by the indemnified party, generally its customers, in connection with any claims arising out of the services that the Company provides. The Company also incurs costs to defend lawsuits or settle claims related to these indemnification arrangements and in most cases these costs are paid from its insurance program. The term of these indemnification arrangements is generally perpetual. Although the Company attempts to place limits on this indemnification reasonably related to the size of the contract, the maximum obligation is not always explicitly stated and, as a result, the maximum potential amount of future payments the Company could be required to make under these arrangements is not determinable.

ABM's certificate of incorporation and bylaws may require it to indemnify Company directors and officers against liabilities that may arise by reason of their status as such and to advance their expenses incurred as a result of any legal proceeding against them as to which they could be indemnified. ABM has also entered into indemnification agreements with its directors to this effect. The overall amount of these obligations cannot be reasonably estimated, however, the Company believes that any loss under these obligations would not have a material adverse effect on the Company's financial position, results of operations or cash flows as the Company currently has directors' and officers' insurance, which has a deductible of up to \$1.0 million.

Acquisitions and Dispositions

The operating results of businesses acquired have been included in the accompanying consolidated financial statements from their respective dates of acquisition. Acquisitions made during the six-month periods ended April 30, 2005 and 2004 are discussed in Note 9 of Notes to Consolidated Financial Statements.

As a result of the Company's agreement to sell substantially all of the operating assets of Mechanical, the assets and liabilities of Mechanical have been segregated and classified as held for sale and the operating results and cash flows have been reported as discontinued operation in the

[Table of Contents](#)

accompanying consolidated financial statements. Income taxes have been allocated using the estimated combined federal and state tax rates applicable to Mechanical for each of the periods presented. The prior periods presented have been reclassified. See the discussion of discontinued operations below and in Note 10 of Notes to Consolidated Financial Statements.

Results of Continuing Operations

The following discussion should be read in conjunction with the consolidated financial statements of the Company. All information in the discussion and references to the years, quarters and first six months are based on the Company's fiscal year which ends on October 31 and the quarter and first six months which end on April 30.

Three Months Ended April 30, 2005 vs. Three Months Ended April 30, 2004

(\$ in thousands)	Three Months Ended April 30, 2005	% of Sales	Three Months Ended April 30, 2004 As Restated *	% of Sales	Increase (Decrease)
Revenues					
Sales and other income	\$ 639,555	100.0%	\$ 580,923	100.0%	10.1%
Gain on insurance claim	1,195	—	—	—	—
Total revenues	640,750	—	580,923	—	—
Expenses					
Operating expenses and cost of goods sold	576,726	90.2%	526,748	90.7%	9.5%
Selling, general and administrative	50,331	7.9%	41,558	7.2%	21.1%
Intangible amortization	1,478	0.2%	1,077	0.2%	—
Interest	241	—	241	—	—
Total expenses	628,776	98.3%	569,624	98.1%	10.4%
Income from continuing operations before income taxes	11,974	1.9%	11,299	1.9%	6.0%
Income taxes	1,850	0.3%	4,019	0.7%	-54.0%
Income from continuing operations	\$ 10,124	1.6%	\$ 7,280	1.3%	39.1%

* See Note 2 of Notes to Consolidated Financial Statements.

Income from continuing operations. Income from continuing operations for the second quarter of 2005 increased 39.1% to \$10.1 million (\$0.20 per diluted share) from \$7.3 million (\$0.15 per diluted share) for the second quarter of 2004 despite the \$6.3 million pre-tax charge for amounts awarded the plaintiff in *Forbes v. ABM*, which the Company recorded when its appeal was denied. All operating segments showed improvement in operating income, except for the Janitorial segment where the \$6.3 million charge was recorded. Income from operations also benefited by the one fewer work day in the second quarter of 2005 compared to the same period in 2004. Additionally, in the second quarter of 2005, the Company recorded \$2.7 million of income tax benefit resulting from a state tax audit settlement and \$1.2 million of pre-tax gain on the WTC indemnity payment.

Sales and Other Income. Sales for the second quarter of 2005 of \$639.6 million increased by \$58.6 million or 10.1% from \$580.9 million for the second quarter of 2004. Acquisitions completed in fiscal year 2004 and the six months ended April 30, 2005 contributed \$38.9 million to the Sales increase. The remainder of the Sales increase was primarily due to new business in all operating segments, as well as due to the expansion of services with existing Janitorial and Engineering customers.

Operating Expenses and Cost of Goods Sold. As a percentage of Sales, gross profit (Sales minus operating expenses and cost of goods sold) was 9.8% for the second quarter of 2005 compared to 9.3% for the second quarter of 2004. The increase in margins was primarily due to one fewer work day in

the second quarter of 2005 compared to the same period in 2004 which favorably impacted the fixed-price contracts in Janitorial, termination of unprofitable contracts and favorably renegotiated contracts at Parking, higher margin contributions from the Security acquisitions completed in 2004 and the first six months of 2005 and increased tag sales which increased margins in the Northeast region of Janitorial.

Selling, General and Administrative Expenses. Selling, general and administrative expenses for the second quarter of 2005 were \$50.3 million, compared to \$41.6 million for the second quarter of 2004. The increase was primarily due to the \$6.3 million charge taken by Janitorial for *Forbes v. ABM* in the second quarter of 2005, \$1.7 million in selling, general and administrative expenses attributable to the acquisitions completed in 2004 and the first six months of 2005, annual salary increases and higher costs related to Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") compliance, specifically, higher professional fees and additional personnel devoted to the compliance effort.

Intangible Amortization. Intangible amortization was \$1.5 million for the second quarter of 2005 compared to \$1.1 million for the second quarter of 2004. The higher amortization was due to intangibles acquired in business combinations completed in fiscal year 2004 and six months ended April 30, 2005, partially offset by lower amortization on acquisitions completed in fiscal year 2003 resulting from the use of sum-of-the-years-digits method for customer relationship intangible assets.

Interest Expense. Interest expense, which includes loan amortization and commitment fees for the revolving credit facility, was flat between the second quarter of 2005 and the second quarter of 2004.

Income Taxes. The effective tax rate was 15.5% for the second quarter of 2005, compared to 35.6% for the second quarter of 2004. A \$2.7 million income tax benefit was recorded in the second quarter of 2005 resulting from the favorable settlement of the audit of prior years' state tax returns (tax years 2000 to 2003) in May 2005. An estimated liability was accrued in prior years for the separate income tax returns filed with that state for the years under audit because the intercompany charges were not supported by a recent formal transfer pricing study. The estimated liability was greater than the settlement amount. The income tax benefit was partially offset by the effect of a higher level of pre-tax income in the second quarter of 2005 with the estimated federal tax credits remaining substantially the same in both quarters. In addition, the 15.5% effective tax rate reflects a higher estimated state income tax rate due to the combined income tax return filing requirements in certain states where separate income tax returns were previously filed.

Segment Information. Under the criteria of SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information," Janitorial, Parking, Security, Engineering, and Lighting are reportable segments. On November 1, 2004, Facility Services merged with Engineering. The operating results of Facility Services for the prior period has been reclassified to Engineering from the Other segment for comparative purposes. The operating results of Mechanical, also previously included in the Other segment, are reported separately under discontinued operations and are excluded from the table below, see "Discontinued Operations." As a result of the reclassifications of Facility Services and Mechanical, Other segment no longer exists. Corporate expenses are not allocated.

[Table of Contents](#)

(\$ in thousands)	Three Months Ended April 30, 2005	2004 As Restated *	Better (Worse)
Sales and other income			
Janitorial	\$381,457	\$355,331	7.4%
Parking	99,180	93,670	5.9%
Security	72,652	52,098	39.5%
Engineering	57,127	50,683	12.7%
Lighting	28,787	28,937	(0.5)%
Corporate	352	204	72.5%
	\$639,555	\$580,923	10.1%
Operating profit (loss)			
Janitorial	\$ 10,198	\$ 11,484	(11.2)%
Parking	2,448	1,822	34.4%
Security	2,367	1,716	37.9%
Engineering	3,180	2,892	10.0%
Lighting	813	666	22.1%
Corporate	(7,986)	(7,040)	(13.4)%
Operating profit	11,020	11,540	(4.5)%
Gain on insurance claim	1,195	—	—
Interest expense	(241)	(241)	—
Income from continuing operations before income taxes	\$ 11,974	\$ 11,299	6.0%

* See Note 2 of Notes to Consolidated Financial Statements.

The results of operations from the Company's segments for the three months ended April 30, 2005, compared to the same period in 2004, are more fully described below.

Janitorial. Sales for Janitorial increased by \$26.1 million, or 7.4%, during the second quarter of 2005 compared to the same period in 2004. The Initial Contract Services, Inc. ("Initial") and Colin acquisitions contributed \$21.1 million to the increase in Sales. Additionally, Sales across almost all regions increased, particularly in the Mid-Atlantic, Midwest, Northern California and Northwest regions. The Sales increase was primarily due to new business and expansion of services to existing customers. Additionally, Sales in the Northern California region increased due to price adjustments to pass through a portion of union cost increases.

Operating profit decreased by \$1.3 million, or 11.2%, during second quarter 2005 compared to the same period in 2004, primarily due to the \$6.3 million charge for *Forbes v. ABM*, partially offset by operating profit improvements in the majority of the regions and approximately \$2.3 million benefit from one fewer work day in the second quarter of 2005 than in the same period last year. The \$6.3 million charge includes damages, court-awarded fees and other amounts awarded to the plaintiff, as well as other costs (including interest through April 30, 2005) following the Washington Court of Appeals' April 21, 2005 denial of ABM's appeal of an earlier jury verdict. See Note 16 of Notes to Consolidated Financial Statements.

The Northeast region contributed the most to the improvement with its operating loss down by \$1.9 million in the second quarter of 2005 compared to 2004 due to higher tag sales which provided higher margins, tight control of labor cost especially in Manhattan, higher prices on some renegotiated contracts, the impact of acquisitions and one fewer work day. The Initial and Colin acquisitions contributed \$0.6 million of operating profit. The remainder of the operating profit improvement in Janitorial was primarily due to higher Sales and improved margins on existing contracts through better control of costs and lower state unemployment insurance in certain regions. These improvements were partially offset by increases

[Table of Contents](#)

in workers' compensation insurance and union costs that were not fully absorbed by price adjustments in the Northern California region.

Parking. Parking Sales increased \$5.5 million or 5.9% while operating profit increased \$0.6 million or 34.4% during the second quarter of 2005 compared to the second quarter of 2004. Of the \$5.5 million Sales increase, \$3.9 million represented higher reimbursements for out-of-pocket expenses from managed parking lot clients for which Parking had no margin benefit. New contracts and increased traffic at airport locations contributed to the remainder of the Sales increase. The increase in operating profits resulted from the new contracts, the termination of unprofitable contracts, higher margins on renegotiated contracts, as well as improvements at airport locations due to increased air traffic across the country.

Security. Security Sales increased \$20.6 million, or 39.5%, during the second quarter of 2005 compared to the second quarter of 2004 primarily due to the Security Services of America, LLC ("SSA"), Sentinel Guard Systems ("Sentinel") and Amguard acquisitions, which contributed \$17.8 million to the Sales increase. The remainder of the Sales increase is attributable to the net effect of new business, including major contracts awarded in the third quarter of 2004. Operating profits increased \$0.7 million, or 37.9%, primarily due to the \$0.7 million profit contribution from SSA, Sentinel and Amguard and the net effect of new business offset by a \$0.4 million bad debt provision for a customer which declared bankruptcy in April 2005.

Engineering. Sales for Engineering increased \$6.4 million, or 12.7%, during the second quarter of 2005 compared to the second quarter of 2004 due to successful sales initiatives resulting in new business and the expansion of services to existing customers across the country, most significantly in Northern California. Operating profits increased \$0.3 million, or 10.0%, during 2005 compared to 2004 due to higher Sales, partially offset by the higher state unemployment insurance expense in California.

Lighting. Lighting Sales were flat while operating profit increased by \$0.1 million, or 22.1%, during the second quarter of 2005 compared to the second quarter of 2004. The increase in operating profit was primarily due to lower bad debt expense partially offset by costs associated with an expanded sales force.

Corporate. Corporate expenses for the second quarter of 2005 increased by \$0.9 million or 13.4% compared to the same period of 2004 mainly due to higher costs related to Sarbanes-Oxley compliance, specifically, higher professional fees and additional personnel devoted to the compliance effort.

Six Months Ended April 30, 2005 vs. Six Months Ended April 30, 2004

[Table of Contents](#)

(\$ in thousands)	Six Months Ended April 30, 2005	% of Sales	Six Months Ended April 30, 2004 As Restated *	% of Sales	Increase (Decrease)
Revenues					
Sales and other income	\$1,277,720	100.0%	\$1,142,558	100.0%	11.8%
Gain on insurance claim	1,195	—	—	—	—
Total revenues	1,278,915	—	1,142,558	—	—
Expenses					
Operating expenses and cost of goods sold	1,155,583	90.4%	1,037,715	90.8%	11.4%
Selling, general and administrative	95,038	7.4%	81,557	7.1%	16.5%
Intangible amortization	2,834	0.2%	1,945	0.2%	—
Interest	493	—	491	—	0.4%
Total expenses	1,253,948	98.1%	1,121,708	98.2%	11.8%
Income from continuing operations before income taxes	24,967	2.0%	20,850	1.8%	19.7%
Income taxes	6,780	0.5%	7,418	0.6%	-8.6%
Income from continuing operations	\$ 18,187	1.4%	\$ 13,432	1.2%	35.4%

* See Note 2 of Notes to Consolidated Financial Statements.

Income from continuing operations. Income from continuing operations for the first six months of 2005 increased 35.4% to \$18.2 million (\$0.36 per diluted share) from \$13.4 million (\$0.28 per diluted share) for the first six months of 2004 despite the \$6.3 million pre-tax charge for *Forbes v. ABM*. All operating segments showed improvement in operating income, except for the Janitorial segment where the \$6.3 million charge was recorded. Additionally, in the first six months of 2005, the Company recorded \$2.7 million of income tax benefit resulting from the above-described state tax audit settlement and \$1.2 million of pre-tax gain on the WTC indemnity payment.

Sales and Other Income. Sales for the first six months of 2005 of \$1,277.7 million increased by \$135.1 million or 11.8% from \$1,142.6 million for the first six months of 2004. Acquisitions completed in fiscal year 2004 and the six months ended April 30, 2005 contributed \$82.3 million to the Sales increase. The remainder of the Sales increase was primarily due to new business in all operating segments, as well as due to the expansion of services with existing Janitorial and Engineering customers.

Operating Expenses and Cost of Goods Sold. As a percentage of Sales, gross profit (Sales minus operating expenses and cost of goods sold) was 9.6% for the first six months of 2005 compared to 9.2% for the first six months of 2004. The increase in margins was primarily due to the higher margin contributions from the Security acquisitions completed in 2004 and the first six months of 2005, termination of unprofitable contracts and favorably renegotiated contracts at Parking, and higher tag Sales which provided higher margins in the Northeast region of Janitorial, partially offset by higher reimbursements for out-of-pocket expenses from managed parking lot clients for which Parking had no margin benefit.

Selling, General and Administrative Expenses. Selling, general and administrative expenses for the first six months of 2005 were \$95.0 million, compared to \$81.6 million for the first six months of 2004. The increase was primarily due to the \$6.3 million charge taken by Janitorial for *Forbes v. ABM* in the first six months of 2005, \$4.2 million in selling, general and administrative expenses attributable to the acquisitions completed in 2004 and the first six months of 2005, annual salary increases, higher costs related to Sarbanes-Oxley compliance, specifically, higher professional fees and additional personnel devoted to the compliance effort.

[Table of Contents](#)

Intangible Amortization. Intangible amortization was \$2.8 million for the first six months of 2005 compared to \$1.9 million for the first six months of 2004. The higher amortization was due to intangibles acquired in business combinations completed in fiscal year 2004 and six months ended April 30, 2005, partially offset by lower amortization on acquisitions completed in fiscal year 2003 resulting from the use of sum-of-the-years-digits method for customer relationship intangible assets.

Interest Expense. Interest expense, which includes loan amortization and commitment fees for the revolving credit facility, was flat between the first six months of 2005 and the first six months of 2004.

Income Taxes. The effective tax rate was 27.2% for the first six months of 2005, compared to 35.6% for the first six months of 2004. A \$2.7 million income tax benefit was recorded in the second quarter of 2005 resulting from the favorable settlement of the audit of prior years' state tax returns (tax years 2000 to 2003) in May 2005. An estimated liability was accrued in prior years for the separate income tax returns filed with that state for the years under audit because the intercompany charges were not supported by a recent formal transfer pricing study. The estimated liability was greater than the settlement amount. The income tax benefit was partially offset by the effect of a higher level of pre-tax income in the first six months of 2005 with the estimated federal tax credits remaining substantially the same in both periods. In addition, the 27.2% effective tax rate reflects a higher estimated state income tax rate due to the combined income tax return filing requirements in certain states where separate income tax returns were previously filed.

Segment Information. The results for continuing operations by segment for the six months ended April 30, 2005 and 2004 are shown below.

(\$ in thousands)	Six Months Ended April 30, 2005	2004 As Restated *	Better (Worse)
Sales and other income			
Janitorial	\$ 757,580	\$ 705,936	7.3%
Parking	200,306	187,528	6.8%
Security	145,763	92,974	56.8%
Engineering	115,175	100,119	15.0%
Lighting	58,203	55,550	4.8%
Corporate	693	451	53.7%
	\$1,277,720	\$1,142,558	11.8%
Operating profit (loss)			
Janitorial	\$ 22,630	\$ 23,799	(4.9)%
Parking	4,836	2,811	72.0%
Security	5,454	3,193	70.8%
Engineering	6,181	5,417	14.1%
Lighting	1,494	1,284	16.4%
Corporate	(16,330)	(15,163)	(7.7)%
Operating profit	24,265	21,341	13.7%
Gain on insurance claim	1,195	—	—
Interest expense	(493)	(491)	(0.4)%
Income from continuing operations before income taxes	\$ 24,967	\$ 20,850	19.7%

* See Note 2 of Notes to Consolidated Financial Statements.

The results of operations from the Company's segments for the six months ended April 30, 2005, compared to the same period in 2004, are more fully described below.

Janitorial. Sales for Janitorial increased by \$51.6 million, or 7.3%, for the first six months of 2005 compared to the same period in 2004. The Initial and Colin acquisitions contributed \$35.4 million to the

[Table of Contents](#)

increase in Sales. Additionally, Sales across almost all regions increased, particularly in the Mid-Atlantic, Midwest, Northern California and Northwest regions. The Sales increase was primarily due to new business and expansion of services to existing customers. Additionally, Sales in Northern California increased due to price adjustments to pass through a portion of union cost increases.

Operating profit decreased by \$1.2 million, or 4.9%, during the first six months of 2005 compared to the same period in 2004, primarily due to the \$6.3 million charge for *Forbes v. ABM* incurred by the Northwest region, partially offset by operating profit improvements in the majority of the regions.

The Northeast region contributed the most to the improvement with its operating loss down by \$3.2 million in the first six months of 2005 compared to 2004 due to higher tag sales, which provided higher margins, tight control of labor cost especially in Manhattan, higher prices on some renegotiated contracts and the impact of acquisitions. The Initial and Colin acquisitions contributed \$0.9 million of operating profit. The remainder of the operating profit improvement in Janitorial was primarily due to higher Sales and improved margins on existing jobs through better control of costs and lower state unemployment insurance in certain regions. These improvements were partially offset by increases in workers' compensation insurance and union costs that were not fully absorbed by price adjustments in the Northern California region.

Parking. Parking Sales increased \$12.8 million or 6.8%, while operating profit increased \$2.0 million or 72.0% during the first six months of 2005 compared to the first six months of 2004. Of the \$12.8 million Sales increase, \$8.5 million represented higher reimbursements for out-of-pocket expenses from managed parking lot clients for which Parking had no margin benefit. New contracts and increased traffic at airport locations contributed to the remainder of the Sales increase. The increase in operating profits resulted from the new contracts, the termination of unprofitable contracts, higher margins on renegotiated contracts, as well as improvements at airport locations due to increased air traffic across the country.

Security. Security Sales increased \$52.8 million, or 56.8%, during the first six months of 2005 compared to the first six months of 2004 primarily due to the SSA, Sentinel and Amguard acquisitions, which contributed \$46.9 million to the Sales increase. The remainder of the Sales increase is attributable to the net effect of new business, including major contracts awarded in the third quarter of 2004. Operating profits increased \$2.3 million, or 70.8%, primarily due to the \$2.3 million profit contribution from SSA, Sentinel and Amguard and the net effect of new business offset by a \$0.4 million bad debt provision for a customer which declared bankruptcy in April 2005.

Engineering. Sales for Engineering increased \$15.1 million, or 15.0%, during the first six months of 2005 compared to the first six months of 2004 due to successful sales initiatives resulting in new business and the expansion of services to existing customers across the country, most significantly in Northern California. Operating profits increased \$0.8 million, or 14.1%, during 2005 compared to 2004 due to higher Sales, partially offset by the higher state unemployment insurance expense in California.

Lighting. Lighting Sales increased \$2.7 million, or 4.8%, while operating profit increased by \$0.2 million, or 16.4%, during the first six months of 2005 compared to the first six months of 2004. The increase in Sales was primarily due to increased project and service business in the Southwest and Northwest regions. The increase in operating profit was primarily due to higher Sales and lower bad debt expense partially offset by costs associated with an expanded sales force.

Corporate. Corporate expenses for the first six months of 2005 increased by \$1.2 million or 7.7% compared to the same period of 2004 mainly due to higher costs related to Sarbanes-Oxley compliance, specifically, higher professional fees and additional personnel devoted to the compliance effort.

Discontinued Operations

[Table of Contents](#)

On May 27, 2005, the Company entered into a Sale Agreement, with Carrier Corporation, a wholly owned subsidiary of United Technologies Corporation ("Carrier"), to sell substantially all of the operating assets of Mechanical. The sale was completed on June 2, 2005.

The operating assets sold included customer contracts, accounts receivable, facility leases and other assets, as well as rights to the name "CommAir Mechanical Services." The consideration paid was \$32 million in cash, subject to certain adjustments, and Carrier's assumption of trade payables and accrued liabilities. ABM will realize a pre-tax gain of approximately \$21 million in the third quarter of 2005.

Less than \$0.3 million of Mechanical's operating assets, representing its water treatment business, were not sold to Carrier but are held for sale.

The operating results of Mechanical for the three and six months ended April 30, 2005 and 2004 are shown below.

(In thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Revenues	\$ 11,105	\$ 9,422	\$ 20,303	\$ 18,610
Income before income taxes	\$ 400	\$ 99	\$ 171	\$ 401
Income taxes	157	39	67	158
Income from discontinued operation, net of income taxes	\$ 243	\$ 60	\$ 104	\$ 243

On August 15, 2003, the Company sold substantially all of the operating assets of Amtech Elevator Services, Inc., a wholly owned subsidiary of ABM that represented the Company's Elevator segment, to Otis Elevator Company, a wholly owned subsidiary of United Technologies Corporation ("Otis Elevator"). The operating assets sold included customer contracts, accounts receivable, facility leases and other assets, as well as a perpetual license to the name "Amtech Elevator Services." The consideration in connection with the sale included \$112.4 million in cash and Otis Elevator's assumption of trade payables and accrued liabilities. The Company realized a gain on the sale of \$52.7 million, which is net of \$32.7 million of income taxes, of which \$30.5 million was paid with the extension of the federal and state income tax returns on January 15, 2004. This payment has been reported as discontinued operation in the accompanying consolidated statements of cash flows.

In June 2005, the Company settled litigation that arose from and was directly related to the operations of Elevator prior to its disposal. An estimated liability was recorded on the date of disposal. The settlement amount was less than the estimated liability by \$0.2 million, pre-tax. This difference was recorded as income from discontinued operation in the second quarter of 2005 as shown below.

(In thousands)	Three Months Ended April 30,		Six Months Ended April 30,	
	2005	2004	2005	2004
Income before income taxes	\$ 233	\$ —	\$ 233	\$ —
Income taxes	89	—	89	—
Income from discontinued operation, net of income taxes	\$ 144	\$ —	\$ 144	\$ —

Recent Accounting Pronouncement

[Table of Contents](#)

In December 2004, the Financial Accounting Standards Board ("FASB") issued SFAS No. 123R, "Share-Based Payment." This statement is a revision to SFAS No. 123, "Accounting for Stock-Based Compensation" and supersedes Accounting Principles Board ("APB") Opinion No. 25, "Accounting for Stock Issued to Employees." SFAS No. 123R establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods or services, primarily focusing on the accounting for transactions in which an entity obtains employee services in share-based payment transactions. Entities will be required to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). That cost will be recognized over the period during which an employee is required to provide service. SFAS No. 123R is effective as of the beginning of the annual reporting period that begins after June 15, 2005. In accordance with the standard, the Company will adopt SFAS No. 123R effective November 1, 2005. The Company believes that the impact that the adoption of SFAS No. 123R will have on its financial position or results of operations will approximate the magnitude of the stock-based employee compensation costs disclosed above pursuant to the disclosure requirements of SFAS No. 148. (See Note 4 of Notes to Consolidated Financial Statements.)

Critical Accounting Policies and Estimates

The preparation of consolidated financial statements requires the Company to make estimates and judgments that affect the reported amounts of assets, liabilities, sales and expenses. On an ongoing basis, the Company evaluates its estimates, including those related to self-insurance reserves, allowance for doubtful accounts, valuation allowance for the net deferred income tax asset, estimate of useful life of intangible assets, impairment of goodwill and other intangibles, and contingencies and litigation liabilities. The Company bases its estimates on historical experience, independent valuations and various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

The Company believes the following critical accounting policies affect its more significant judgments and estimates used in the preparation of its consolidated financial statements.

Self-Insurance Reserves. Certain insurable risks such as general liability, automobile property damage and workers' compensation are self-insured by the Company. However, commercial policies are obtained to provide coverage for certain risk exposures subject to specified limits. Accruals for claims under the Company's self-insurance program are recorded on a claim-incurred basis. The Company uses an independent actuarial firm to provide an estimate of the Company's claim costs and liabilities annually and the Company accrues the actuarial point estimate.

Using the annual actuarial report, management develops annual insurance costs for each operation, expressed as a rate per \$100 of exposure (labor and revenue) to estimate insurance costs on a quarterly basis. Additionally, management monitors new claims and claim development to assess the adequacy of the insurance reserves. The estimated future charge is intended to reflect the recent experience and trends. Trend analysis is complex and highly subjective. The interpretation of trends requires the knowledge of all factors affecting the trends that may or may not be reflective of adverse development (e.g., change in regulatory requirements and change in reserving methodology). If the trends suggest that the frequency or severity of claims incurred increased, the Company might be required to record additional expenses for self-insurance liabilities. Additionally, the Company uses third party service providers to administer its claims and the performance of the service providers and transfers between administrators can impact the cost of claims and accordingly the amounts reflected in insurance reserves.

Allowance for Doubtful Accounts. The Company's accounts receivable arise from services provided to its customers and are generally due and payable on terms varying from the receipt of invoice to net thirty days. The Company estimates an allowance for accounts it does not consider fully collectible. Changes in the financial condition of the customer or adverse development in negotiations or legal proceedings to obtain payment could result in the actual loss exceeding the estimated allowance.

Deferred Income Tax Asset Valuation Allowance. Deferred income taxes reflect the impact of temporary differences between the amount of assets and liabilities recognized for financial reporting purposes and such amounts recognized for tax purposes. If management determines it is more likely than not that the net deferred tax asset will be realized, no valuation allowance is recorded. At April 30, 2005, the net deferred tax asset was \$91.5 million and no valuation allowance was recorded. Should future income be less than anticipated, the net deferred tax asset may not be fully recoverable.

Other Intangible Assets Other Than Goodwill. The Company engages a third party valuation firm to independently appraise the value of intangible assets acquired in larger sized business combinations. For smaller acquisitions, the Company performs an internal valuation of the intangible assets using the discounted cash flow technique. The customer relationship intangible assets are being amortized using the sum-of-the-years-digits method over the useful lives consistent with the estimated useful life considerations used in the determination of their fair values. The accelerated method of amortization reflects the pattern in which the economic benefits of the customer relationship intangible asset are expected to be realized. Trademarks and trade names are being amortized over their useful lives using the straight-line method. Other intangible assets, consisting principally of contract rights, are being amortized over the contract periods using the straight-line method. At least annually, the Company evaluates the remaining useful life of an intangible asset to determine whether events and circumstances warrant a revision to the remaining period of amortization. If the estimate of the asset's remaining useful life changes, the remaining carrying amount of the intangible asset would be amortized over the revised remaining useful life. Furthermore, the remaining unamortized book value of intangibles will be reviewed for impairment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-lived Assets." The first step of an impairment test under SFAS No. 144 is a comparison of the future cash flows, undiscounted, to the remaining book value of the intangible. If the future cash flows are insufficient to recover the remaining book value, a fair value of the asset, depending on its size, will be independently or internally determined and compared to the book value to determine if an impairment exists.

Goodwill. In accordance with SFAS No. 142, "Goodwill and Other Intangibles," goodwill is no longer amortized. Rather, the Company performs goodwill impairment tests on an at least an annual basis, in the fourth quarter, using the two-step process prescribed in SFAS No. 142. The first step is to evaluate for potential impairment by comparing the reporting unit's fair value with its book value. If the first step indicates potential impairment, the required second step allocates the fair value of the reporting unit to its assets and liabilities, including recognized and unrecognized intangibles. If the implied fair value of the reporting unit's goodwill is lower than its carrying amount, goodwill is impaired and written down to its implied fair value. The fair value of the reporting unit, if required to be determined, will be independently appraised.

Contingencies and Litigation. ABM and certain of its subsidiaries have been named defendants in certain litigations arising in the ordinary course of business including certain environmental matters. When a loss is probable and estimable the Company records the estimated loss. The actual loss may be greater than estimated, or litigation where the outcome was not considered probable might result in a loss.

Factors That May Affect Future Results

(Cautionary Statements Under the Private Securities Litigation Reform Act of 1995)

The disclosure and analysis in this Quarterly Report on Form 10-Q contain some forward-looking statements that set forth anticipated results based on management's plans and assumptions. From time to time, the Company also provides forward-looking statements in other written materials released to the public as well as oral forward-looking statements. Such statements give the Company's current expectations or forecasts of future events; they do not relate strictly to historical or current facts. In particular, these include statements relating to future actions, future performance or results of current and anticipated sales efforts, expenses, and the outcome of contingencies and other uncertainties, such as legal proceedings, and financial results. Management tries, wherever possible, to identify such

statements by using words such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” “plan,” “project” and similar expressions.

Set forth below are factors that the Company thinks, individually or in the aggregate, could cause the Company's actual results to differ materially from past results or those anticipated, estimated or projected. The Company notes these factors for investors as permitted by the Private Securities Litigation Reform Act of 1995. Investors should understand that it is not possible to predict or identify all such factors. Consequently, the following should not be considered to be a complete list of all potential risks or uncertainties.

An increase in costs that the Company cannot pass on to customers could affect profitability. The Company attempts to negotiate contracts under which its customers agree to pay for increases in certain underlying costs associated with providing its services, particularly labor costs, workers' compensation and other insurance costs, and any applicable payroll taxes. If the Company cannot pass through increases in its costs to its customers under its contracts in a timely manner or at all, then the Company's expenses will increase without a corresponding increase in sales. Further, if the Company's sales decline, the Company may not be able to reduce its expenses correspondingly or at all.

The Company is subject to intense competition. The Company believes that each aspect of its business is highly competitive, and that such competition is based primarily on price and quality of service. The Company provides nearly all its services under contracts originally obtained through competitive bidding. The low cost of entry to the facility services business has led to strongly competitive markets made up of large numbers of mostly regional and local owner-operated companies, located in major cities throughout the United States and in British Columbia, Canada (with particularly intense competition in the janitorial business in the Southeast and South Central regions of the United States). The Company also competes with the operating divisions of a few large, diversified facility services and manufacturing companies on a national basis. Indirectly, the Company competes with building owners and tenants that can perform internally one or more of the services provided by the Company. These building owners and tenants might have a competitive advantage when the Company's services are subject to sales tax and internal operations are not. Furthermore, competitors may have lower costs because privately-owned companies operating in a limited geographic area may have significantly lower labor and overhead costs. These strong competitive pressures could inhibit the Company's success in bidding for profitable business and its ability to increase prices even as costs rise, thereby reducing margins.

A change in actuarial analysis could affect the Company's results. The Company contracts an annual independent actuarial evaluation of its insurance reserves to ensure that its insurance reserves are appropriate. Actuaries may vary in the manner in which they derive their estimates and these differences could lead to variations in actuarial estimates that cause changes in the Company's insurance reserves not related to changes in its claims experience. In addition, because the Company's actuarial estimate is prepared annually and requires several months of analysis, the Company may not learn of a deterioration in claims, particularly claims administered by a third party, until additional costs have been incurred or are projected.

A change in the frequency or severity of claims against the Company, a deterioration in claims management, or the cancellation or non-renewal of the Company's primary insurance policies could adversely affect the Company's results. While the Company attempts to establish adequate self-insurance reserves using an annual actuarial study, unanticipated increases in the frequency or severity of claims against the Company would have an adverse financial impact. Also, where the Company self-insures, a deterioration in claims management, whether by the Company or by a third party claims administrator, could lead to delays in settling claims thereby increasing claim costs, particularly in the workers' compensation area. In addition, catastrophic uninsured claims against the Company or the inability of the Company's insurance carriers to pay otherwise insured claims would have a material adverse financial impact on the Company.

Furthermore, many customers, particularly institutional owners and large property management companies, prefer to do business with contractors, such as the Company, with significant financial resources, who can provide substantial insurance coverage. Should the Company be unable to renew its umbrella and other commercial insurance policies at competitive rates, this loss would have an adverse impact on the Company's business.

A decline in commercial office building occupancy and rental rates could affect the Company's sales and profitability. The Company's sales directly depend on commercial real estate occupancy levels and the rental income of building owners. Decreases in these levels reduce demand and also create pricing pressures on building maintenance and other services provided by the Company. In certain geographic areas and service segments, the Company's most profitable work includes tag jobs performed for tenants in buildings in which it performs building services for the property owner or management company. A decline in occupancy rates could result in a decline in fees paid by landlords as well as tenant work which would lower sales and margins. In addition, in those areas of its business where the Company's workers are unionized, decreases in sales can be accompanied by relative increases in labor costs if the Company is obligated by collective bargaining agreements to retain workers with seniority and consequently higher compensation levels.

The financial difficulties or bankruptcy of one or more of the Company's major customers could adversely affect results. The Company's ability to collect its accounts receivable and future sales depend, in part, on the financial strength of its customers. The Company estimates an allowance for accounts it does not consider collectible and this allowance adversely impacts profitability. In the event customers experience financial difficulty, and particularly if bankruptcy results, profitability is further impacted by the Company's failure to collect accounts receivable in excess of the estimated allowance. Additionally, the Company's future sales would be reduced.

The Company's success depends on its ability to preserve its long-term relationships with its customers. The Company's contracts with its customers are generally cancelable upon relatively short notice. However, the business associated with long-term relationships is generally more profitable than that from short-term relationships because the Company incurs start-up costs with many new contracts, particularly for training, operating equipment and uniforms. Once these costs are expensed or fully depreciated over the appropriate periods, the underlying contracts become more profitable. Therefore, the Company's loss of long-term customers could have an adverse impact on its profitability even if the Company generates equivalent sales from new customers.

Weakness in airline travel and the hospitality industry could adversely affect the results of the Company's Parking segment. A significant portion of the Company's Parking sales is tied to the numbers of airline passengers and hotel guests. Parking results were adversely affected after the terrorist attacks of September 11, 2001, during the SARS crisis and at the start of the military conflict in Iraq as people curtailed both business and personal travel and hotel occupancy rates declined. As airport security precautions expanded, the decline in travel was particularly noticeable at airports associated with shorter flights for which ground transportation became the alternative. While it appears that airline travel and the hospitality industry are now recovering, there can be no assurance that airline travel will reach previous levels or increased concerns about terrorism, disease, or other adversities will not again reduce travel, adversely impacting Parking sales and operating profits.

Continued low levels of capital investments by customers could adversely impact the results of Lighting operations. While the economy appears to be recovering in recent months, the commercial office building and retail sectors have been slow to make capital expenditures for lighting projects. While we expect capital investment in these areas to increase in the coming year, customers' capital project budgets could continue at low levels, which would adversely impact the Company's results.

Acquisition activity could slow or be unsuccessful. A significant portion of the Company's historic growth has come through acquisitions. A slowdown in acquisitions could lead to a slower growth

rate. Because new contracts frequently involve start-up costs, sales associated with acquired operations generally have higher margins than new sales associated with internal growth. Therefore a slowdown in acquisition activity could lead to constant or lower margins, as well as lower revenue growth. Because contracts in the Company's businesses are generally short-term and personal relationships are significant in retaining customers, the Company relies on its ability to retain the managers of its acquired businesses. An inability to retain the services of the former owners and senior managers of acquired businesses could adversely affect the projected benefits of an acquisition. Moreover, the inability to successfully integrate acquisitions into the Company or to achieve the operational efficiencies anticipated in acquisitions could adversely impact sales and costs.

The Company could experience labor disputes that could lead to loss of sales or expense variations. At April 30, 2005, approximately 41% of the Company's employees were subject to collective bargaining agreements at the local level. Some collective bargaining agreements will expire or become subject to renegotiation during the current fiscal year. When one or more of the Company's major collective bargaining agreements becomes subject to renegotiation, the Company and the union may disagree on important terms which, in turn, could lead to a strike, work slowdown or other job actions at one or more of the Company's locations. A strike, work slowdown or other job action could in some cases disrupt the Company from providing its services, resulting in reduced revenue collection. In other cases, a strike, work slowdown or other job action could lead to lower expenses due to fewer employees performing services. Alternatively, the result of renegotiating a collective bargaining could be a substantial increase in labor and benefits expenses that the Company could be unable to pass through to its customers for some period of time, if at all.

The Company incurs significant accounting and other control costs, which could increase. As a publicly traded corporation, the Company incurs certain costs to comply with regulatory requirements. Most of the Company's competitors are privately owned so these costs can be a competitive disadvantage for the Company. Should the Company's sales decline or if the Company is unsuccessful at increasing prices to cover higher expenditures for control and audit, its costs associated with regulatory compliance will rise as a percentage of sales.

While the Company believes that it now has adequate internal control over financial reporting, the management of the Company is required to evaluate internal control over financial reporting under Section 404 of Sarbanes-Oxley and any adverse results from such evaluation could result in a loss of investor confidence in the Company's financial reports and have an adverse effect on ABM's stock price. Pursuant to Section 404 of Sarbanes-Oxley, beginning with the Company's Annual Report on Form 10-K for the fiscal year ending October 31, 2005, management will be required to furnish a report on the Company's internal control over financial reporting. Such report will contain, among other matters, an assessment of the effectiveness of the Company's internal control over financial reporting as of the end of its fiscal year, including a statement as to whether or not the Company's internal control over financial reporting is effective. This assessment must include disclosure of any material weakness in internal control over financial reporting identified by management. This report must also contain a statement that the Company's auditors have issued an attestation report on management's assessment of such internal control.

Public Company Accounting Oversight Board Auditing Standard No. 2 provides the professional standards and related performance guidance for auditors to attest to, and report on, management's assessment of the effectiveness of the internal control over financial reporting under Section 404. Management's assessment of internal control over financial reporting requires management to make subjective judgments and, particularly because Auditing Standard No. 2 is newly effective, some of the judgments will be in areas that may be open to interpretation and therefore the report may be uniquely difficult to prepare and the Company's auditors may not agree with management's assessments.

The Company is still performing the process documentation and evaluation needed to comply with Section 404, which is both costly and challenging. During this process, if management identifies one or

Table of Contents

more material weakness in internal control over financial reporting (such as was identified in connection with the preparation of the 2004 financial statements) that it is not able to remediate to meet the October 31, 2005 deadline, management will be unable to assert such internal control is effective. If management is unable to assert that internal control over financial reporting is effective as of October 31, 2005 (or if the Company's auditors are unable to attest that management's report is fairly stated or they are unable to express an opinion on the effectiveness of the Company's internal control over financial reporting), the Company could lose investor confidence in the accuracy and completeness of its financial reports, which would have an adverse effect on ABM's stock price.

Additionally, while the Company currently anticipates being able to satisfy the requirements of Section 404 in a timely fashion, it cannot be certain as to the timing of completion of its evaluation, testing and any required remediation due in large part to the fact that there is no precedent available by which to measure compliance with the new Auditing Standard No. 2 at the present time. If management is not able to complete the assessment under Section 404 in a timely manner, management and the Company's auditors would be unable to conclude that the Company's internal control over financial reporting is effective as of October 31, 2005.

Other issues and uncertainties may include:

- labor shortages that adversely affect the Company's ability to employ entry level personnel,
- a reduction or revocation of the Company's line of credit that could increase interest expense and the cost of capital,
- legislation or other governmental action that detrimentally impacts the Company's expenses or reduces sales by adversely affecting the Company's customers such as state or locally- mandated healthcare benefits,
- new accounting pronouncements or changes in accounting policies,
- impairment of goodwill or other intangible assets,
- the resignation, termination, death or disability of one or more of the Company's key executives that adversely affects customer retention or day-to-day management of the Company,
- inclement weather which could disrupt the Company in providing its services resulting in reduced sales, or work performed following inclement weather could result in higher cost with partial or no corresponding compensation from customers leading to lower margins.

The Company believes that it has the human and financial resources for business success, but future profit and cash flow can be adversely (or advantageously) influenced by a number of factors, including those listed above, any and all of which are inherently difficult to forecast. The Company's Annual Report on Form 10-K for the year ended October 31, 2004, contains additional information with respect to the factors that could influence its business. The Company undertakes no obligation to publicly update forward-looking statements, whether as a result of new information, future events or otherwise.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The Company does not issue or invest in financial instruments or their derivatives for trading or speculative purposes. Substantially all of the operations of the Company are conducted in the United States, and, as such, are not subject to material foreign currency exchange rate risk. At April 30, 2005, the Company had no outstanding long-term debt. Although the Company's assets included \$52.5 million in cash and cash equivalents at April 30, 2005, market rate risk associated with changing interest rates in the United States is not material.

Item 4. Controls and Procedures

Disclosure Controls and Procedures. As required by paragraph (b) of Rules 13a-15 or 15d-15, under the Securities Exchange Act of 1934 (the "Exchange Act"), the Company's principal executive officer and principal financial officer evaluated the Company's disclosure controls and procedures (as

[Table of Contents](#)

defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on this evaluation, these officers concluded that as of the end of the period covered by this Quarterly Report on Form 10-Q, these disclosure controls and procedures were adequate to ensure that the information required to be disclosed by the Company in reports it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake.

Changes in Internal Control Over Financial Reporting. No change in the Company's internal control over financial reporting that occurred during the Company's second quarter of fiscal 2005 has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

During the quarter ended April 30, 2005, the Company recorded a charge of \$6.3 million for damages, court-awarded fees and other amounts awarded to the plaintiff in the case named *Forbes v. ABM*, as well as other costs (including interest through April 30, 2005) following the Washington Court of Appeals' April 21, 2005 denial of ABM's appeal of an earlier jury verdict. This gender discrimination lawsuit was originally filed in the State of Washington against ABM by a former employee of a subsidiary of ABM in September 1999. On May 19, 2003, a Washington state court jury for the Spokane County Superior Court awarded \$4.0 million in damages to the plaintiff. The court later awarded costs of \$0.7 million to the plaintiff, pre-judgment interest in the amount of \$0.3 million and an additional \$0.8 million to mitigate the federal tax impact of the plaintiff's award. When the awards were made, the Company believed it had been denied a fair trial and appealed the verdict on the grounds that several key rulings by the court were incorrect and resulted in substantial prejudice to the Company. The Company also believed that the original verdict would be reversed because it was excessive and inconsistent with the law and the evidence. Because it believed the awards would be reversed and it would prevail in a new trial, the Company did not record any liability on its financial statements previously. Although the Company retains its beliefs in respect of the merits of the case and intends to appeal to the Washington State Supreme Court, the Company took the charge in the quarter ended April 30, 2005 in recognition of the loss of its first appeal.

In 1998, ABM's parking subsidiary leased a parking facility in Houston, Texas, owned by a limited partnership jointly owned by affiliates of American National Insurance Company ("ANICO") and partners associated with Gerry Albright ("Albright affiliates.") In June 2003, the ANICO affiliates notified the Albright affiliates that they would sell their interest in the parking facility. The Albright affiliates accepted the offer and attempted to secure financing. In connection with certain proposed financing for the Albright affiliates, ABM's parking subsidiary was asked to submit an estoppel certificate and on that certificate it set forth certain claims under the lease. The Albright affiliates subsequently did not close the transaction and the ANICO affiliates acquired the interest in the parking facility held by the Albright affiliates. On December 5, 2003, the Albright affiliates filed a lawsuit against ABM, its parking subsidiary, and certain ANICO affiliates. The complaint alleged that ABM breached its obligations under the parking facility lease and committed tortious interference, the ANICO affiliates breached fiduciary responsibilities under the partnership agreement, and that ABM and ANICO were engaged in a conspiracy. Subsequently, claims against ANICO were dismissed. The Albright affiliates assert damages consisting of (1) the value of the parking facility in excess of the purchase price at the time of the proposed purchase by the Albright affiliates (\$1.8 million); (2) lost future revenues from the operation of the parking facility (\$15.4 million); (3) future appreciation of the property during the remainder of the parking facility lease (a range from \$9.9 million to

\$39.0 million); (4) exemplary damages; and (5) attorneys' fees. This matter is currently before the Federal District Court in Houston, Texas. ABM believes that it acted in good faith under the terms of the lease and is not liable to the Albright affiliates for their damages related to their inability to secure financing.

In December 1997, ABM's parking subsidiary entered into a five-year agreement with the City of Dallas to perform parking management services for the Love Field Airport. This agreement provided for a minimum annual guarantee payment (MAG) to the City. The Company believes that reductions to the number of stalls in the managed parking area that occurred commencing August 4, 2001 and the opening of a new parking area and other actions required adjustment of the agreement, including the amount of the MAG. Although an exchange between the parties took place as to terms of an amendment, no amendment was executed. ABM's parking subsidiary did, however, continue performing parking management services until April 2004, when the agreement was terminated. On July 12, 2004, the City of Dallas filed a complaint in Texas State Court in Dallas alleging a breach of contract by ABM's parking subsidiary for underpayment of the MAG by \$1.8 million, and in May 2005 amended that complaint to allege fraud and negligent misrepresentation by ABM's parking subsidiary. The matter is currently in the discovery phase. ABM believes that it acted in good faith and is not liable to the City of Dallas for payments in excess of \$0.1 million which the Company accrued, under the terms of the agreement, in 2003.

On February 1, 2005, the Office of Federal Contract Compliance Programs (OFCCP), a division of the US Department of Labor, notified ABM's security subsidiary of an alleged violation of federal affirmative action laws based on a statistical hiring disparity (shortfall) between men and women during 2002. (There was no statistically significant shortfall in 2001, or since 2002.) On April 8, 2005, the OFCCP verbally advised ABM that it was seeking back pay in the amount of \$1.2 million to remedy the alleged disparity. ABM believes, however, that it has strong defenses to the OFCCP's allegations and that the damages paid, if any, will amount to significantly less than \$1.2 million. Because the amount of the damages cannot be estimated at this time, the Company has not taken a charge on its financial statements in connection with this matter.

ABM and some of its subsidiaries have been named defendants in certain other litigation arising in the ordinary course of business. In the opinion of management, based on advice of legal counsel, such matters should have no material effect on the Company's financial position, results of operations or cash flows.

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

(c) Stock Repurchases

[Table of Contents](#)

Period	(a) Total number of shares (or units) purchased	(b) Average price paid per share (or unit)	(c) Number of shares (or units) purchased as part of publicly announced plans or programs	(d) Maximum number (or approximate dollar value) of shares (or units) that may yet be purchased under the plans or programs (1)
2/1/2005-2/28/2 005	—	—	—	—
3/1/2005-3/31/2005	211,872 shares (2)	\$19.64	211,700 shares	1,788,300 shares
4/1/2005-4/30/2005	—	—	—	1,788,300 shares
Total	211,872 shares	\$19.64	211,700 shares	1,788,300 shares

- (1) On March 7, 2005, ABM's Board of Directors authorized the purchase of up to 2.0 million shares of ABM's common stock at any time through October 31, 2005.
- (2) Participants in the Company's "Time-Vested" Incentive Stock Option Plan (the "Plan") may exercise stock options by surrendering shares of ABM's common stock that the participants already own as payment of the exercise price. Shares so surrendered by participants in the Plan are repurchased by the Company pursuant to the terms of the Plan and applicable award agreement and not pursuant to publicly announced share repurchase programs. 172 shares were purchased in the three months ended April 30, 2005 under this program.

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

- (a) The Annual Meeting of Stockholders was held on March 8, 2005.
- (b) The following directors were elected by a vote of stockholders: Maryellen C. Herringer, Charles T. Horngren and Martinn H. Mandles, who will serve for a term ending at the annual meeting in the year 2008.

The following directors continued in office with terms expiring at the annual meeting in the year 2006: Linda L. Chavez, Theodore T. Rosenberg and Henrik C. Slipsager.

The following directors continued in office with terms expiring at the annual meeting in the year 2007: Luke S. Helms, Henry L. Kotkins, Jr. and William W. Steele.

- (c) The following matters were voted upon at the meeting:

- (1) Proposal 1 – Election of Directors

Nominee	For	Withheld
Maryellen C. Herringer	43,952,335	239,971
Charles T. Horngren.	43,919,965	272,341
Martinn H. Mandles	42,808,485	1,383,821

- (2) Ratification of KPMG LLP as ABM's auditors

For	Against	Abstain
43,525,939	617,988	48,379

Table of Contents

Item 6.Exhibits

- Exhibit 10.1 - Chief Executive Officer Performance Objectives for Fiscal Year 2005 (incorporated by reference as Exhibit 99.1 to the registrant's Form 8-K Current Report dated March 24, 2005, File No. 1-8929)
- Exhibit 10.2 - Form of Non-Qualified Stock Option Agreement under the Time-Vested Incentive Stock Option Plan (incorporated by reference as Exhibit 99.2 to the registrant's Form 8-K Current Report dated March 24, 2005, File No. 1-8929)
- Exhibit 10.3 - 2002 Price-Vested Performance Stock Option Plan, as amended and restated March 24, 2005
- Exhibit 10.4 - Service Award Benefit Plan, as amended and restated April 2005
- Exhibit 10.5 - Credit Agreement, dated as of May 25, 2005, among ABM Industries Incorporated, various financial institutions and Bank of America, N.A., as Administrative Agent
- Exhibit 31.1 - Certification of Chief Executive Officer pursuant to Securities Exchange Act of 1934 Rule 13a-14(a) or 15d-14(a)
- Exhibit 31.2 - Certification of Chief Financial Officer pursuant to Securities Exchange Act of 1934 Rule 13a-14(a) or 15d-14(a)
- Exhibit 32.1 - Certifications pursuant to Securities Exchange Act of 1934 Rule 13a-14(b) or 15d-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

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

ABM Industries Incorporated

June 8, 2005

/s/ George B. Sundby

George B. Sundby
Executive Vice President and
Chief Financial Officer
Principal Financial Officer

June 8, 2005

/s/ Maria De Martini

Maria De Martini
Vice President and Controller
Chief Accounting Officer

EXHIBIT INDEX

Exhibit No.	Description
10.1	Chief Executive Officer Performance Objectives for Fiscal Year 2005 (incorporated by reference as material contract to Exhibit 99.1 to the registrant's Form 8-K Current Report dated March 24, 2005, File No. 1-8929)
10.2	Form of Non-Qualified Stock Option Agreement under the Time-Vested Incentive Stock Option Plan (incorporated by reference as material contract to Exhibit 99.2 to the registrant's Form 8-K Current Report dated March 24, 2005, File No. 1-8929)
10.3	2002 Price-Vested Performance Stock Option Plan, as amended and restated March 24, 2005
10.4	Service Award Benefit Plan, as amended and restated April 2005
10.5	Credit Agreement, dated as of May 25, 2005, among ABM Industries Incorporated, various financial institutions and Bank of America, N.A., as Administrative Agent
31.1	Certification of Chief Executive Officer pursuant to Securities Exchange Act of 1934 Rule 13a-14(a) or 15d-14(a).
31.2	Certification of Chief Financial Officer pursuant to Securities Exchange Act of 1934 Rule 13a-14(a) or 15d-14(a).
32.1	Certifications pursuant to Securities Exchange Act of 1934 Rule 13a-14(b) or 15d-14(b) and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

ABM INDUSTRIES INCORPORATED
2002 PRICE-VESTED PERFORMANCE STOCK OPTION PLAN
(as amended and restated March 24, 2005)

1. PURPOSE; DEFINITIONS.

ABM Industries Incorporated hereby establishes the ABM Industries Incorporated 2002 Price-Vested Performance Stock Option Plan (the "Plan"), effective as of December 11, 2001. The purpose of the Plan is to give ABM Industries Incorporated and its Affiliates a long-term stock option plan to help in recruiting, retaining motivating and rewarding senior executives, and to provide the Company and its Affiliates with the ability to provide incentives more directly linked to the profitability of the Company's businesses and increases in stockholder value.

For purposes of the Plan, the following terms are defined as set forth below:

- a. "Affiliate" or "Affiliates" means any and all subsidiary corporations or other entities controlled by the Company and designated by the Committee from time to time as such.
 - b. "Board" or "the Board" means the board of directors ("Directors") of the Company.
 - c. "Cause" means:
 - (1) misconduct or any other willful or knowing violation of any Company policy or employment agreement,
 - (2) unsatisfactory performance such that the Company notifies the Optionee of the Company's intention not to renew the Optionee's employment agreement with the Company,
 - (3) a material breach by the Optionee of his or her duties as an employee which is committed in bad faith or without reasonable belief that such breach is in the best interests of the Company and its affiliated companies (other than a breach arising from the failure of the Optionee to work as a result of incapacity due to physical or mental illness) and which is not remedied in a reasonable period of time after receipt of written notice from the Company specifying such breach, or
 - (4) the conviction of the Optionee of a felony that has been affirmed on appeal or as to which the period in which an appeal can be taken has lapsed.
 - d. "Change in Control" and "Change in Control Price" have the meanings set forth in Sections 6b and 6c of the Plan, respectively.
-

- e. "Code" or "the Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto.
- f. "Commission" or "the Commission" means the Securities and Exchange Commission or any successor agency.
- g. "Committee" or "the Committee" means the committee referred to in Section 2 of the Plan.
- h. "Company" or "the Company" means ABM Industries Incorporated, a Delaware corporation.
- i. "Disability" means the inability of the Optionee to perform his or her duties as an employee on an active fulltime basis as a result of incapacity due to mental or physical illness which continues for more than ninety (90) days after the commencement of such incapacity, such incapacity to be determined by a physician selected by the Company or its insurers and acceptable to the Optionee or the Optionee's legal representative (such agreement as to acceptability not to be withheld unreasonably).
- j. "Eligible Person" has the meaning set forth in Section 4 of the Plan.
- k. "Exchange Act" or "the Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any comparable successor provisions.
- l. For the purposes of this Plan, the term "Fair Market Value," when used in reference to the date of grant of an option or the date of surrender of Stock in payment for the purchase of shares pursuant to the exercise of an option, as the case may be, shall refer to the closing price of the Stock as quoted in the Composite Transactions Index for the New York Stock Exchange, on the day before such date as published in the "Wall Street Journal," or if no sale price was quoted in any such Index on such date, then as of the next preceding date on which such a sale price was quoted.
- m. "Non-Employee Director" shall mean a member of the Board who qualifies as a Non-Employee Director as defined in Rule 16b-3, and also qualifies as an "outside director" for the purposes of Section 162(m) of the Code and the regulations promulgated thereunder.
- n. "Optionee" shall mean any Eligible Person who has been granted Stock Options under the Plan.
- o. "Plan" or "the Plan" means the ABM Industries Incorporated 2002 Price-Vested Performance Stock Option Plan, as set forth herein and as hereinafter amended from time to time.

- p. "Retirement" means retirement from active full-time employment with the Company or any of its Affiliates at or after age sixty-four (64).
- q. "Rule 16b-3" means Rule 16b-3, as promulgated by the Commission under Section 16(b) of the Exchange Act, as amended from time to time.
- r. "Stock" means common stock, par value \$0.01 per share, of the Company.
- s. "Stock Option" or "Option" means an option granted under Section 5 of the Plan.
- t. "Termination of Employment" means the termination of an Optionee's employment with the Company or any of its Affiliates, excluding any such termination where there is a simultaneous reemployment by the Company or any of its Affiliates. An Optionee shall be deemed to have terminated employment if he or she ceases to perform services for the Company or any of its Affiliates on an active full-time basis, notwithstanding the fact that such Optionee continues to receive compensation or benefits pursuant to an employment contract or other agreement or arrangement with the Company or any of its Affiliates. A non-medical leave of absence shall, unless such leave of absence is otherwise approved by the Committee, be deemed a Termination of Employment. An Optionee employed by an Affiliate of the Company shall also be deemed to incur a Termination of Employment if that Affiliate ceases to be an Affiliate of the Company, as the case may be, and that Optionee does not immediately thereafter become an employee of the Company or any other Affiliate of the Company.

In addition, certain other terms have definitions given to them as they are used herein.

2. ADMINISTRATION.

The Plan shall be administered by the Executive Officer Compensation & Stock Option Committee of the Board or such other committee of the Board, composed solely of not less than two Non-Employee Directors, each of whom shall be appointed by and serve at the pleasure of the Board. If at any time no such committee(s) shall be in office, the functions of the Committee specified in the Plan shall be exercised by the Board.

The Committee shall have all discretionary authority to administer the Plan and to grant Stock Options pursuant to the terms of the Plan to senior executives of the Company and any of its Affiliates.

Among other things, the Committee shall have the discretionary authority, subject to the terms of the Plan:

- a. to select the Eligible Persons to whom Stock Options may from time to time be granted;

b. to determine the number of shares of Stock to be covered by each Stock Option granted hereunder; and

c. to determine the terms and conditions of any Stock Option granted hereunder including, but not limited to, the option price (subject to Section 5a of the Plan) and any vesting condition, restriction or limitation based on such factors as the Committee shall determine.

The Committee shall have the authority to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall, from time to time, deem advisable, to interpret the terms and provisions of the Plan and any Stock Option issued under the Plan (and any agreement relating thereto) and to otherwise supervise the administration of the Plan.

The Committee may act only by a majority of its members then in office, except that the members thereof may authorize any one or more of their number or any officer of the Company to execute and deliver documents on behalf of the Committee.

Any determination made by the Committee or pursuant to delegated authority pursuant to the provisions of the Plan with respect to any Stock Option shall be made in the sole discretion of the Committee or such delegate at the time of the grant of the Stock Option or, unless in contravention of any express term of the Plan, at any time thereafter. All decisions made by the Committee or any appropriately delegated officer pursuant to the provisions of the Plan shall be final and binding on all persons, including the Company and plan participants, and shall be given the maximum deference permitted by law.

3. STOCK SUBJECT TO PLAN.

Subject to adjustment as provided herein, the total number of shares of Stock available for grant under the Plan shall be four million (4,000,000). No individual shall be eligible to receive Stock Options to purchase more than 200,000 shares of Stock under the Plan. Shares subject to a Stock Option under the Plan may be authorized and unissued shares or may be treasury shares.

If any Stock Option terminates without being exercised, shares subject to such Stock Option shall be available for further grants under the Plan.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend, stock split, or extraordinary distribution with respect to the Stock or other change in corporate structure affecting the Stock, the Committee or the Board may make such substitution or adjustments in the number, kind and option price of shares authorized or outstanding as Stock Options, and/or such other equitable substitution or adjustments as its may determine to be appropriate in its sole discretion; provided, however, that the number of shares subject to any Stock Option shall always be a whole number.

4. ELIGIBILITY.

Senior executives who are actively employed on a full-time basis by the Company or any of its Affiliates, and who are responsible for or contribute to the management, growth and profitability of the business of the Company or any of Affiliates, are eligible to be granted Stock Options under the Plan (“Eligible Persons”).

5. STOCK OPTIONS.

Any Stock Option granted under the Plan shall be in the form attached hereto as Annex “A”, which is incorporated herein and made a part of the Plan, with such changes as the Committee may from time to time approve which are consistent with the Plan. None of the Stock Options granted under the Plan shall be “incentive stock options” within the meaning of Section 422 of the Code.

The grant of a Stock Option shall occur on the date the Committee selects a Senior Executive of the Company or any of its Affiliates to receive any grant of a Stock Option, determines the number of shares of Stock to be subject to such Stock Option to be granted to such Senior Executive, and specifies the terms and provisions of said Stock Option. Such selection shall be evidenced in the records of the Company whether in the minutes of the meetings of the Committee or by their consent in writing. The Company shall notify an Optionee of any grant of a Stock Option, and a written option agreement or agreements shall be duly executed and delivered by the Company to the Optionee.

Stock Options granted under the Plan shall be subject to the following terms and conditions and shall contain such additional terms and conditions as the Committee shall deem desirable:

- a. Option Price. The option price per share of Stock purchasable under a Stock Option shall be no less than the Fair Market Value per share of Stock on the grant date.
- b. Option Term. The term of each Stock Option shall be ten (10) years from its date of grant, unless earlier terminated.
- c. Exercisability. Except as otherwise provided herein, each Stock Option shall be exercisable during its term only if such Stock Option has vested, and only after the first (1st) anniversary of its date of grant.
- d. Vesting. Each Stock Option shall have assigned to it by the Committee a vesting price (the “Vesting Price”) which will be used to provide for accelerated vesting so that such Stock Option will vest immediately if, on or before the close of business on the fourth (4th) anniversary of its date of grant, the Fair Market Value of the Common Stock shall have been equal to or greater than the Vesting Price with respect to such Stock Option for ten (10) trading days in any period of thirty (30) consecutive trading days. Any Stock Option that has not vested on or before the close of business on the fourth (4th) anniversary of its date of grant shall vest at the close of business on the business day

immediately preceding the eighth (8th) anniversary of its date of grant, if such Option has not previously terminated.

e. Method of Exercise. Subject to the provisions of this Section 5 of the Plan, Stock Options may be exercised, in whole or in part, by giving written notice of exercise to the Company specifying the number of shares of Stock subject to the Stock Option to be purchased.

The option price of Stock to be purchased upon exercise of any Option shall be paid in full:

- (1) in cash (by certified or bank check or such other instrument as the Company may accept),
- (2) in the discretion of the Committee, in the form of unrestricted Stock already owned by the Optionee for six (6) months or more and based on the Fair Market Value of the Stock on the date the Stock Option is exercised,
- (3) in any other form approved in the discretion of the Committee, or
- (4) by any combination thereof.

In the discretion of the Committee, payment for any shares subject to a Stock Option may also be made by delivering a properly executed exercise notice to the Company, together with a copy of irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds to pay the purchase price, and, if requested, the amount of any federal, state, local or foreign withholding taxes. To facilitate the foregoing, the Company may enter into agreements for coordinated procedures with one or more brokerage firms.

No shares of Stock shall be issued until full payment therefor has been made. The Optionee shall have all of the rights of a stockholder of the Company holding the Stock that is subject to such Stock Option (including, if applicable, the right to vote the share and the right to receive dividends), only when the Optionee has given written notice of exercise, has paid in full for such shares and, if requested, has given the representation described in Section 9a of the Plan.

f. Non-transferability of Stock Options. No Stock Option shall be transferable by the Optionee other than:

- (1) pursuant to a beneficiary designation satisfactory to the Committee, or
- (2) by will or by the laws of descent and distribution. All Stock Options shall be exercisable, during the Optionee's lifetime, only by the Optionee or by the guardian or legal representative of the Optionee, it being understood that the terms

“holder” and “Optionee” include the guardian and legal representative of the Optionee named in the option agreement and any person to whom an option is transferred by will or the laws of descent and distribution or pursuant to a qualified domestic relations order. The Committee may establish such procedures as it deems appropriate for an Optionee to designate a beneficiary to whom any amounts payable in the event of the Optionee’s death are to be paid or by whom any rights of the Optionee, after the Optionee’s death, may be exercised.

g. Termination by Death, Disability, Retirement or by the Company Without Cause. If the Optionee’s employment terminates by reason of death, Disability or Retirement, or if such employment is terminated by the Company without Cause, in each case prior to the vesting of a Stock Option held by the Optionee, the following provisions shall apply:

(1) if termination occurs by death or Disability, or by the Company without Cause, such Stock Options shall be exercisable only within ninety (90) days of such termination, and only if such Stock Options are then vested; and

(2) if termination occurs by Retirement or other “voluntary quit,” such Stock Options shall terminate immediately.

h. Termination by the Company for Cause. If the Optionee’s employment is terminated by the Company for Cause prior to the vesting of a Stock Option, such Stock Options shall terminate immediately.

i. Termination After Vesting. If the Optionee’s employment is terminated for any reason after a Stock Option has vested, such Stock Options shall be exercisable only within ninety (90) days of such termination,

j. Change in Control Cash Out. Notwithstanding any other provision of the Plan, upon the occurrence of a Change of Control all outstanding Stock Options shall immediately vest and become fully exercisable, and during the ninety (90) day period from and after such Change in Control (the “Exercise Period”), the Optionee shall have the right, in lieu of the payment of the exercise price for the shares of Stock being purchased under the Stock Option and by giving notice to the Company, to elect (within the Exercise Period) to surrender all or part of the Stock Option to the Company and to receive cash, within ninety (90) days of such notice, in an amount equal to the amount by which the Change in Control Price per share of Stock on the date of such election shall exceed the exercise price per share of Stock under the Stock Option (the “Spread”), multiplied by the number of shares of Stock granted under the Stock Option as to which the right granted under this Section 5j of the Plan shall have been exercised.

6. CHANGE IN CONTROL PROVISIONS.

a. Impact of Event. Notwithstanding any other provision of the Plan to the contrary, in the event of a Change in Control, any Stock Options outstanding as of the date such Change

in Control is determined to have occurred, and not then vested and exercisable, shall become vested and exercisable to the full extent of the original grant, provided that such accelerated vesting shall occur only if the Optionee is an active full-time employee of the Company or any of its Affiliates as of such date.

b. Definition of Change in Control. For purposes of the Plan, a “Change in Control” shall mean the happening of any of the following events:

- (i) the acquisition (other than by the Company or by an employee benefit plan or related trust sponsored or maintained by the Company), directly or indirectly, in one or more transactions, by any person or by any group of persons, within the meaning of Section 13(d) or 14(d) of the Exchange Act of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of twenty-five percent or more of either the outstanding shares of common stock or the combined voting power of the Company’s outstanding voting securities entitled to vote generally, if the acquisition was not previously approved by the existing directors;
- (ii) the acquisition (other than by the Company or by an employee benefit plan or related trust sponsored or maintained by the Company), directly or indirectly, in one or more transactions, by any such person or by any group of persons of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of fifty percent or more of either the outstanding shares of common stock or the combined voting power of the Company’s outstanding voting securities entitled to vote generally, whether or not the acquisition was approved by the existing directors, other than an acquisition that complies with clause (x) and (y) of paragraph (iii) below;
- (iii) consummation of a reorganization, merger or consolidation of the Company or the sale or other disposition of all or substantially all of the Company’s assets unless, immediately following such event, (x) all or substantially all of the stockholders of the Company immediately prior to such event own, directly or indirectly, seventy-five percent or more of the then outstanding voting securities entitled to vote generally of the resulting corporation (including without limitation, a corporation which as a result of such event owns the Company or all or substantially all of the Company’s assets either directly or their ownership of the Company’s outstanding voting securities entitled to vote generally immediately prior to such event and (y) the securities of the surviving or resulting corporation received or retained by the stockholders of the Company is publicly traded;
- (iv) approval by the stockholders of the complete liquidation or dissolution of the Company; or
- (v) a greater than one-third change in the composition of the Board of Directors within 24 months if not approved by a majority of the pre-existing directors.

c. Change in Control Price. For purposes of the Plan, "Change in Control Price" means the higher of:

(1) the highest reported sales price, regular way, of a share of Stock in any transaction reported on the New York Stock Exchange Composite Tape or other national securities exchange on which such shares are listed or on Nasdaq, as applicable, during the ninety (90) day period prior to and including the date of a Change in Control, and or

(2) if the Change in Control is the result of a tender or exchange offer or a Business Combination, the highest price per share of Stock paid in such tender or exchange offer or Business Combination; provided, however, that in the case of a Stock Option which:

(a) is held by an Optionee who is an officer of the Company and is subject to Section 16(b) of the Exchange Act, and

(b) was granted within two hundred and forty (240) days of the Change in Control, then the Change in Control Price for such Stock Option shall be the Fair Market Value of the Stock on the date such Stock Option is exercised or canceled. To the extent that the consideration paid in any such transaction described above consists all or in part of securities or other non-cash consideration, the value of such securities or other non-cash consideration shall be determined in the sole discretion of the Board.

7. TERM, AMENDMENT AND TERMINATION.

The Plan will terminate on December 11, 2011. Stock Options outstanding as of December 11, 2011 shall not be affected or impaired by the termination of the Plan.

The Committee shall have authority to amend the Plan without the approval of the Company's stockholders to take into account changes in law and tax and accounting rules, including Rule 16b-3 and Section 162(m) of the Code; provided that no amendment shall be made without the Optionee's consent which would impair the rights of an Optionee under a Stock Option theretofore granted.

8. UNFUNDED STATUS OF PLAN.

It is presently intended that the Plan constitute an "unfunded" plan for incentive and deferred compensation. The Committee may authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver Stock or make payments; provided, however, that, unless the Committee otherwise determines, the existence of such trusts or other arrangements is consistent with the "unfunded" status of the Plan.

9. GENERAL PROVISIONS.

a. The Committee may require each person purchasing shares pursuant to a Stock Option to represent to and agree with the Company in writing that such person is acquiring the shares without a view to the distribution thereof. The certificates for such shares may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

Notwithstanding any other provision of the Plan or agreements made pursuant thereto, the Company shall not be required to issue or deliver any certificate or certificates for shares of Stock under the Plan prior to fulfillment of all of the following conditions:

- (1) the listing or approval for listing
- (2) any registration or other qualification
- (3) the obtaining of any other consent, approval, or permit from any state or federal governmental agency which the Committee shall, in its absolute discretion after receiving the advice of counsel, determine to be necessary or advisable.

b. Nothing contained in the Plan shall prevent the Company or any of its Affiliates from adopting other or additional compensation arrangements for any Optionee.

c. The adoption of the Plan shall not confer upon any Optionee any right to continued employment, nor shall it interfere in any way with the right of the Company or any of its Affiliates to terminate the employment of any Optionee with or without cause at any time whatsoever absent a written employment contract to the contrary.

d. No later than the date as of which an amount first becomes includable in the gross income of the Optionee for federal income tax purposes with respect to any Stock Option under the Plan, and prior to the delivery of any shares of Stock to any Optionee, the Optionee shall pay to the Company, or make arrangements satisfactory to the Company regarding the payment of, any federal, state, local or foreign taxes of any kind required by law to be withheld by the Company with respect to such amount. In the discretion of the Committee, withholding obligations may be settled with Stock in an amount having a Fair Market Value not exceeding the minimum withholding tax payable by the Optionee with respect to the income recognized, including Stock that is subject to the Stock Option that gives rise to the withholding requirement. The obligations of the Company under the Plan shall be conditional on such payment or arrangements, and the Company and any of its Affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to the Optionee. The Committee shall establish such procedures as it deems appropriate, including the making of irrevocable elections, for the settlement of withholding obligations with Stock.

e. In the case of a grant of a Stock Option to any employee of a Company Affiliate, the Company, may, if the Committee so directs, issue or transfer the shares of Stock covered by the Stock Option to the Affiliate, for such lawful consideration as the Committee may specify, upon the condition or understanding that the Affiliate will transfer the shares of Stock to that Optionee in accordance with the terms of the Stock Option specified by the Committee pursuant to the provisions of the Plan.

f. The Plan and all Stock Options made and actions taken thereunder shall be governed by and construed in accordance with the laws of the State of California, without reference to principles of conflict of law.

10. EFFECTIVE DATE OF PLAN.

Subject to approval by the stockholders of the Company, the Plan shall be effective on December 11, 2001.

ABM INDUSTRIES INCORPORATED
SERVICE AWARD BENEFIT PLAN

As Amended and Restated April 2005

TABLE OF CONTENTS

1. NAME, EFFECTIVE DATE, PURPOSE AND CONSTRUCTION	1
2. DEFINITIONS	3
3. ELIGIBILITY, PARTICIPATION AND BENEFICIARY DESIGNATION	6
4. BENEFITS	8
5. FORFEITURES OF BENEFITS	9
6. PARTICIPANTS' ACCOUNTS	11
7. DISTRIBUTION OF BENEFITS	12
8. FIDUCIARY RESPONSIBILITY	13
9. ADMINISTRATIVE COMMITTEE	15
10. AMENDMENT AND TERMINATION	18

ARTICLE 1

NAME, EFFECTIVE DATE, PURPOSE AND CONSTRUCTION

1.1 Plan Name

The Plan set forth in this document shall be designated the ABM Industries Incorporated Service Award Benefit Plan.

1.2 Effective Date

The Effective Date of this Plan was November 1, 1989. This document reflects amendments and changes made through April 6, 2005.

1.3 Purpose

The Plan is intended to qualify as a severance pay plan described in Department of Labor Regulations 2510.3-1 (a) (2) and 2510.3-2 (b) and is intended to be treated as a employee welfare plan under ERISA. The Plan is intended to provide benefits to terminating employees based upon their loyal and dedicated service to the Company and its Affiliates.

1.4 Construction

The following miscellaneous provisions shall apply in the construction of this Plan document:

(a) State Jurisdiction

All matters respecting the validity, effect, interpretation and administration of this Plan shall be determined in accordance with the laws of the State of California except where preempted by ERISA or other federal statutes.

(b) Gender

Wherever appropriate, words used in the singular may include the plural or the plural may be read as the singular, the masculine may include the feminine, and the neuter may include both the masculine and the feminine.

(c) Application of References to Law

All references to sections of ERISA, or the Internal Revenue Code, other federal or state statutes, any regulations or rulings thereunder, shall be deemed to refer to such sections as they may subsequently be modified, amended, replaced or amplified by any federal statutes, regulations or rulings of similar application and import enacted by the Government of the

United States, any duly authorized agency of the United States Government, any State Government or duly authorized agency thereunder.

(d) Enforceable Provisions Remain Effective

If any provision of this Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Plan shall continue to be fully effective.

(e) Headings

Headings are inserted for reference only and constitute no part of the construction of this Plan.

1.5 Employment Relationship Not Affected

Nothing in this Plan document shall be deemed a contract between the Employer and any Employee, nor shall the rights or obligations of the Employer or any Employee to continue or terminate employment at any time be affected hereby.

ARTICLE 2
DEFINITIONS

- 2.1 "Account" means the aggregate of all records maintained by the Committee for purposes of determining a Participant's or Beneficiary's benefits under the Plan.
- 2.2 "Affiliated Employer" means any corporation which is so designated by the Board, which may include any corporation or business determined to be affiliated under Code Section 414 or any other corporation or business which is affiliated to some degree with the Employer.
- 2.3 "Award Date" means October 31, 1990, each succeeding October 31 and any other date elected by the Board at its discretion. Effective January 1, 1991, "Award Date" shall mean December 31, 1991 and each succeeding December 31.
- 2.4 "Beneficiary" means any person designated by a Participant.
- 2.5 "Board" shall mean the Board of Directors of the Employer.
- 2.6 "Code" means the Internal Revenue code of 1986, as amended (and regulations issued thereunder).
- 2.7 "Committee" means the Administrative Committee designated under Article 9.
- 2.8 "Compensation" for any calendar year means all amounts paid to the Employee and reported as wages on the Employee's form W-2 for the year for services rendered for the Employer or Affiliated Employers during the calendar year, and all amounts which an Employee elected to have the Employer or affiliated Employer contribute on his behalf to the ABM 401(k) Employee Savings Plan or the ABM Deferred Compensation Plan for the calendar year. Compensation in excess of \$175,000 shall not be considered in the calculation of benefits; provided, however, the \$175,000 limit shall not replace any limit in place for any year prior to 1996 under this Plan.
- 2.9 "Date of Eligibility" shall mean (1) for Eligible Employees hired after October 31, 1989, the date on which the Employee first performs any service for the Employer, (2) for Eligible Employees employed on or before October 31, 1989, November 1, 1989. Effective January 1, 1992, "Date of Eligibility" shall mean the January 1 following the date on which the Employee has Compensation in excess of \$50,000, or such other dollar amount as the Committee may from time to time announce.
- 2.10 "Date of Hire" shall mean the date on which the Employee becomes an employee of the Employer or an Affiliated Employer within the meaning of Code Section 3121(d).

2.11 "Disability" shall mean the permanent incapacity of a Participant, by reason of physical or mental illness, to perform his usual duties for the Employer, resulting in termination of his service with the Employer or any Affiliated Employer. Disability shall be determined by the Committee in a uniform and nondiscriminatory manner after consideration of such evidence as it may require, which shall include a report of such physician or physicians as it may designate.

2.12 "Eligible Employee" shall have the meaning as defined in Article 3.

2.13 "Eligible Participant" shall mean:

- (a) An Eligible Employee who was employed continuously throughout the Fiscal Year, or
- (b) an Eligible Employee who terminated employment during the Fiscal Year due to death, disability or after having reached his Normal Retirement Date.

2.14 "Employee" means any person considered under the rules of common law or appropriate statute to be employed by the Employer or an Affiliated Employer, except:

- (a) Employees whose wages are determined by collective bargaining agreements,
- (b) Employee Employees who are receiving pension contributions under a union retirement plan, and
- (c) Contract workers of the Employer or an Affiliated Employer who are employed to perform principally manual work, including but not limited to elevator operator, janitor, security worker, guard, window washer, stationary engineer, painter, warehouseman, driver, parking attendant, mechanic, electrician, laundry worker or service technician.

2.15 "Employer" means ABM Industries Incorporated, a Delaware corporation, and such of its successors or assigns as may expressly adopt this Plan and agree in writing to continue this Plan.

2.16 "Entry Date" means November 1, 1989, and each succeeding November 1. Effective January 1, 1991, "Entry Date" means January 1 and each succeeding January 1.

2.17 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

2.18 "Fiscal Year" means the accounting year of the Plan, which is the 12-month period ending October 31. Effective January 1, 1991, "Fiscal year" means the 12-month period ending December 31.

2.19 "Normal Retirement Date" means the date of the Participant's 62nd birthday.

2.20 "Participant" means any Employee who has entered the Plan and been credited with Service Award Benefits but has not yet had such benefits distributed.

2.21 "Plan" means the arrangement created by this document.

2.22 “Plan Administrator” means the Administrative Committee, discussed in Article 9.

2.23 “Service Award Benefit” means the benefit calculated under Section 4.2.

ARTICLE 3
ELIGIBILITY, PARTICIPATION AND BENEFICIARY DESIGNATION

3.1 Definitions

(a) "Eligible Employee" means any Employee of the Employer or an Affiliated Employer whose Compensation is \$50,000 or greater in any calendar year. The \$50,000 dollar amount may be adjusted from time to time as the Plan Administrator may deem necessary. The foregoing notwithstanding, an Employee shall not be an Eligible Employee during any Fiscal Year the Employee is also eligible to receive contributions under or make 401(k) contributions to the ABM 401(k) Employee Savings Plan.

(b) There shall be no additional Eligible Employees designated after December 31, 2001.

3.2 Participation

(a) Initial Participants

Employees who are Eligible Employees as of October 31, 1989 shall become Participants as of November 1, 1989.

(b) Newly Hired Employees

Employees who are hired after October 31, 1989, shall become Participants as of the first November 1, or such earlier date, after certification by the Committee that the Employee is an Eligible Employee. Employees hired after January 1, 1991 shall become Participants as of the first January 1, or such earlier date, after certification by the Committee that the Employee is an Eligible Employee.

(c) Other Employees

Other Employees shall become Participants as of the first November 1, or such earlier date, after certification by the Committee that the Employee is an Eligible Employee. Effective January 1, 1991, the November 1 participation date in this Article shall be changed to January 1.

(d) Rehired Employees

A rehired Employee shall be treated as an Employee hired after October 31, 1989, unless the Employee was a Participant in the Plan. Section 2.16 of the Plan notwithstanding, former Plan Participants shall renew their participation in the Plan as of the July 1 or January 1 coinciding with or next following their date of rehire provided they are otherwise eligible for the Plan.

3.3 Beneficiary Designation

(a) Designation Procedure

Each Eligible Employee, upon becoming a Participant shall designate a Beneficiary or Beneficiaries to receive benefits under the Plan after his death. A Participant may change his beneficiary designation at any time. Each beneficiary designation shall be in a form prescribed by the Committee and will be effective only when filed with the Committee during the Participant's lifetime. Each beneficiary designation filed with the Committee will cancel all previously filed Beneficiary designations.

(b) Lack of Designation

In the absence of a valid designation, the Participant's benefits under the Plan shall be distributed to the Participant's surviving spouse, or if there is no surviving spouse to the Participant's estate.

3.4 Committee Determines Eligibility

Compliance with the eligibility requirements shall be determined by the Committee, which shall also inform each Eligible Employee of his becoming a Participant. The Committee shall provide each participant with a summary plan description in compliance with ERISA and regulations thereunder.

ARTICLE 4
BENEFITS

4.1 Credits for Service Award Benefits

(a) On each Award Date, commencing October 31, 1990, the Board shall Credit the Account of each Eligible Participant with 7 days, to be used in the calculation of Benefits under Article 4.2. For the short Fiscal Year beginning October 1, 1991 and ending December 31, 1991, the Board shall determine the number of days to be credited to each Eligible Participant, if any.

(b) In addition to (a) above, on each Award Date, commencing October 31, 1990, the Board may, in it's sole discretion, designate an additional number of days to be credited to the Account of each Eligible Participant.

(c) If an employee reenters the Plan on July 1 of any year, the Employee/Participant shall be to 1/2 the number of days awarded under (a) and (b) above to other Employees who participated for the entire year.

4.2 Calculation of Service Award Benefit

Upon termination of employment, the Committee shall determine the benefit payable to the Participant. The benefit shall be equal to the number of days credited to the Account of the eligible Employee multiplied by the average annual Compensation received in the three full calendar ears of full-time employment preceding the year of termination converted to a daily rate of pay. For purposes of this calculation, a year shall consist of 260 days.

4.3 Limitation on Benefits

In no event shall the benefits payable under this Plan combined with the benefits under the severance pay plan of the Employer, as described in Chapter 3, III, (b) of the ABMI Personnel Policy and Procedure Manual, as it may be amended or revised from time to time, exceed two times the Compensation received by the Participant in the twelve month period preceding the Participant's termination from employment.

ARTICLE 5
FORFEITURES OF BENEFITS

5.1 Forfeiture for Short Service

A Participant who terminates employment prior to completing 5 full years of service, measured from the Employee's Date of Hire, for the Employer or an Affiliated Employer shall forfeit all benefits under this Plan. A Participant will be credited with one year of service for each 12 month period of continuous employment with the Employer or an Affiliated Employer.

5.2 Exceptions

(a) Death

Notwithstanding Article 5.1 above, a Participant's benefits under this Plan shall not be forfeitable if the termination of employment is due to the death of the Participant.

(b) Disability

Notwithstanding Article 5.1 above, a Participant's benefits under this Plan shall not be forfeitable upon a finding by the Committee that the Participant's termination of employment is due to Disability defined in Article 2.11.

(c) Normal Retirement

Notwithstanding Article 5.1 above, a Participant's benefits under this Plan shall not be forfeited if the Participant's termination occurs after the Participant's Normal Retirement Date under this Plan.

(d) Notwithstanding Article 5.1 above, if a Participant's employment is terminated by action of the Employer as part of the divestiture of Amtech Elevator Services, the Participant's Account under the Plan shall become fully vested on the closing of the divestiture transaction.

5.3 Unallocatable Participants

If all or any portion of a Participant's benefits become payable under this Plan, and the Committee after a reasonable search cannot locate the Participant or his Beneficiary (if such Beneficiary is entitled to payment) the Account shall be Forfeited as of the end of the third Fiscal Year following the Participant's termination from employment.

5.4 Forfeiture for Cause

A Participant who is terminated from employment because of theft, defalcation, or embezzlement from the Employer, an Affiliated Employer, or a customer or client of either the Employer or an Affiliated Employer, shall forfeit all benefits under this Plan.

ARTICLE 6
PARTICIPANTS ACCOUNTS

6.1 Service Award Account

The Committee shall maintain an accounting of the number of days and weeks, or portions thereof, awarded to each Participant along with a record of the Compensation received by the Participant for the current calendar year and the two preceding calendar years.

6.2 Statement of Accounts

At least annually, the Committee will provide the Participant with a statement of the status of the Participant's Account and the record of Compensation in that Account. In the event of any error, the Participant is entitled to request the Committee to correct either the number of days or weeks credited, or the Compensation credited.

ARTICLE 7
DISTRIBUTION OF BENEFITS

7.1 General

Benefits under the Plan are paid solely from the assets of the Employer. This Plan document grants the Participants no greater right to the assets of the Employer and Affiliated Employers than that enjoyed by any unsecured creditor of the Employer and Affiliated employers.

7.2 Administrative Rules

(a) Authority

Distributions to Participants shall be made only in accordance with the directions of the Committee, which shall be governed by the terms of this Plan documents.

(b) Claims

A Participant's Beneficiary has the right to file a claim for benefits as set forth in Article 9.7.

7.3 Timing and Amount of Distributions

Effective April 6, 2005, a Participant shall receive his or her benefits in a single lump payment soon as administratively feasible following the termination of employment by the Participant. Participants who have terminated employment prior to April 6, 2005 shall receive any unpaid benefits as soon as administratively feasible.

ARTICLE 8
FIDUCIARY RESPONSIBILITY

8.1 Named Fiduciary

The authority to control and manage the operation and administration of the Plan shall be allocated between the Employer, the Affiliated Employer and the Committee, all of whom are named fiduciaries under ERISA.

8.2 Fiduciary Standards

Each fiduciary shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries as follows:

- (a) For the exclusive purpose of providing benefits to Participants and their Beneficiaries;
- (b) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
- (c) In accordance with the Plan document.

8.3 Fiduciaries Liable for Breach of Duty

A fiduciary shall be liable, as provided in ERISA, for any breach of his fiduciary responsibilities. In addition, a fiduciary under this Plan shall be liable for a breach of fiduciary responsibility of another fiduciary under this Plan as provided under ERISA Section 405.

8.4 Fiduciary May Employ Agents

Any person or group of persons may serve in more than one fiduciary capacity with regard to the Plan. A fiduciary, with the consent of the Employer, may employ one or more persons to render advice and assistance with regard to any function such fiduciary has under the Plan. The expenses of such persons shall be paid by the Employer.

8.5 Authority Outlined

(a) Employer Authority

The Employer has the authority to amend and terminate the Plan, and to appoint and remove members of the Committee.

(b) Committee Authority

The Committee has the authority to:

- (i) Maintain the records of Accounts of the Participants;
- (ii) Furnish and correct errors in statements of Accounts;
- (iii) Establish the standards for determining Disability under the Plan;
- (iv) Construe the Plan document and questions thereunder; and
- (v) Employ advisors and assistants.

8.6 Fiduciaries Not to Engage in Prohibited Transactions

A fiduciary shall not cause the Plan to engage in a transaction if he knows or should know that such transaction constitutes a prohibited transaction under ERISA Section 406 or code Section 4975, unless such transaction is exempted under ERISA Section 408 or Code Section 4975.

ARTICLE 9
ADMINISTRATIVE COMMITTEE

9.1 Appointment of Administrative Committee

The Compensation Committee of the Board of Directors of Employer shall appoint an Administrative Committee to manage and administer this Plan in accordance with the provisions hereof, each member to serve for such term as the Compensation Committee of the Board of Directors of Employer may designate or until a successor member has been appointed or until removed by the Compensation Committee of the Board of Directors of Employer. Members shall serve without compensation for committee services. All reasonable expenses of the Committee shall be paid by the Employer.

9.2 Committee Operating Rules

The Committee shall act by agreement of a majority of its members, either by vote at a meeting or in writing without a meeting. By such action, the Committee may authorize one or more members to execute documents on its behalf. In the event of a deadlock or other situation which prevents agreement of a majority of the Committee members, the matter shall be decided by the Employer.

9.3 Duties of Plan Administrator

The Committee is the Plan Administrator under ERISA and shall have the duty and authority to comply with the reporting and disclosure requirements of ERISA which are specifically required of the Plan Administrator.

9.4 Duties of the Committee

The Committee shall keep on file a copy of this Plan, including any subsequent amendments and the latest annual report required under Title I of ERISA for examination by Participants during the business hours.

9.5 Committee Powers

The Committee has the power and duty to do all things necessary or convenient to effect the intent and purpose of this Plan, whether or not such powers and duties are specifically set forth herein. Not in limitation but in amplification of the foregoing, the Committee shall have the power to construe the Plan document and to determine all questions hereunder. Decisions of the Committee made in good faith upon any matters within the scope of its authority shall be final and binding on the Employer, the Affiliated Employers, the Participants, their Beneficiaries and all others. The Committee shall at all times act in a uniform and nondiscriminatory manner in making and carrying out its decisions, and may from time to time prescribe and modify uniform rules of interpretation and administration.

9.6 Committee May Retain Advisors

With the approval of the Employer, the Committee may from time to time or on a continuing basis, retain such agents and advisors including, specifically, attorneys, accountants, actuaries, consultants and administrative assistants, as it considers necessary to assist it in the proper performance of its duties. The expenses of such agents or advisors shall be paid by the Employer.

9.7 Claims Procedure

(a) Claims Must Be Submitted Within 60 Days

The Committee shall determine Participants' and Beneficiaries' rights and benefits under the Plan. In the event of a dispute over benefits, a Participant or Beneficiary may file a written claim for benefits with the Committee, provided that such claim is filed within 60 days of the date the Participant or Beneficiary receives notification of the Committee's determination.

(b) Requirements for Notice of Denial

If a claim is wholly or partially denied, the Committee shall provide the claimant, setting forth:

- (i) The specific reason for the denial;
- (ii) Specific references to the pertinent provisions on which the denial is based;
- (iii) A description of any additional material or information necessary for the claimant to perfect the claim with an explanation of why such material or information is necessary; and
- (iv) Appropriate information as to the steps to be taken if the claimant wishes to submit his or her claim for review. The notice of denial shall be given within a reasonable time period but not later than 90 days of the date the claim is filed, unless special circumstances require an extension of time for processing the claim. If such extension is required, written notice shall be furnished to the claimant within 90 days of the date the claim was filed stating the special circumstances requiring an extension of time and the date by which a decision on the claim can be expected, which shall be no more than 180 days from the date the claim was filed. If no notice of denial is provided as herein described, the claimant may appeal the claim as though the claim had been denied.

(c) Claimant's Rights if Claim Denied

The claimant and/or his representative may appeal the denied claim and may:

- (i) Request a review upon written request to the Committee;

(ii) Review pertinent documents; and

(iii) Submit issues and comments in writing; provided that such appeal is made within 60 days of the date the claimant received notification of the denied claim.

(d) Time Limit on Review of Denied Claim

Upon receipt of a request for review, the committee shall provide written notification of its decision to the claimant stating the specific reasons and referencing specific Plan provisions on which its decision is based, within a reasonable time period but not later than 60 days after receiving the request, unless special circumstances require an extension for processing the review. If such an extension is required, the Committee shall notify the claimant of such special circumstances and of the date, no later than 120 days after the original date the review was requested, on which the Committee will notify the claimant of its decision.

(e) No Legal Recourse Until Claims Procedure Exhausted.

In the event of any dispute over benefits under this Plan, all remedies available to the disputing individual under this Article 9.7 must be exhausted before legal recourse of any type is sought.

9.8 Committee Indemnification

To the fullest extent permitted by law, the Employer agrees to indemnify, to defend, and hold harmless the members of the Committee, individually and collectively, against any liability whatsoever for any (1) action taken or omitted by them in good faith in connection with this Plan or their duties hereunder, and (2) expenses or losses for which they may become liable as a result of any such actions or non-actions, unless resultant from their own willful misconduct. The Employer may purchase insurance for the Committee to cover any of their potential liabilities with regard to the Plan.

ARTICLE 10
AMENDMENT AND TERMINATION

10.1 Employer May Amend Plan

The Compensation Committee of the Board of Directors of Employer or to the extent provided below, the Administrative Committee, may at any time modify or amend any or all of the provisions of the Plan. The Administrative Committee may amend the Plan to bring the Plan into compliance with applicable law or, to make such other changes as the Administrative Committee deems desirable, provided that such changes do not materially increase the cost of the Plan to Employer or take the Plan out of compliance with applicable law; and provided further that the Committee may not admit new participants to the Plan or amend this Article 10.

10.2 Employer May Terminate Plan

The Employer has established the Plan with the bona fide intention and expectation that the Plan will continue indefinitely, but the Employer shall be under no obligation to maintain the Plan for any given length of time and the Compensation Committee of the Board of Directors of Employer may, in its sole discretion, terminate the Plan at any time without any liability, except as to the payment of benefits earned under this Plan prior to the date this Plan is terminated.

CREDIT AGREEMENT

Dated as of May 25, 2005

among

ABM INDUSTRIES INCORPORATED,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swing Line Lender and L/C Issuer,

KEYBANK NATIONAL ASSOCIATION,
as Syndication Agent,

U.S. BANK NATIONAL ASSOCIATION
and
BNP PARIBAS,
as Co-Documentation Agents,

and

The Other Lenders Party Hereto

BANC OF AMERICA SECURITIES LLC,
Sole Lead Arranger and Sole Book Manager

CONTENTS

Clause		Page
TABLE OF CONTENTS		
Section		Page
ARTICLE I DEFINITIONS AND ACCOUNTING TERMS		1
1.1	Defined Terms	1
1.2	Other Interpretive Provisions	19
1.3	Accounting Terms	20
1.4	Rounding	20
1.5	References to Agreements and Laws	20
1.6	Times of Day	21
1.7	Letter of Credit Amounts	21
ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS		21
2.1	Revolving Loans	21
2.2	Procedure for Borrowing, Conversion and Continuation of Revolving Loans	21
2.3	Letters of Credit	23
2.4	Swing Line Loans	30
2.5	Prepayments	33
2.6	Termination or Reduction of Commitments	34
2.7	Repayment of Loans	34
2.8	Interest	34
2.9	Fees	35
2.10	Computation of Interest and Fees	36
2.11	Evidence of Debt	36
2.12	Payments Generally	36
2.13	Sharing of Payments	38
2.14	Increase in Commitments	39
ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY		40
3.1	Taxes	40
3.2	Illegality	41
3.3	Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans	41
3.4	Funding Losses	42
3.5	Inability to Determine Rates	42
3.6	Matters Applicable to all Requests for Compensation	43
3.7	Survival	43
ARTICLE IV CONDITIONS PRECEDENT TO Credit Extensions		43
4.1	Conditions of Initial Credit Extension	43
4.2	Conditions to all Credit Extensions	44

Contents

Clause		Page
<u>Section</u>		<u>Page</u>
ARTICLE V REPRESENTATIONS AND WARRANTIES		45
5.1	Existence, Qualification and Power; Compliance with Laws	45
5.2	Authorization; No Contravention	45
5.3	Third Party Authorization; Other Consents	45
5.4	Binding Effect	46
5.5	Litigation	46
5.6	No Default	46
5.7	ERISA Compliance	46
5.8	Ownership of Property; Liens	47
5.9	Taxes	47
5.10	Financial Statements; No Material Adverse Effect	47
5.11	Environmental Compliance	48
5.12	Insurance	48
5.13	Subsidiaries	48
5.14	Margin Regulations; Investment Company Act; Public Utility Holding Company Act	48
5.15	Full Disclosure	48
5.16	Compliance with Laws	49
5.17	Intellectual Property; Licenses, Etc	49
ARTICLE VI AFFIRMATIVE COVENANTS		49
6.1	Financial Statements	49
6.2	Certificates; Other Information	50
6.3	Notices	52
6.4	Payment of Obligations	52
6.5	Preservation of Existence, Etc	52
6.6	Maintenance of Properties	52
6.7	Maintenance of Insurance	53
6.8	Compliance with Laws	53
6.9	Books and Records	53
6.10	Inspection Rights	53
6.11	Use of Proceeds	53
6.12	Further Assurances	53
ARTICLE VII NEGATIVE COVENANTS		54
7.1	Liens	54
7.2	Dispositions	55
7.3	Fundamental Changes	55
7.4	Investments	56
7.5	Indebtedness	56

Contents

Clause		Page	
<u>Section</u>		<u>Page</u>	
	7.6	Use of Proceeds	57
	7.7	Restricted Payments	57
	7.8	Change in Nature of Business	58
	7.9	Transactions with Affiliates	58
	7.10	Subsidiary Dividends	58
	7.11	Financial Covenants	58
ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES		59
	8.1	Events of Default	59
	8.2	Remedies Upon Event of Default	61
ARTICLE IX	ADMINISTRATIVE AGENT		61
	9.1	Appointment and Authorization of Administrative Agent	61
	9.2	Delegation of Duties	62
	9.3	Exculpatory Provisions	62
	9.4	Reliance by Administrative Agent	63
	9.5	Notice of Default	63
	9.6	Credit Decision; Disclosure of Information by Administrative Agent	64
	9.7	Administrative Agent in its Individual Capacity	64
	9.8	Successor Administrative Agent	64
	9.9	Administrative Agent May File Proofs of Claim	65
	9.10	Guaranty Matters	66
	9.11	Other Agents	66
ARTICLE X	MISCELLANEOUS		66
	10.1	Amendments, Etc	66
	10.2	Notices and Other Communications; Facsimile Copies	67
	10.3	No Waiver; Cumulative Remedies	69
	10.4	USA Patriot Act Notice	69
	10.5	Expenses; Indemnity; Damage Waiver	69
	10.6	Payments Set Aside	71
	10.7	Successors and Assigns	71
	10.8	Confidentiality	75
	10.9	Set-off	76
	10.10	Interest Rate Limitation	76
	10.11	Integration	77
	10.12	Survival of Representations and Warranties	77
	10.13	Tax Forms	77
	10.14	Counterparts	79
	10.15	Severability	79
	10.16	Automatic Debits of Fees	79

Contents

Clause		Page
<u>Section</u>		<u>Page</u>
10.17	Governing Law	79
10.18	Waiver of Right to Trial by Jury	80
10.19	Termination of Existing Credit Agreement	80

Contents

Clause		Page
SCHEDULES		
1	Existing Letters of Credit	
2.1	Commitments and Pro Rata Shares	
10.2	Eurodollar and Domestic Lending Offices, Addresses for Notices	
EXHIBITS		
<i>Form of</i>		
A	Revolving Loan Notice	
B	Swing Line Loan Notice	
C	Note	
D	Compliance Certificate	
E	Assignment and Assumption	
F	Guaranty	
G	Opinion of Orrick, Herrington & Sutcliffe LLP	
H	Opinion of Linda S. Auwers	
I	Form of Increase Request	

CREDIT AGREEMENT

This CREDIT AGREEMENT (the "Agreement") dated as of May 25, 2005 is among ABM INDUSTRIES INCORPORATED, a Delaware corporation (the "Company"), each lender from time to time party hereto (collectively, the "Lenders" and individually, each a "Lender") and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer.

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

In consideration of the mutual agreements contained herein the parties hereto agree as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

1.1 Defined Terms. As used in this Agreement, the following terms have the respective meanings set forth below:

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of 50% of the capital stock, partnership interests, membership interests or equity of any Person or otherwise causing any Person to become a Subsidiary or (c) a merger or consolidation or any other combination with another Person (other than a Person that is a Subsidiary); provided that the Company or a Subsidiary is the surviving entity.

"Adjusted Consolidated EBITDA" means, for any period, Consolidated EBITDA for such period; provided that in calculating Adjusted Consolidated EBITDA,

(a) if the Company or any Subsidiary makes a Permitted Acquisition during such period for aggregate consideration in excess of \$10,000,000, the EBITDA of the Person or assets acquired (and, solely for the purpose of determining pro forma compliance with financial covenants pursuant to Section 7.11, any Person or assets to be acquired) shall be included on a pro forma basis for such period (assuming the consummation of such Acquisition and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period, but adjusted to add back certain non-recurring expenses to the extent disclosed to and reasonably approved by the Required Lenders) based upon (i) to the extent available, (x) the audited consolidated financial statements of such acquired Person (or with respect to such acquired assets) as at the end of the fiscal year of such Person (or of the seller of such assets) preceding such Acquisition and (y) any subsequent unaudited financial statements for such Person (or with respect to such acquired assets) for the period prior to such Acquisition so long as such statements were prepared on a basis consistent with the audited financial statements referred to above or (ii) to the extent the items listed in clause (i) are not available, such historical financial statements and other information is disclosed to, and to the extent requested by any Lender reasonably approved by, the Required Lenders; and

(b) if the Company or any Subsidiary makes a Disposition (or a series of related Dispositions) during such period for aggregate consideration in excess of \$10,000,000, the EBITDA of any Person (or division or similar business unit) disposed of by the Company or any Subsidiary during such period shall be excluded on a pro forma basis for such period (assuming the consummation of such Disposition occurred on the first day of such period).

“Adjusted Consolidated EBITDAR” means, for any period, the sum of (a) Adjusted Consolidated EBITDA for such period plus (b) rental expense for such period.

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

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.2, or such other address or account as the Administrative Agent may from time to time notify the Company and the Lenders.

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

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Agent-Related Persons” means the Administrative Agent together with its Affiliates (including, in the case of Bank of America in its capacity as the Administrative Agent, the Arranger), and the Related Parties of such Persons and Affiliates.

“Aggregate Commitments” means the Commitments of all the Lenders. The Aggregate Commitments at the Effective Time are \$300,000,000.

“Agreement” has the meaning specified in the introductory paragraph hereto.

“Applicable Rate” means, from time to time, the following percentages per annum, based upon the Leverage Ratio as set forth below:

Pricing Level	Leverage Ratio	Eurodollar Rate/ IBOR Rate/ Letters of Credit	Non-Use Fee
1	³ 2.75 to 1.0	1.125%	0.200%
2	³ 2.25 to 1.0 but <2.75 to 1.0	0.875%	0.175%
3	³ 1.50 to 1.0 but <2.25 to 1.0	0.750%	0.150%
4	³ 0.75 to 1.0 but <1.50 to 1.0	0.625%	0.125%
5	< 0.75 to 1.0	0.375%	0.100%

Initially, the applicable Pricing Level shall be Pricing Level 4. Thereafter, the applicable Pricing Level shall be adjusted, to the extent applicable, 60 days (or, in the case of the last fiscal quarter of any fiscal year, 90 days) after the end of each fiscal quarter based on the Leverage Ratio as of the last day of such fiscal quarter; provided that if the Company fails to deliver the financial statements required by Section 6.1(a) or (b), as applicable, and the related Compliance Certificate required by Section 6.2(b) by the 60th day (or, if applicable, the 90th day) after any fiscal quarter, Pricing Level 1 shall apply until such financial statements are delivered.

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

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit E.

“Attorney Costs” means and includes all reasonable fees, expenses and disbursements of any law firm or other external counsel and, without duplication, the allocated cost of internal legal services and all expenses and disbursements of internal counsel.

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

“Audited Financial Statements” means the audited consolidated balance sheet of the Company and its Subsidiaries for the fiscal year ended October 31, 2004, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year, including the notes thereto.

“Availability Period” means the period from and including the Effective Time to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.6, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.2.

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

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

“Base Rate Loan” means a Revolving Loan or a Swing Line Loan, as the context requires, that bears interest by reference to the Base Rate.

“Borrowing” means a Revolving Borrowing or a Swing Line Borrowing, as the context may require.

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

“Cash Collateralize” has the meaning specified in Section 2.3(g).

“Change of Control” means, with respect to any Person, an event or series of events by which any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding the Rosenberg Family, any employee benefit plan of such person or its subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire (such right, an “option right”), whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 25% or more of the equity securities of such Person entitled to vote for members of the board of directors or equivalent governing body of such Person on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right).

“Code” means the Internal Revenue Code of 1986.

“Commitment” means, as to each Lender, its obligation to (a) make Revolving Loans to the Company pursuant to Section 2.1, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Company.” has the meaning specified in the introductory paragraph hereto.

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

“Consolidated EBITDA” means, for any period, an amount equal to Consolidated Net Income for such period plus, to the extent deducted in calculating such Consolidated Net Income, (i) Consolidated Interest Charges, (ii) provisions for federal, state, local and foreign income taxes payable by the Company and its Subsidiaries, (iii) depreciation and amortization expense and (iv) all non-cash, non-recurring and extraordinary charges (including charges resulting from the application of Financial Accounting Standard No. 142) minus, to the extent included in such Consolidated Net Income, all non-recurring and extraordinary gains or income (other than non-recurring income arising from settlements of business interruption insurance claims related to the terrorist attack on the World Trade Center in New York on September 11, 2001).

“Consolidated Interest Charges” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the sum, without duplication, of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Company and its Subsidiaries in connection with borrowed money (including capitalized interest) or the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Company and its Subsidiaries with respect to such period under capital leases or with respect to Synthetic Lease Obligations that, in each case, is treated as interest in accordance with GAAP.

“Consolidated Net Income” means, for any period, the consolidated net income of the Company and its Subsidiaries for such period.

“Consolidated Net Worth” means, as of any date of determination, Shareholders’ Equity on such date.

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

“Control” has the meaning specified in the definition of “Affiliate.”

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

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would (if not cured or otherwise remedied during such time) be an Event of Default.

“Default Rate” means (a) with respect to Base Rate Loans, an interest rate equal to (i) the Base Rate plus (ii) 2% per annum; (b) with respect to Eurodollar Rate Loans, an interest rate equal to (i) the Eurodollar Rate plus (ii) the Applicable Rate plus (iii) 2% per annum; and (c) with respect to IBOR Rate Loans, an interest rate equal to (i) the IBOR Rate plus (ii) the Applicable Rate plus (iii) 2% per annum, in each case to the fullest extent permitted by applicable Laws.

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

“Disclosure Certificate” means the certificate dated May 25, 2005 delivered by the Company to the Administrative Agent and the Lenders.

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

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

“Earn-out” means, with respect to any Person, any payment that may be required to be made by such Person in connection with an Acquisition, where the obligation of such Person to make such payment (or the amount thereof) is contingent upon the financial or other performance of the Person or asset acquired. The amount of any Earn-out shall equal the anticipated amount thereof as reasonably determined in good faith by the Company.

“EBITDA” means, for any Person for any period, the consolidated net income of such Person for such period plus, to the extent deducted in determining such consolidated net income, interest expense, income tax expense, depreciation and amortization of such Person.

“Effective Time” means the time at which all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 4.1 (or, in the case of Section 4.1(b), waived by the Person entitled to receive the applicable payment).

“Eligible Assignee” has the meaning specified in Section 10.7(g).

“Environmental Claims” means all claims, however asserted, by any Governmental Authority or other Person alleging potential liability or responsibility for violation of any Environmental Law, or for release or injury to the environment.

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

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

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

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

“Eurodollar Interest Period” means, as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one, two, three or six months thereafter (or on such other date as all Lenders shall agree), as selected by the Company in a Revolving Loan Notice; provided that:

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

(ii) except as otherwise agreed by all Lenders, any Eurodollar Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such

Eurodollar Interest Period) shall end on the last Business Day of the calendar month at the end of such Eurodollar Interest Period; and

(iii) no Eurodollar Interest Period shall extend beyond the scheduled Maturity Date.

“Eurodollar Rate” means for any Interest Period with respect to any Eurodollar Rate Loan, the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or another commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the “Eurodollar Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America’s London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

“Eurodollar Rate Loan” means a Revolving Loan that bears interest at a rate based on the Eurodollar Rate.

“Event of Default” has the meaning specified in Section 8.1.

“Existing Credit Agreement” means the Credit Agreement dated as of June 28, 2002 among the Company, Bank of America, as administrative agent, and a syndicate of lenders.

“Existing Letters of Credit” means the letters of credit listed on Schedule 1 issued under the Existing Credit Agreement.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means the letter agreement dated April 7, 2005 among the Company, the Administrative Agent and the Arranger.

“Fixed Charge Coverage Ratio” means, as of any date of determination, the ratio of (a) Adjusted Consolidated EBITDAR for the period of the four prior fiscal quarters ending on such

date to (b) the sum, without duplication, of (i) Consolidated Interest Charges for such period plus (ii) rent expense for such period plus (iii) scheduled principal payments of long-term Indebtedness required to be made during such period.

“Foreign Lender” has the meaning specified in Section 10.13(a).

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

“Funded Indebtedness” means all Indebtedness of the Company and its Subsidiaries, excluding (i) contingent obligations in respect of commercial letters of credit and Guarantees (except, in each case, to the extent constituting Guarantees in respect of Indebtedness of a Person other than the Company or any Subsidiary), (ii) obligations under Swap Contracts and (iii) Indebtedness of the Company to Subsidiaries and Indebtedness of Subsidiaries to the Company or to other Subsidiaries.

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

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as

determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means all Subsidiaries of the Company that have executed a counterpart of the Guaranty.

“Guaranty” means the Guaranty made by the Guarantors in favor of the Administrative Agent on behalf of the Lenders, substantially in the form of Exhibit F.

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

“Honor Notice Date” has the meaning specified in Section 2.3(c)(i).

“IBOR Interest Period” means, with respect to any IBOR Rate Loan, each period commencing on the date such Loan is made or continued or converted from a Base Rate Loan to an IBOR Rate Loan or the last day of the next preceding IBOR Interest Period with respect to such IBOR Rate Loan, and ending one, two, three, four, five, six or seven days thereafter, as the Company may select as provided in Section 2.4(b). Notwithstanding the foregoing: (a) each IBOR Interest Period shall end on a Business Day; (b) no IBOR Interest Period may extend beyond the scheduled Maturity Date; and (c) no more than six IBOR Interest Periods shall be in effect at the same time.

“IBOR Rate” means the interest rate at which Bank of America’s Grand Cayman Banking Center, Grand Cayman, British West Indies, would offer Dollar deposits for the applicable Interest Period to other major banks in the offshore Dollar interbank market.

“IBOR Rate Loan” means a Swing Line Loan that bears interest at a rate based on the IBOR Rate.

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

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

(b) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and (ii) Earn-outs owed by such Person with respect to any Acquisition);

(c) all Attributable Indebtedness of such Person under capital leases and with respect to Synthetic Lease Obligations;

(d) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties and similar instruments;

(e) net obligations of such Person under any Swap Contract;

(f) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and

(g) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or similar entity in which such Person is a general partner or with respect to which such Person has liability under applicable laws for the obligations of such entity, except to the extent that such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“Indemnatee” has the meaning set forth in Section 10.5.

“Information” has the meaning set forth in Section 10.8.

“Interest Payment Date” means (a) as to any Eurodollar Rate Loan or IBOR Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided that if any Interest Period for a Eurodollar Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means a Eurodollar Interest Period or an IBOR Interest Period, as the context requires.

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

“IP Rights” has the meaning set forth in Section 5.16.

“IRS” means the United States Internal Revenue Service.

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

“Joint Venture” means a partnership, limited liability company, joint venture or other similar legal arrangement (whether created by contract or conducted through a separate legal entity) now or hereafter formed by the Company or any of its Subsidiaries with another Person in order to conduct a common venture or enterprise with such Person.

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

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Pro Rata Share.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Borrowing.

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

“L/C Issuer” means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate undrawn amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For the purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.7. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

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

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

“Letter of Credit” means any letter of credit issued hereunder and shall include the Existing Letters of Credit. A Letter of Credit may be a commercial letter of credit or a standby letter of credit.

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

“Leverage Ratio” means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, the ratio of (a) Funded Indebtedness of the Company and its Subsidiaries as of such date to (b) Adjusted Consolidated EBITDA for the period of the four fiscal quarters ending on such date.

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

“Loan” means an extension of credit by a Lender to the Company under Article II in the form of a Revolving Loan or a Swing Line Loan.

“Loan Documents” means this Agreement, each Note, the Fee Letter, and the Guaranty.

“Loan Parties” means, collectively, the Company and each Guarantor, it being understood that “Loan Parties” shall not include any Subsidiary that has been released as a Guarantor pursuant to Section 9.10.

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

“Material Financial Amount” means, at any time, 5% of Consolidated Net Worth as shown in the most recent financial statements delivered pursuant to Section 6.1.

“Maturity Date” means (a) May 25, 2010 or (b) such earlier date upon which the Loans and other Obligations become due in accordance with the terms hereof.

“Modification” means, with respect to any Letter of Credit, any amendment to such Letter of Credit to amend or otherwise modify such Letter of Credit (including any extension of the expiry date therefor or increase in the amount thereof). The term “Modify” has a correlative meaning.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Company or any ERISA Affiliate makes or is

obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Note” means a promissory note made by the Company in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit C.

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

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

“Outstanding Amount” means (a) with respect to Revolving Loans and Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and repayments occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other change in the aggregate amount of the L/C Obligations as of such date, including as a result of reimbursement of any outstanding unpaid drawing under any Letter of Credit or any reduction in the maximum amount available for drawing under any Letter of Credit taking effect on such date.

“Participant” has the meaning specified in Section 10.7(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

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

“Permitted Acquisition” means an Acquisition that meets each of the following requirements: (a) the Person to be acquired is, or the assets to be acquired are for use in, in the same or similar line of business as the Company or a line of business that is complementary

thereto, (b) in the case of the Acquisition of a Person, such Acquisition has been approved by the board of directors or similar governing body and, if applicable, the shareholders of the Person to be acquired, (c) the Company is and will be in pro forma compliance with each of the financial covenants contained in Section 7.11 before and after giving effect to such Acquisition, (d) the aggregate consideration (other than consideration to be paid in common stock of the Company, but including Earn-outs, cash and assumed debt) to be paid by the Company in connection with such Acquisition (or any series of related Acquisitions) does not exceed Consolidated EBITDA for the most recent period of four consecutive fiscal quarters for which the Company has delivered financial statements pursuant to Section 6.1, (e) no Default shall exist at the time of, or shall result from, such Acquisition and (f) if the aggregate consideration (including consideration to be paid in common stock of the Company, Earn-outs, cash and assumed debt) to be paid by the Company in connection with such Acquisition (or a series of related Acquisitions) is equal to or greater than \$50,000,000, the Company has delivered to the Administrative Agent at least 10 days prior to the consummation of such Acquisition a pro forma Compliance Certificate for the fiscal quarter most recently ended (calculated as if such Acquisition had occurred on the first day of the period of four consecutive fiscal quarters ending on the last day of such fiscal quarter).

“Permitted Investments” means (a) direct obligations of, or obligations fully guaranteed by, the United States or any agency thereof; (b) direct obligations of, or obligations fully guaranteed by, any State, territory or possession of the United States (including the District of Columbia) or any agency thereof which have a short-term rating of at least SP-1 by S&P (as defined below) or MIG-1 by Moody’s (as defined below) or a long-term rating of at least A by S&P or A1 by Moody’s (or, in each case, the equivalent thereof by another Rating Agency (as defined below)); (c) commercial paper issued by corporations or financial institutions which have the highest short-term or long-term rating, as applicable, of at least one Rating Agency and at least the second highest short-term or long-term rating, as applicable, of another Rating Agency; (d) unsecured promissory notes (other than commercial paper) issued by corporations or financial institutions which have a short-term debt rating of at least A-1 from S&P and P-1 from Moody’s (or the equivalent thereof by another Rating Agency) and a long-term debt rating of at least A from S&P and A-1 from Moody’s (or the equivalent thereof by another Rating Agency); (e) time deposits with, and certificates of deposit, acceptances and similar instruments issued by, (i) any Lender or (ii) any office of any bank or trust company whose certificates of deposit are rated in one of the two highest grades by at least one Rating Agency; (f) repurchase agreements entered into with a bank or trust company described in clause (e) (or with securities broker-dealers of nationally recognized standing) with respect to obligations described in clause (a); (g) obligations of United States or foreign commercial banks having a minimum short-term debt rating of F1 from Fitch; and (h) shares of open-ended investment companies registered under the Investment Company Act of 1940; provided that each such investment company complies with Rule 2a-7 of the Securities Exchange Act of 1934, maintains a constant net asset value, offers daily liquidity and has a weighted average maturity of not more than 90 days. For purposes of the foregoing, “Rating Agency” means S&P, Moody’s, Fitch or any other nationally-recognized credit rating agency; “Fitch” means Fitch, Inc., doing business as Fitch Ratings; “Moody’s” means Moody’s Investors Service, Inc.; and “S&P” means Standard & Poor’s Rating Services.

“Permitted Long-Term Indebtedness” means Indebtedness of the Company or a Guarantor which (a) requires no payments of principal until the date which is 91 days after the scheduled Maturity Date or (b) is incurred to finance an Acquisition and is intended to be

replaced, and is in fact replaced, by Indebtedness described in the preceding clause (a) within six months after the incurrence thereof.

“Permitted Stock Repurchases” means repurchases or redemptions by the Company of its capital stock for fair and reasonable consideration not exceeding \$50,000,000 in aggregate amount during any fiscal year; provided that the Company may add up to \$10,000,000 of the unused portion of such limit for any fiscal year to the limit for the immediately succeeding fiscal year.

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

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

“Platform” has the meaning set forth in Section 6.2.

“Pro Rata Share” means, with respect to each Lender at any time, a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitment of such Lender at such time and the denominator of which is the amount of the Aggregate Commitments at such time; provided that if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.2, then the Pro Rata Share of each Lender shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof. The initial Pro Rata Share of each Lender is set forth opposite the name of such Lender on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Register” has the meaning set forth in Section 10.7(c).

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

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

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

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the Aggregate Commitments or, if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.2, Lenders holding in the aggregate more than 50% of the Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations

and Swing Line Loans being deemed “held” by such Lender for purposes of this definition); provided that the Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

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

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other equity interest of the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other equity interest or of any option, warrant or other right to acquire any such capital stock or other equity interest.

“Revolving Borrowing” means a borrowing consisting of simultaneous Revolving Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.1.

“Revolving Loan” has the meaning specified in Section 2.1.

“Revolving Loan Notice” means a notice of (a) a Revolving Borrowing, (b) a conversion of Revolving Loans from one Type to the other or (c) a continuation of Eurodollar Rate Loans, pursuant to Section 2.2(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Rosenberg Family” means the lineal descendants of Morris Rosenberg, their respective spouses, any trust for the benefit of the foregoing and any other Person more than 50% of the equity of which is owned by any of the foregoing.

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

“Shareholders’ Equity” means, as of any date of determination, consolidated shareholders’ equity of the Company and its Subsidiaries as of that date determined in accordance with GAAP.

“SPC” has the meaning specified in Section 10.7(h).

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

specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Company.

“Surety Bond” means, with respect to any Person, a bid bond, performance bond, payment bond, maintenance bond, license bond, permit bond or similar bond issued on behalf of such Person by a bonding company or other surety.

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

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

“Swing Line” means the revolving credit facility made available by the Swing Line Lender pursuant to Section 2.4.

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.4.

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

“Swing Line Loan” has the meaning specified in Section 2.4(a).

“Swing Line Loan Notice” means a notice of (a) a Swing Line Borrowing, (b) a conversion of Swing Line Loans from one Type to the other or (c) a continuation of Swing Line Loans, pursuant to Section 2.4(b), which, if in writing, shall be substantially in the form of Exhibit B.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$25,000,000 and (b) the Aggregate Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

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

“Type” means, (a) with respect to a Revolving Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan and (b) with respect to a Swing Line Loan, its character as a Base Rate Loan or an IBOR Rate Loan.

“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.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning set forth in Section 2.3(c)(i).

1.2 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(i) Article, Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.

(ii) The term “including” is by way of example and not limitation.

(iii) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) 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.”

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

(e) Except to the extent otherwise specified, references herein to “fiscal quarter” and “fiscal year” mean such fiscal periods of the Company.

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

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

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

1.5 References to Agreements and Laws. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

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

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

ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS

2.1 Revolving Loans.

Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a “Revolving Loan”) to the Company from time to time on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s Commitment; provided that after giving effect to any Revolving Borrowing, (i) the Total Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Revolving Loans of any Lender, plus such Lender’s Pro Rata Share of the Outstanding Amount of all L/C Obligations, plus such Lender’s Pro Rata Share of the Outstanding Amount of all Swing Line Loans shall not exceed the amount of such Lender’s Commitment. Within the limits of each Lender’s Commitment, and subject to the other terms and conditions hereof, the Company may borrow under this Section 2.1, prepay under Section 2.5, and reborrow under this Section 2.1. Revolving Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein.

2.2 Procedure for Borrowing, Conversion and Continuation of Revolving Loans.

(a) Each Revolving Borrowing, each conversion of Revolving Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Company’s irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any borrowing of, conversion of or to or continuation of Eurodollar Rate Loans and (ii) on the requested date of any borrowing of Base Rate Loans. Each telephonic notice by the Company pursuant to this Section 2.2(a) must be confirmed promptly by delivery to the Administrative Agent of a written Revolving Loan Notice, appropriately completed and signed by a Responsible Officer of the Company. Each borrowing of, conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$2,000,000 or a higher integral multiple of \$1,000,000. Except as provided in Sections 2.3(c) and 2.4(c), each borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a higher integral multiple of \$100,000. Each Revolving Loan Notice (whether telephonic or written) shall specify (i) whether the Company is requesting a Revolving Borrowing, a conversion of Revolving Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Revolving Loans to be borrowed, converted or continued, (iv) the Type of Revolving Loans to be borrowed or to which existing Revolving Loans are to be converted, and (v) if applicable, the duration of the

Interest Period with respect thereto. If the Company fails to specify a Type of Revolving Loan in a Revolving Loan Notice or if the Company fails to give a timely notice requesting a conversion or continuation, then the applicable Revolving Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Company requests a borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Revolving Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Revolving Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Revolving Loans, and if no timely notice of a continuation is provided by the Company, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a Revolving Borrowing, each Lender shall make the amount of its Revolving Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Revolving Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.2 (and, if such Borrowing is the initial Credit Extension, Section 4.1), the Administrative Agent shall make all funds so received available to the Company in like funds as received by the Administrative Agent by crediting the account of the Company on the books of Bank of America with the amount of such funds in accordance with instructions provided by the Company to (and reasonably acceptable to) the Administrative Agent.

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

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

(e) After giving effect to all Revolving Borrowings, all conversions of Revolving Loans from one Type to the other, and all continuations of Revolving Loans as the same Type, there shall not be more than 10 Interest Periods in effect with respect to Revolving Loans.

2.3 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.3, (1) from time to time on any Business Day during the Availability Period, to

issue Letters of Credit for the account of the Company, and to Modify Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drafts under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Company; provided that the L/C Issuer shall not be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in, any Letter of Credit (or, if applicable, the relevant Modification thereof) if as of the date of such L/C Credit Extension, (x) the Total Outstandings would exceed the Aggregate Commitments or (y) the aggregate Outstanding Amount of the Revolving Loans of any Lender, plus such Lender's Pro Rata Share of the Outstanding Amount of all L/C Obligations, plus such Lender's Pro Rata Share of the Outstanding Amount of all Swing Line Loans would exceed the amount of such Lender's Commitment. Within the foregoing limits, and subject to the terms and conditions hereof, the Company's ability to obtain Letters of Credit shall be fully revolving and, accordingly, the Company may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Effective Time shall be subject to and governed by the terms and conditions hereof.

(ii) The L/C Issuer shall be under no obligation to issue any Letter of Credit if:

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

(B) subject to Section 2.3(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur more than one year after the scheduled Maturity Date, unless all Lenders have approved such expiry date;

(D) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer;

(E) such Letter of Credit is in an initial amount less than \$100,000, in the case of a commercial Letter of Credit, or \$250,000, in the case of a standby Letter of Credit, or is to be denominated in a currency other than Dollars; or

(F) such Letter of Credit is not payable at sight.

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

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

(i) Each Letter of Credit shall be issued or Modified, as the case may be, upon the request of the Company delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Company. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 12:00 noon at least two Business Days (or such later date and time as the L/C Issuer may agree in a particular instance in its sole discretion) prior to the proposed issuance date or date of Modification, as the case may be. In the case of a request for the initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the L/C Issuer may require. In the case of a request for a Modification of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (1) the Letter of Credit to be Modified; (2) the proposed date of Modification (which shall be a Business Day); (3) the nature of the proposed Modification; and (4) such other matters as the L/C Issuer may require. Additionally, the Company shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or Modification as the L/C Issuer or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Company and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by the L/C Issuer of confirmation from the Administrative Agent that the requested issuance or Modification is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Company or enter into the

applicable Modification, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Pro Rata Share times the amount of such Letter of Credit.

(iii) If the Company so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Nonextension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Company shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than one year following the Maturity Date; provided that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would have no obligation at such time to issue such Letter of Credit in its extended form under the terms hereof (by reason of the provisions of Section 2.3(a)(ii) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Nonextension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 4.2 is not then satisfied.

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

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Company and the Administrative Agent of its receipt of such notice and the amount of the requested drawing. Not later than 11:00 a.m. on the date of any notice by the L/C Issuer of a payment by the L/C Issuer under a Letter of Credit (each such date, an "Honor Notice Date"), the Company shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Company fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Lender of the Honor Notice Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Pro Rata Share thereof. In such event, the Company shall be deemed to have requested a Revolving Borrowing of

Base Rate Loans to be disbursed on the Honor Notice Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.2 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.2 (other than the delivery of a Revolving Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.3(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as L/C Issuer) shall upon any notice pursuant to Section 2.3(c)(i) make funds available to the Administrative Agent for the account of the L/C Issuer at the Administrative Agent's Office in an amount equal to its Pro Rata Share of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.3(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Borrowing of Base Rate Loans because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Company shall be deemed to have incurred from the L/C Issuer on the date of the applicable payment by the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at (x) prior to the Honor Notice Date, the Base Rate, and (y) thereafter, the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.3(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.3.

(iv) Until each Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.3(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender's obligation to make Revolving Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.3(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Company or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Lender's obligation to make Revolving Loans pursuant to this Section 2.3(c) is subject to the conditions set forth in Section 4.2 (other than delivery by the Company of a Revolving Loan Notice). No such making of an L/C

Advance shall relieve or otherwise impair the obligation of the Company to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.3(c) by the time specified in Section 2.3(c)(ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of (x) the Federal Funds Rate from time to time in effect and (y) a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation. A certificate of the L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.3(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Company or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.3(c)(i) is required to be returned under any of the circumstances described in Section 10.6 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect.

(e) Role of L/C Issuer. Each Lender and the Company agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, any Agent-Related Person nor any of the respective correspondents, participants or assignees of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful

misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Company hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided that this assumption is not intended to, and shall not, preclude the Company's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement, whether before or after any drawing by such beneficiary or transferee. None of the L/C Issuer, any Agent-Related Person, or any of the respective correspondents, participants or assignees of the L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.3(e); provided that anything in such clauses to the contrary notwithstanding, the Company may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Company, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Company which the Company proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

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

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

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

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to

any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

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

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

(g) Cash Collateral. Upon the request of the Administrative Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Maturity Date, any L/C Obligation for any reason remains outstanding, the Company shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.5 and 8.2(c) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.3, Section 2.5 and Section 8.2(c), "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Company hereby grants to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America.

(h) Letter of Credit Fees. The Company shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share (i) a letter of credit fee for each commercial Letter of Credit equal to 1/8 of 1% per annum times the daily maximum amount available to be drawn under such Letter of Credit and (ii) a letter of credit fee for each standby Letter of Credit equal to the Applicable Rate times the daily maximum amount available to be drawn under such Letter of Credit; provided that, upon the request of the Required Lenders while any Event of Default exists, the rate per annum at which all Letter of Credit fees are calculated shall be increased by 2%. Such letter of credit fees shall be computed on a quarterly basis in arrears. Such letter of credit fees shall be due and payable (x) on the first Business Day of each January, April, July and October, commencing July 1, 2005 (or, if later, on the first such date to occur after the issuance of such Letter of Credit), (y) on the earlier of (i) the scheduled Maturity Date and (ii) the date on which the Obligations are accelerated pursuant to Section 8.2, and (z) thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily maximum amount of each standby Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Company shall pay directly to the L/C Issuer for its own account such fronting fees with respect to Letters of Credit as specified in a separate fee letter between the Company and the L/C Issuer. In addition, the Company shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment, extension and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Applicability of ISP98 and UCP. Unless otherwise expressly agreed by the L/C Issuer and the Company when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(k) Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

2.4 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender may (in its sole and absolute discretion) make a portion of the credit otherwise available to the Company under the Aggregate Commitments by making swing line loans (each such loan, a "Swing Line Loan") to the Company from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Pro Rata Share of the Outstanding Amount of Revolving Loans and L/C Obligations of the Lender acting as Swing Line Lender may exceed the amount of such Lender's Commitment; provided that after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Revolving Loans of any Lender, plus such Lender's Pro Rata Share of the Outstanding Amount of all L/C Obligations, plus such Lender's Pro Rata Share of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and provided, further, that the Company shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Company may, subject to the agreement of the Swing Line Lender, borrow under this Section 2.4, prepay under Section 2.5, and reborrow under this Section 2.4. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Pro Rata Share times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Loan, each conversion of a Swing Line Loan from one Type to the other, and each continuation of a Swing Line Loan as an IBOR Rate Loan shall be made upon the Company's irrevocable notice to the Swing Line

Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, converted or continued, which shall be a minimum of \$500,000, (ii) the Type of Swing Line Loan to be borrowed or which an existing Swing Line Loan is to be converted or continued, (iii) the requested borrowing, continuation or conversion date, which shall be a Business Day, and (iv) if applicable, the duration of the Interest Period with respect thereto. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Company. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. If the Company fails to specify a Type of Swing Line Loan in a Swing Line Loan Notice or if the Company fails to give a timely notice requesting a conversion or continuation, then the applicable Swing Line Loan shall be made as, or converted to, a Base Rate Loan. Any such automatic conversion to a Base Rate Loan shall be effective as of the last day of the Interest Period then in effect with respect to the applicable IBOR Rate Loan. If the Company requests a borrowing of, conversion to, or continuation of IBOR Rate Loans in any such Swing Line Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period ending on the Business Day immediately following the first day of such Interest Period. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Lender) prior to 11:00 a.m. on the date of a proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make the requested Swing Line Loan as a result of the limitations set forth in the proviso to the first sentence of Section 2.4(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender may (in its sole and absolute discretion), not later than 12:00 noon on the borrowing date specified in the applicable Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Company at its office by crediting the account of the Company on the books of the Swing Line Lender in immediately available funds.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Company (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Loan in an amount equal to such Lender's Pro Rata Share of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Revolving Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.2, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.2. The Swing Line Lender shall furnish the Company with a copy of the applicable Revolving Loan Notice promptly after delivering such notice to the Administrative Agent. Each Lender shall make an amount equal to its Pro Rata Share of the amount specified in such Revolving Loan Notice available to the Administrative Agent in

immediately available funds for the account of the Swing Line Lender at the Administrative Agent's Office not later than 10:00 a.m. on the day specified in such Revolving Loan Notice, whereupon, subject to Section 2.4(c)(ii), each Lender that so makes funds available shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Borrowing, in accordance with Section 2.4(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.4(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.4(c) by the time specified in Section 2.4(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of (x) the Federal Funds Rate from time to time in effect and (y) a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.4(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Company or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Lender's obligation to make Revolving Loans pursuant to this Section 2.4(c) is subject to the conditions set forth in Section 4.2. No such funding of risk participations shall relieve or otherwise impair the obligation of the Company to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Pro Rata Share of such payment (appropriately adjusted, in the case of interest

payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.6 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Company for interest on the Swing Line Loans. Until each Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.4 to refinance such Lender's Pro Rata Share of any Swing Line Loan, interest in respect of such Pro Rata Share shall be solely for the account of the Swing Line Lender.

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

2.5 Prepayments.

(a) The Company may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Revolving Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 10:00 a.m. (A) one Business Day prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$2,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Revolving Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.4. Each such prepayment shall be applied to the Revolving Loans of the Lenders in accordance with their respective Pro Rata Shares.

(b) The Company may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 10:00 a.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of

\$100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(c) If for any reason the Total Outstandings at any time exceed the Aggregate Commitments then in effect, the Company shall immediately prepay Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided that the Company shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.5(c) unless after the prepayment in full of the Revolving Loans and Swing Line Loans the Total Outstandings exceed the Aggregate Commitments then in effect.

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

2.7 Repayment of Loans.

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

(b) The Company shall repay each Swing Line Loan on the earlier of (i) one Business Day after demand by the Swing Line Lender and (ii) the Maturity Date.

2.8 Interest.

(a) Subject to the provisions of subsection (b) below, (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate; (ii) each Base Rate Loan (including each applicable Swing Line Loan) shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate and (iii) each IBOR Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the IBOR Rate plus the Applicable Rate; provided that if the Swing Line Lender is deemed to have requested that each Lender fund its risk participation in any Swing Line Loan pursuant to Section

2.4(c)(ii), then commencing on the date of such deemed request, such Swing Line Loan shall bear interest at the Base Rate.

(b) If any amount payable by the Company under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Furthermore, upon the request of the Required Lenders while any Event of Default exists, the Company shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

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

2.9 Fees.

In addition to certain fees described in subsections (h) and (i) of Section 2.3:

(a) Non-Use Fee. The Company shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share, a non-use fee equal to the Applicable Rate times the actual daily amount by which the Aggregate Commitments (as reduced in accordance with Section 2.6 or increased in accordance with Section 2.14) exceed the sum of (i) the Outstanding Amount of Revolving Loans and (ii) the Outstanding Amount of L/C Obligations. The non-use fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the first Business Day of each January, April, July and October, commencing on July 1, 2005, and on the Maturity Date. The non-use fee shall be calculated quarterly in arrears, and (i) if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect and (ii) if there is an increase or a reduction in the Aggregate Commitments in accordance with Section 2.6, the actual daily amount shall be computed and multiplied by the Aggregate Commitments separately for each period during such quarter that the Aggregate Commitments were available.

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

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

2.10 Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by Bank of America's "prime rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360 day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365 day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day.

2.11 Evidence of Debt.

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

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

2.12 Payments Generally.

(a) All payments to be made by the Company shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Company hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 12:00 noon on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by

the Administrative Agent after 12:00 noon shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Company shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Company or any Lender has notified the Administrative Agent prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Company or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Company or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Company failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the greater of (x) the Federal Funds Rate from time to time in effect and (y) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Company to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to the greater of (x) the Federal Funds Rate from time to time in effect and (y) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Revolving Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Company, and the Company shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Company may have against any Lender as a result of any default by such Lender hereunder.

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

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

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

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

2.13 Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Revolving Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it, any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Revolving Loans made by them and/or such subparticipations in the participations in L/C Obligations or Swing Line Loans held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Revolving Loans or such participations, as the case may be, pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.6 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Company agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off, but subject to Section 10.9) with respect to such participation as fully as if such Lender were the direct creditor of the Company in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

2.14 Increase in Commitments.

(a) The Company may, from time to time on or prior to May 22, 2009, by means of a letter delivered to the Administrative Agent substantially in the form of Exhibit I, request that the Aggregate Commitments be increased to up to \$350,000,000; provided that (i) any such increase in the Aggregate Commitments shall be in a minimum amount of \$5,000,000 and a higher integral multiple thereof and (ii) the aggregate amount of all such increases shall not exceed \$50,000,000.

(b) Any increase in the Aggregate Commitments may be effected by (i) increasing the Commitment of one or more Lenders that have agreed to such increase and/or (ii) subject to clause (c), adding one or more commercial banks or other Persons as a party hereto (each an "Additional Lender") with a Commitment in an amount agreed to by any such Additional Lender.

(c) Any increase in the Aggregate Commitments pursuant to this Section 2.14 shall be effective three Business Days (or such other period agreed to by the Administrative Agent, the Company and, as applicable, each Lender that has agreed to increase its Commitment and each Additional Lender) after the later to occur of (i) the date on which the Company has delivered to the Administrative Agent a certified copy of resolutions of its board of directors, in form and substance reasonably acceptable to the Administrative Agent, authorizing such increase and (ii) the Administrative Agent has received and accepted the applicable increase letter in the form of Annex 1 to Exhibit I (in the case of an increase in the Commitment of an existing Lender) or assumption letter in the form of Annex 2 to Exhibit I (in the case of the addition of an Additional Lender).

(d) No Additional Lender shall be added as a party hereto without the written consent of the Administrative Agent, the L/C Issuer and the Swing Line Lender (which consents shall not be unreasonably withheld or delayed), and no increase in the Aggregate Commitments may be effected pursuant to clause (b) above if a Default exists.

(e) The Administrative Agent shall promptly notify the Company and the Lenders of any increase in the amount of the Aggregate Commitments pursuant to this Section 2.14 and of the Commitment and Pro Rata Share of each Lender after giving effect thereto. The Company acknowledges that, in order to maintain Revolving Loans in accordance with each Lender's Pro Rata Share, a reallocation of the Commitments as a result of a non-pro-rata increase in the Aggregate Commitments may require prepayment or conversion of all or portions of certain Revolving Loans on the date of such increase (and any such prepayment or conversion shall be without premium or penalty but subject to the provisions of Section 3.4).

(f) This Section shall supersede any provision in Section 10.1 to the contrary.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

3.1 Taxes.

(a) Any and all payments by the Company to or for the account of the Administrative Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of the Administrative Agent and each Lender, taxes imposed on or measured by its overall net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which the Administrative Agent or such Lender, as the case may be, is organized or maintains a lending office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If the Company shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), each of the Administrative Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Company shall make such deductions, (iii) the Company shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment, the Company shall furnish to the Administrative Agent (which shall forward the same to such Lender) the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Company agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as "Other Taxes").

(c) If the Company shall be required to deduct or pay any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, the Company shall also pay to the Administrative Agent or to such Lender, as the case may be, at the time interest is paid, such additional amount that the Administrative Agent or such Lender specifies is necessary to preserve the after-tax yield (after factoring in all taxes, including taxes imposed on or measured by net income) that the Administrative Agent or such Lender would have received if such Taxes or Other Taxes had not been imposed.

(d) The Company agrees to indemnify the Administrative Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section) paid by the Administrative Agent and such Lender, (ii) amounts payable under Section 3.1(c) and (iii) any liability (including additions to tax, penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally

imposed or asserted by the relevant Governmental Authority. Payment under this subsection (d) shall be made within 30 days after the date the Lender or the Administrative Agent makes a demand therefor.

3.2 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Eurodollar Rate Loans or, in the case of the Swing Line Lender, IBOR Rate Loans, or to determine or charge interest rates based upon the Eurodollar Rate or, in the case of the Swing Line Lender, the IBOR Rate, then, on notice thereof by such Lender to the Company through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or IBOR Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans or IBOR Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Company shall, upon demand from such Lender (with a copy to the Administrative Agent), convert all Eurodollar Rate Loans or IBOR Rate Loans, as applicable, of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor or on such earlier date as such Lender may not lawfully continue to maintain such Eurodollar Rate Loans or IBOR Rate Loans, as applicable. Upon any such conversion, the Company shall also pay accrued interest on the amount so converted. Thereafter, for so long as such circumstances continue, all Loans which would otherwise be made or maintained by such Lender as Eurodollar Rate Loans or IBOR Rate Loans, as applicable, shall be Base Rate Loans. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

3.3 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans.

(a) If any Lender determines that as a result of the introduction of or any change in or in the interpretation of any Law, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining Eurodollar Rate Loans or IBOR Rate Loans or issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this subsection (a) any such increased costs or such reduction in amount resulting from (i) Taxes or Other Taxes (as to which Section 3.1 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or has its Lending Office, and (iii) reserve requirements contemplated by Section 3.3(c)), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Company shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or such reduction in amount.

(b) If any Lender determines that the introduction of, or any change in or in the interpretation of, or compliance by such Lender (or its Lending Office) with any Law regarding capital adequacy has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's

obligations hereunder (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Company shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

(c) The Company shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan and, in the case of the Swing Line Lender, each IBOR Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Company shall have received at least 15 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 15 days from receipt of such notice.

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

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

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

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Company shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Company to the Lenders under this Section 3.4, each Lender shall be deemed to have funded each Eurodollar Rate Loan or IBOR Rate Loan made by it at the Eurodollar Rate or the IBOR Rate, as applicable, for such Loan by a matching deposit or other borrowing in the relevant offshore Dollar interbank market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan or IBOR Rate Loan was in fact so funded.

3.5 Inability to Determine Rates. If the Required Lenders determine that for any reason adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan, or that the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative

Agent will promptly so notify the Company and each Lender. If the Swing Line Lender determines that for any reason adequate and reasonable means do not exist for determining the IBOR Rate for any requested Interest Period with respect to a proposed IBOR Rate Loan, or that the IBOR Rate for any requested Interest Period with respect to a proposed IBOR Rate Loan does not adequately and fairly reflect the cost to the Swing Line Lender of funding such Loan, the Administrative Agent will promptly so notify the Company. Thereafter, the obligation of the Lenders to make or maintain Eurodollar Rate Loans or the Swing Line Lender to make or maintain IBOR Rate Loans, as the case may be, shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders or the Swing Line Lender, as applicable) revokes such notice. Upon receipt of such notice, the Company may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or IBOR Rate Loans or, failing that, will be deemed to have converted such request into a request for a Revolving Borrowing or a Swing Line Borrowing of Base Rate Loans in the amount specified therein.

3.6 Matters Applicable to all Requests for Compensation. A certificate of the Administrative Agent or any Lender claiming compensation under this Article III and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Administrative Agent or such Lender may use any reasonable averaging and attribution methods.

3.7 Survival. All of the Company's obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.1 Conditions of Initial Credit Extension. The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the date on which the Effective Time occurs (or, in the case of certificates of governmental officials, a recent date before the Effective Time) and each in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) executed counterparts of this Agreement and the Guaranty, sufficient in number for distribution to the Administrative Agent, each Lender and the Company;

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

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each

Responsible Officer thereof authorized to act as a officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, validly existing and in good standing in the jurisdiction of its organization or formation;

(v) opinions of (x) Orrick, Herrington & Sutcliffe LLP, counsel to the Loan Parties, and (y) Linda S. Auwers, general counsel of the Loan Parties, substantially in the form of Exhibits G and H, respectively;

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

(vii) a certificate signed by a Responsible Officer of the Company certifying (A) that the conditions specified in Sections 4.2(a) and (b) have been satisfied, (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect and (C) a calculation of the Leverage Ratio as of January 31, 2005; and

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

(b) Any fees required to be paid at or before the Effective Time shall have been paid.

(c) Unless waived by the Administrative Agent, the Company shall have paid all Attorney Costs of the Administrative Agent to the extent invoiced prior to the Effective Time, plus such additional amounts of Attorney Costs as shall constitute the Administrative Agent's reasonable estimate of Attorney Costs incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Company and the Administrative Agent).

(d) All obligations of the Company under the Existing Credit Agreement shall have been, or shall concurrently be, paid in full.

4.2 Conditions to all Credit Extensions.

The obligation of each Lender to honor any Request for Credit Extension (other than (i) a Revolving Loan Notice requesting only a conversion of Revolving Loans to the other Type or a continuation of Eurodollar Rate Loans or (ii) a Swing Line Notice requesting only a conversion

of Swing Line Loans to the other Type or a continuation of Swing Line Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Company contained in Article V shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date.

(b) No Default shall exist, or would result from such proposed Credit Extension.

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

Each Request for Credit Extension (other than (i) a Revolving Loan Notice requesting only a conversion of Revolving Loans to the other Type or a continuation of Eurodollar Rate Loans or (ii) a Swing Line Notice requesting only a conversion of Swing Line Loans to the other Type or a continuation of Swing Line Loans) submitted by the Company shall be deemed to be a representation and warranty that the conditions specified in Sections 4.2(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V REPRESENTATIONS AND WARRANTIES

The Company represents and warrants to the Administrative Agent and the Lenders that:

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

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

5.3 Third Party Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any

other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of any Loan Document to which it is a party.

5.4 Binding Effect.

This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against such Loan Party in accordance with its terms, except as enforceability may be limited by applicable Debtor Relief Laws and by general equitable principles regardless of whether considered in a proceeding in equity or at law.

5.5 Litigation. There is no action, suit, investigation or proceeding pending or threatened in any court or before any arbitrator or governmental authority that: (a) relates to the legality, validity or enforceability of any provision of any Loan Document or any of the transactions contemplated thereby, the rights or remedies of the Administrative Agent or any Lender thereunder, the legality or propriety of any action taken or proposed to be taken by the Administrative Agent or any Lender in connection therewith, or the power or authority of any Loan Party to perform its obligations thereunder, or (b) is reasonably likely to be adversely determined and, if adversely determined, would reasonably be expected to have a material adverse effect on the ability of any Loan Party to perform its obligations under or in connection with any Loan Document.

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

5.7 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the best knowledge of the Company, nothing has occurred which would prevent, or cause the loss of, such qualification. The Company and each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

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

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

5.8 Ownership of Property; Liens. Each of the Company and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Company and its Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.1.

5.9 Taxes. The Company and its Subsidiaries have filed all Federal and other material tax returns and reports required to be filed, and have paid all Federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Company or any Subsidiary that would, if made, have a Material Adverse Effect.

5.10 Financial Statements; No Material Adverse Effect.

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present in all material respects the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Company and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness, except as set forth in the Disclosure Certificate.

(b) The unaudited consolidated financial statements of the Company and its Subsidiaries dated January 31, 2005, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present in all material respects the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end adjustments; and (iii) show all material indebtedness and other material liabilities, direct or contingent, of the Company and its

Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness, except as set forth in the Disclosure Certificate.

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

5.11 Environmental Compliance. The Company monitors in the ordinary course of business the effect of existing Environmental Laws and existing Environmental Claims on its business, operations and properties, and as a result thereof the Company has reasonably concluded that such Environmental Laws and Environmental Claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.12 Insurance. The properties of the Company and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Company, in such amounts (after giving effect to any self-insurance compatible with the following standards), with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Company or the applicable Subsidiary operates.

5.13 Subsidiaries.

As of the Effective Time, the Company has no Subsidiaries other than those specifically disclosed in the Disclosure Certificate and has no equity investments in any other Person other than those specifically disclosed in the Disclosure Certificate.

5.14 Margin Regulations; Investment Company Act; Public Utility Holding Company Act.

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

(b) None of the Company, any Person Controlling the Company, or any Subsidiary (i) is a “holding company,” or a “subsidiary company” of a “holding company,” or an “affiliate” of a “holding company” or of a “subsidiary company” of a “holding company,” within the meaning of the Public Utility Holding Company Act of 1935, or (ii) is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

5.15 Full Disclosure. None of the representations or warranties made by the Company or any Subsidiary in the Loan Documents as of the date such representations and warranties are made or as of the date such representations and warranties are deemed made, and none of the statements contained in any exhibit, written report, written statement or certificate furnished by or on behalf of the Company or any Subsidiary in connection with the Loan Documents (including the offering and disclosure materials delivered by or on behalf of the Company to the Lenders prior to the Effective Time), contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein,

in light of the circumstances under which they are made, not misleading as of the time when made or delivered (it being recognized by the Administrative Agent and the Lenders that all written financial projections with respect to the Company and its Subsidiaries that have been or may hereafter be delivered to the Administrative Agent and the Lenders have been or will be prepared in good faith based upon assumptions believed by the Company to be reasonable as of the date of the applicable projections).

5.16 Compliance with Laws. Each of the Company and each Subsidiary is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.17 Intellectual Property; Licenses, Etc. The Company and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Company, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

ARTICLE VI AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding and not Cash Collateralized, the Company shall, and shall (except in the case of the covenants set forth in Sections 6.1, 6.2, 6.3 and 6.11) cause each applicable Subsidiary to:

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

(a) as soon as available, but in any event within 90 days after the end of each fiscal year, a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit and which report shall state that such

financial statements present fairly the financial position of the Company and its Subsidiaries as of the date and for the period indicated in conformity with GAAP; and

(b) as soon as available, but in any event within 60 days after the end of each of the first three fiscal quarters of each fiscal year, a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Company as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end adjustments and the absence of footnotes.

As to any information contained in materials furnished pursuant to Section 6.2(d), the Company shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Company to furnish the information and materials described in subsection (a) and (b) above at the times specified therein.

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

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), (i) a certificate of its independent certified public accountants certifying such financial statements and (ii) an attestation report from its independent certified public accountants pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002 with respect to any report included in such financial statements on the Company's internal control over financial reporting pursuant to Rule 13a-15 of the Securities Exchange Act of 1934;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.1(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Company;

(c) promptly after any request by the Administrative Agent, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Company by independent accountants in connection with the accounts or books of the Company or any Subsidiary, or any audit of any of them;

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

(e) promptly, such additional information regarding the business, financial or corporate affairs of the Company or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.1(a) or (b), 6.2(a) or 6.2(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Company posts such documents, or provides a link thereto, on the Company's website on the Internet at the website address listed on Schedule 10.2; or (ii) on which such documents are posted on the Company's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or a website sponsored by the Administrative Agent or otherwise); provided that: (x) the Company shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) the Company shall notify (by facsimile or electronic mail) the Administrative Agent and each Lender of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Company shall be required to provide paper copies of the Compliance Certificates required by Section 6.2(b) to the Administrative Agent and each of the Lenders. Except for such Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Company with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Company acknowledges that (a) the Administrative Agent and/or the Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Company hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Company or its securities) (each a "Public Lender"). The Company agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Company shall be deemed to have authorized the Administrative Agent, the Arranger, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Company or its securities for purposes of United States Federal and state securities laws (provided that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.8); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor;" and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor." Notwithstanding the foregoing, the Company shall be under no obligation to mark any Borrower Materials "PUBLIC."

6.3 Notices.

Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Company or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Company or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event; and

(d) of any material change in accounting policies or financial reporting practices by the Company or any Subsidiary.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Company setting forth details of the occurrence referred to therein and stating what action the Company has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.3(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.4 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Company or such Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

6.5 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its and each Guarantor's legal existence and good standing under the Laws of the jurisdiction of its organization, except in a transaction permitted by Section 7.3 or 7.4; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.6 Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.7 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies not Affiliates of the Company, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance compatible with the following standards) as are customarily carried under similar circumstances by such other Persons (it being understood that with respect to public liability and property damage coverage and workers' compensation coverage, the Company's self insurance plan as in effect on the date of this Agreement shall be deemed sufficient compliance with this Section).

6.8 Compliance with Laws. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees (including ERISA and Environmental Laws) applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

6.9 Books and Records. Maintain proper books of record and account, in which full, true and correct entries sufficient to prepare financial statements in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Company or such Subsidiary, as the case may be.

6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Company; provided that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Company at any time during normal business hours and without advance notice.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions to refinance indebtedness under the Existing Credit Agreement and for Permitted Acquisitions, working capital, capital expenditures and other general corporate purposes not in contravention of any Law or of any Loan Document.

6.12 Further Assurances. Take such actions as are necessary, or as the Administrative Agent (or the Required Lenders acting through the Administrative Agent) may reasonably request from time to time, to ensure that the obligations of the Company hereunder and under the other Loan Documents are guaranteed at all times by Subsidiaries that, together with the Company, collectively (a) own assets which account for 90% or more of the consolidated assets of the Company and its Subsidiaries and (b) generate revenues which account for 90% or more of the consolidated revenues of the Company and its Subsidiaries during the most recently ended period of 12 consecutive months.

ARTICLE VII
NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding and not Cash Collateralized, the Company shall not, nor shall it permit any Subsidiary to, directly or indirectly:

7.1 Liens. 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 the following:

(a) Liens pursuant to any Loan Document;

(b) Liens existing at the Effective Time and listed in the Disclosure Certificate and any renewals or extensions thereof; provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.5(b);

(c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP; provided that no notice of lien has been filed or recorded under the Code;

(d) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations and other non-delinquent obligations of a like nature, in each case incurred in the ordinary course of business; provided that all such Liens in the aggregate would not (even if enforced) cause a Material Adverse Effect;

(g) customary Liens securing Surety Bonds;

(h) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(i) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.1(i) or securing appeal or other surety bonds related to such judgments;

(j) Liens securing Indebtedness permitted under Section 7.5(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(k) Liens arising solely by virtue of any statutory or common law provision relating to bankers' liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution; provided that (i) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Company in excess of those set forth by regulations promulgated by the FRB and (ii) such deposit account is not intended by the Company or any Subsidiary to provide collateral to the depository institution; and

(l) other Liens securing obligations in an aggregate amount not exceeding at any time outstanding a Material Financial Amount.

7.2 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) subject to Section 6.12, Dispositions of property by the Company to any wholly-owned Subsidiary or by any Subsidiary to the Company or to a wholly-owned Subsidiary;

(e) Dispositions permitted by Section 7.3; and

(f) Dispositions not otherwise permitted hereunder which are made for fair market value; provided that (i) at the time of any such Disposition, no Default shall exist or result from such Disposition, (ii) at least 75% of the aggregate sales price from such Disposition shall be paid in cash and (iii) the aggregate value of all assets so sold by the Company and its Subsidiaries shall not exceed, in any fiscal year, 10% of Consolidated Net Worth as of the end of the preceding fiscal year.

7.3 Fundamental Changes. Except as otherwise permitted by Section 7.2, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one

transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Subsidiary may merge with (i) the Company, provided that the Company shall be the continuing or surviving Person; or (ii) any one or more other Subsidiaries, provided, that when any wholly-owned Subsidiary is merging with another Subsidiary, a wholly-owned Subsidiary shall be the continuing or surviving Person;

(b) any Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Company or to another Subsidiary; provided that if the transferor in such a transaction is a wholly-owned Subsidiary, then the transferee must either be the Company or a wholly-owned Subsidiary; and

(c) to the extent not otherwise permitted by Section 7.2 or this Section 7.3, any Subsidiary that is not a Guarantor may dissolve or liquidate; provided that the value of assets of such Subsidiary that are transferred to an entity other than a Loan Party in connection with such liquidation or dissolution shall be included for purposes of determining compliance with Section 7.2(f)(iii).

7.4 Investments. Make any Investments, except:

(a) investments which, when made, constitute Permitted Investments;

(b) advances to officers, directors and employees of the Company and Subsidiaries in an aggregate amount not to exceed (i) \$1,000,000 at any time outstanding, for travel, entertainment and analogous ordinary business purposes and (ii) \$10,000,000 at any time outstanding for relocation purposes;

(c) Investments by the Company in any Subsidiary or by any Subsidiary in the Company or another Subsidiary;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees permitted by Section 7.5;

(f) Investments made to consummate Permitted Acquisitions;

(g) Investments listed in the Disclosure Certificate; and

(h) other Investments not exceeding \$10,000,000 in the aggregate at any time outstanding.

7.5 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding at the Effective Time and listed in the Disclosure Certificate and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder;

(c) Guarantees of the Company or any Subsidiary in respect of Indebtedness otherwise permitted hereunder of the Company or any wholly-owned Subsidiary;

(d) obligations (contingent or otherwise) of the Company or any Subsidiary existing or arising under any Swap Contract; provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person and not for purposes of speculation or taking a "market view;" and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Indebtedness in respect of capital leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.1(j); provided that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed a Material Financial Amount; and

(f) unsecured Indebtedness in an aggregate principal amount not to exceed at any time outstanding 20% of Consolidated Net Worth as of the end of the preceding fiscal year; provided that the aggregate amount of all such Indebtedness which is not Permitted Long-Term Indebtedness shall not at any time exceed a Material Financial Amount.

7.6 Use of Proceeds.

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

7.7 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Subsidiary may make Restricted Payments to the Company and to wholly-owned Subsidiaries (and, in the case of a Restricted Payment by a non-wholly-owned Subsidiary, to the Company and any Subsidiary and to each other owner of capital stock or other equity interests of such Subsidiary on a pro rata basis based on their relative ownership interests; provided that no Restricted Payment shall be made by a non-wholly-owned Subsidiary which is a Guarantor at any time a Default exists);

(b) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common equity interests of such Person;

(c) the Company and each Subsidiary may (i) make Permitted Stock Repurchases and (ii) purchase, redeem or otherwise acquire shares of its common stock or other common equity interests or warrants or options to acquire any such shares with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common equity interests; and

(d) the Company may declare or pay ordinary cash dividends to its stockholders.

7.8 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Company and its Subsidiaries at the Effective Time or any business substantially related, complementary or incidental thereto.

7.9 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Company, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Company or such Subsidiary as would be obtainable by the Company or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate.

7.10 Subsidiary Dividends. Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of any Subsidiary to make Restricted Payments to the Company or any Guarantor or to otherwise transfer property to the Company or any Guarantor.

7.11 Financial Covenants.

(a) Consolidated Net Worth. Permit Consolidated Net Worth at any time to be less than the sum of (i) \$341,941,000, (ii) an amount equal to 50% of the Consolidated Net Income earned in each full fiscal quarter ending after the Effective Time (with no deduction for a net loss in any such fiscal quarter) and (iii) an amount equal to 100% of the aggregate increases in Shareholders' Equity of the Company and its Subsidiaries after the Effective Time by reason of the issuance and sale of capital stock or other equity interests of the Company or any Subsidiary, including upon any conversion of debt securities of the Company into such capital stock or other equity interests, but excluding by reason of the issuance and sale of capital stock pursuant to the Company's employee stock purchase plans, employee stock option plans and similar programs.

(b) Fixed Charge Coverage Ratio. Permit the Fixed Charge Coverage Ratio to be less than 1.50 to 1.0 at any time.

(c) Leverage Ratio. Permit the Leverage Ratio as of the end of any fiscal quarter to be greater than 3.25 to 1.0.

**ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES**

8.1 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Company or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any non-use or other fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Company or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or

(c) Specific Covenants. The Company fails to perform or observe any term, covenant or agreement contained in any of Section 6.3(a) or 6.10 or Article VII; provided that, in the case of Section 7.9, such failure shall have continued for five Business Days; or

(d) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (c) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (i) the date on which a Responsible Officer knew or reasonably should have known of such failure and (ii) the date on which written notice thereof is given by the Administrative Agent or any Lender; or

(e) Cross-Default. (i) The Company or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder and Indebtedness under Swap Contracts) or Guarantee (other than any Surety Bond) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than a Material Financial Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of

default under such Swap Contract as to which the Company or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Company or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Company or such Subsidiary as a result thereof is greater than a Material Financial Amount; or

(f) Insolvency Proceedings, Etc. Any Loan Party institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Company under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of a Material Financial Amount, (ii) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under section 302(f) of ERISA; or (iii) the Company or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in a Material Financial Amount.

(h) Inability to Pay Debts; Attachment. (i) Any Loan Party becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 60 days after its issue or levy; or

(i) Judgments. There is entered against the Company or any Subsidiary (i) a final judgment or order for the payment of money in an aggregate amount exceeding a Material Financial Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(j) Change of Control. There occurs any Change of Control with respect to the Company; or

(k) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party

contests in any manner the validity or enforceability of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(l) Defaults with respect to Surety Bonds. (i) Any Person issuing Surety Bonds on behalf of the Company or any Subsidiary ceases for any reason to so issue Surety Bonds, the Company or the applicable Subsidiary fails to promptly procure another issuer for Surety Bonds and such cessation and failure could reasonably be expected to have a Material Adverse Effect; or (ii) the Company or any Subsidiary breaches or defaults on one or more contracts for which Surety Bonds have been issued in an aggregate amount greater than or equal to a Material Financial Amount and the Person or Persons which issued such Surety Bonds either (x) take possession of the work under such bonded contracts and such taking of possession would reasonably be expected to have a Material Adverse Effect or (y) file any Uniform Commercial Code financing statement or similar document to perfect any Lien securing such bonded contracts, unless such filing is terminated within 10 days after such filing is made.

8.2 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Company;

(c) require that the Company Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Company under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Company to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

ARTICLE IX ADMINISTRATIVE AGENT

9.1 Appointment and Authorization of Administrative Agent.

(a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and neither the Company nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions.

(b) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith and the L/C Issuer shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in this Article IX and in the definition of "Agent-Related Person" included the L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided herein with respect to the L/C Issuer.

9.2 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub agents appointed by the Administrative Agent. The Administrative Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub agent and to the Related Parties of the Administrative Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

9.3 Exculpatory Provisions. No Agent-Related Person shall have any duty or obligation except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, no Agent-Related Person:

(a) shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any

information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.1 and 8.2) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Company, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Company referring to this Agreement, describing such Default and stating that such notice is a "notice of default." The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default as may be directed by the Required Lenders in accordance with Article VIII; provided

that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable or in the best interest of the Lenders.

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

9.7 Administrative Agent in its Individual Capacity. Bank of America and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though Bank of America were not the Administrative Agent or the L/C Issuer hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, Bank of America or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, Bank of America shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or the L/C Issuer, and the terms “Lender” and “Lenders” include Bank of America in its individual capacity.

9.8 Successor Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Company, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Company and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this

Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.4 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

9.9 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Company) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.3(i) and (j), 2.9 and 10.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation,

expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.9 and 10.4.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

9.10 Guaranty Matters. The Lenders irrevocably authorize the Administrative Agent to (and the Administrative Agent agrees that, so long as no Default exists or would result therefrom it will upon the request of the Company), release any Guarantor from its obligations under the Guaranty if (i) such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder or (ii) the Company delivers to the Administrative Agent a written request for the release of a Subsidiary from its obligations under the Guaranty; provided that prior to any such release the Administrative Agent shall have received a certificate from a Responsible Officer certifying that (a) the Company will be in compliance with Section 6.12 after giving effect to such release and (b) no Default exists or would result therefrom.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.

9.11 Other Agents. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "syndication agent" or "co-documentation agent" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than, in the case of such Lenders, those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

ARTICLE X MISCELLANEOUS

10.1 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Company or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Company or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no such amendment, waiver or consent shall:

(a) waive any condition set forth in Section 4.1(a) without the written consent of each Lender;

(b) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2) without the written consent of such Lender;

(c) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(d) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 10.1) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided that only the consent of the Required Lenders shall be necessary to waive any obligation of the Company to pay interest at the Default Rate;

(e) change Section 2.13 or Section 8.3 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;

(f) change any provision of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender; or

(g) release all or substantially all of the Guarantors from the Guaranty without the written consent of each Lender;

and, provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

10.2 Notices and Other Communications; Facsimile Copies.

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or (subject to subsection (c) below) electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Company, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.2 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Company, the Administrative Agent, the L/C Issuer and the Swing Line Lender.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of subsection (c) below), when delivered; provided that notices and other communications to the Administrative Agent, the L/C Issuer and the Swing Line Lender pursuant to Article II shall not be effective until actually received by such Person. In no event shall a voicemail message be effective as a notice, communication or confirmation hereunder.

(b) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually-signed originals and shall be binding on all Loan Parties, the Administrative Agent and the Lenders. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

(c) Limited Use of Electronic Mail. Electronic mail and Internet and intranet websites may be used only to distribute routine communications, such as financial statements and other information as provided in Section 6.2, and to distribute Loan Documents for execution by the parties thereto, and may not be used for any other purpose.

(d) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Revolving Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Company even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Company shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from reliance by any such Person on any notice given or purportedly given by or on behalf of the Company, except, with respect to any written notice only, to the extent such losses result from the gross negligence or willful misconduct of such Agent-Related Person or such Lender. All telephonic notices to and other communications with the Administrative Agent

may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

(e) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT RELATED PERSONS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT-RELATED PERSON IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent-Related Person have any liability to the Company, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Company’s or any Agent-Related Person’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent-Related Person; provided that in no event shall any Agent-Related Person have any liability to the Company, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

10.3 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 USA Patriot Act Notice. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Company that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Company in accordance with the Act.

10.5 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Company shall pay (i) all reasonable and documented out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent and its Affiliates in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated),

(ii) all reasonable and documented out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance or Modification of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including Attorney Costs), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Company. The Company shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all reasonable and documented fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Company or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Company or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Company or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that the Company for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of

any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(c).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Company shall not assert, and 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 other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent and the L/C Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

10.6 Payments Set Aside. To the extent that any payment by or on behalf of the Company is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.

10.7 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Company may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) or (i) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (h) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that (i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund (as defined in subsection (g) of this Section) with respect to a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (which consent of the Company shall not be unreasonably withheld or delayed); (ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to rights in respect of Swing Line Loans; (iii) any assignment of a Commitment must be approved by the Administrative Agent, the L/C Issuer and the Swing Line Lender (which approvals shall not be unreasonably withheld or delayed) unless the Person that is the proposed assignee is itself a Lender (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee); and (iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$2,500. Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.1, 3.3, 3.4 and 10.5 with respect to facts and

circumstances occurring prior to the effective date of such assignment). Upon request, the Company (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) The Administrative Agent, acting solely for this purpose as an agent of the Company, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Company, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Any Lender may at any time, without the consent of, or notice to, the Company or the Administrative Agent, sell participations to any Person (other than a natural person or the Company or any of the Company's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Company, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.1 that directly affects such Participant. Subject to subsection (e) of this Section, the Company agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.2 and 3.3 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.9 as though it were a Lender; provided such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) A Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.3 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.1 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 10.13 as though it were a Lender.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) As used herein, the following terms have the following meanings:

“Eligible Assignee” means (i) a Lender; (ii) an Affiliate of a Lender; (iii) an Approved Fund; and (iv) any other Person (other than a natural person) approved by (x) the Administrative Agent, the L/C Issuer and the Swing Line Lender, and (y) unless an Event of Default has occurred and is continuing, the Company (each such approval not to be unreasonably withheld or delayed); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include the Company or any of the Company’s Affiliates or Subsidiaries

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

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

(h) Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company (an “SPC”) the option to provide all or any part of any Revolving Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Revolving Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Revolving Loan, the Granting Lender shall be obligated to make such Revolving Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Company under this Agreement (including its obligations under Section 3.2), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Revolving Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Revolving Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof.

Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Company and the Administrative Agent and with the payment of a processing fee of \$2,500, assign all or any portion of its right to receive payment with respect to any Revolving Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Revolving Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Notwithstanding anything to the contrary contained herein, any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities, provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.7, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

(j) Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to subsection (b) above, Bank of America may, (i) upon 30 days' notice to the Company and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days' notice to the Company, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Company shall be entitled to appoint from among the Lenders (subject to the consent by the applicable Lender to such appointment) a successor L/C Issuer or Swing Line Lender hereunder; provided that no failure by the Company to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights and obligations of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.3(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.4(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

10.8 Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b)

to the extent requested by any regulatory authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedy hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Company and its obligations, (g) with the consent of the Company or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Company. For purposes of this Section, "Information" means all information received from any Loan Party relating to any Loan Party or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by any Loan Party, provided that, in the case of information received from a Loan Party after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

10.9 Set-off. In addition to any rights and remedies of the Lenders provided by law, upon the occurrence and during the continuance of any Event of Default, each Lender is authorized at any time and from time to time, without prior notice to the Company or any other Loan Party, any such notice being waived by the Company (on its own behalf and on behalf of each Loan Party) to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties against any and all Obligations owing to such Lender hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not the Administrative Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or indebtedness. Each Lender agrees promptly to notify the Company and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application.

10.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Company. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize

any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.11 Integration. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Administrative Agent or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

10.12 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.13 Tax Forms. (a) (i) Each Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (a "Foreign Lender") shall deliver to the Administrative Agent, prior to receipt of any payment subject to withholding under the Code (or upon accepting an assignment of an interest herein), two duly signed completed copies of either IRS Form W-8BEN or any successor thereto (relating to such Foreign Lender and entitling it to an exemption from, or reduction of, withholding tax on all payments to be made to such Foreign Lender by the Company pursuant to this Agreement) or IRS Form W-8ECI or any successor thereto (relating to all payments to be made to such Foreign Lender by the Company pursuant to this Agreement) or such other evidence satisfactory to the Company and the Administrative Agent that such Foreign Lender is entitled to an exemption from, or reduction of, U.S. withholding tax, including any exemption pursuant to Section 881(c) of the Code. Thereafter and from time to time, each such Foreign Lender shall (A) promptly submit to the Administrative Agent such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is satisfactory to the Company and the Administrative Agent of any available exemption from or reduction of, United States withholding taxes in respect of all payments to be made to such Foreign Lender by the Company pursuant to this Agreement, (B) promptly notify the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (C) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably

necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws that the Company make any deduction or withholding for taxes from amounts payable to such Foreign Lender.

(ii) Each Foreign Lender, to the extent it does not act or ceases to act for its own account with respect to any portion of any sums paid or payable to such Lender under any of the Loan Documents (for example, in the case of a typical participation by such Lender), shall deliver to the Administrative Agent on the date when such Foreign Lender ceases to act for its own account with respect to any portion of any such sums paid or payable, and at such other times as may be necessary in the determination of the Administrative Agent (in the reasonable exercise of its discretion), (A) two duly signed completed copies of the forms or statements required to be provided by such Lender as set forth above, to establish the portion of any such sums paid or payable with respect to which such Lender acts for its own account that is not subject to U.S. withholding tax, and (B) two duly signed completed copies of IRS Form W-8IMY (or any successor thereto), together with any information such Lender chooses to transmit with such form, and any other certificate or statement of exemption required under the Code, to establish that such Lender is not acting for its own account with respect to a portion of any such sums payable to such Lender.

(iii) The Company shall not be required to pay any additional amount to any Foreign Lender under Section 3.1 (A) with respect to any Taxes required to be deducted or withheld on the basis of the information, certificates or statements of exemption such Lender transmits with an IRS Form W-8IMY pursuant to this Section 10.13(a) or (B) if such Lender shall have failed to satisfy the foregoing provisions of this Section 10.13(a); provided that if such Lender shall have satisfied the requirement of this Section 10.13(a) on the date such Lender became a Lender or ceased to act for its own account with respect to any payment under any of the Loan Documents, nothing in this Section 10.13(a) shall relieve the Company of its obligation to pay any amounts pursuant to Section 3.1 in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender or other Person for the account of which such Lender receives any sums payable under any of the Loan Documents is not subject to withholding or is subject to withholding at a reduced rate.

(iv) The Administrative Agent may, without reduction, withhold any Taxes required to be deducted and withheld from any payment under any of the Loan Documents with respect to which the Company is not required to pay additional amounts under this Section 10.13(a).

(b) Upon the request of the Administrative Agent, each Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Administrative Agent two duly signed completed copies of IRS Form W-9. If such Lender fails to deliver such forms, then the Administrative Agent may withhold from any interest payment to such Lender an amount equivalent to the applicable back-up withholding tax imposed by the Code, without reduction.

(c) If any Governmental Authority asserts that the Administrative Agent did not properly withhold or backup withhold, as the case may be, any tax or other amount from

payments made to or for the account of any Lender, such Lender shall indemnify the Administrative Agent therefor, including all penalties and interest, any taxes imposed by any jurisdiction on the amounts payable to the Administrative Agent under this Section, and costs and expenses (including Attorney Costs) of the Administrative Agent. The obligation of the Lenders under this Section shall survive the termination of the Aggregate Commitments, repayment of all other Obligations hereunder and the resignation of the Administrative Agent.

10.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.15 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.16 Automatic Debits of Fees. With respect to any interest, non-use fee, letter of credit fee or other fee due and payable to the Administrative Agent, the LC Issuer, the Swing Line Lender, Bank of America or the Arranger under the Loan Documents, the Company hereby irrevocably authorizes Bank of America to debit any deposit account of the Company with Bank of America in an amount such that the aggregate amount debited from all such deposit accounts does not exceed such fee or other cost or expense. If there are insufficient funds in such deposit accounts to cover the amount of the interest or fees then due, such debits will be reversed (in whole or in part, in Bank of America's sole discretion) and such amount not debited shall be deemed to be unpaid. No such debit under this Section shall be deemed a set-off.

10.17 Governing Law.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF CALIFORNIA APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE; PROVIDED THAT THE ADMINISTRATIVE AGENT AND EACH LENDER SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF CALIFORNIA SITTING IN SAN FRANCISCO OR OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE COMPANY, THE ADMINISTRATIVE AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE COMPANY, THE ADMINISTRATIVE AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE

LAYING OF VENUE OR BASED ON THE GROUNDS OF *FORUM NON CONVENIENS*, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. THE COMPANY, THE ADMINISTRATIVE AGENT AND EACH LENDER WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF SUCH STATE.

10.18 Waiver of Right to Trial by Jury. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY 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 PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

10.19 Termination of Existing Credit Agreement. The Company and the Lenders that are parties to the Existing Credit Agreement (which constitute "Required Lenders" under and as defined in the Existing Credit Agreement) agree that, at the Effective Time, the Commitments under the Existing Credit Agreement shall automatically terminate (without any further action and notwithstanding any provision of the Existing Credit Agreement that requires notice of such termination) and the Existing Credit Agreement shall be of no further force or effect (except for any provision thereof that by its terms survives termination thereof).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ABM INDUSTRIES INCORPORATED

By: /s/ George B. Sundby
Name: George B. Sundby
Title: Executive Vice President and
Chief Financial Officer

S-1

BANK OF AMERICA, N.A., as
Administrative Agent

By: /s/ Ken Puro
Name: Ken Puro
Title: Vice President

S-2

BANK OF AMERICA, N.A., as a Lender, L/C
Issuer and Swing Line Lender

By: /s/ Ronald J. Drobny

Name: Ronald J. Drobny

Title: Senior Vice President

S-3

KEYBANK NATIONAL ASSOCIATION, as
Syndication Agent and as a Lender

By: /s/ Robert W. Boswell

Name: Robert W. Boswell

Title: Vice President

S-4

U.S. BANK NATIONAL ASSOCIATION, as Co-
Documentation Agent and as a Lender

By: /s/ Douglas A. Rich

Name: Douglas A. Rich

Title: Vice President

S-5

BNP PARIBAS, as Co-Documentation Agent and
as a Lender

By: /s/ Stephanie Mack
Name: Stephanie Mack
Title: VP & Deputy Manager

BNP PARIBAS, as Co-Documentation Agent and
as a Lender

By: /s/ Jamie Dillon
Name: Jamie Dillon
Title: Managing Director

S-6

LASALLE BANK NATIONAL ASSOCIATION

By: /s/ Steven M. Cohen
Name: Steven M. Cohen
Title: Senior Vice President

S-7

JPMORGAN CHASE BANK, N.A.

By: /s/ Stephen C. Price

Name: Stephen C. Price

Title: Senior Vice President

S-8

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ John Taylor
Name: John Taylor
Title: Vice President

S-9

EXISTING LETTERS OF CREDIT

Letter of Credit Number 3007169 to Continental Casualty Company, Transportation Insurance Company and Transcontinental Technical Services, Inc. for \$64,929,000

Letter of Credit Number 3028505 to Fireman's Fund Insurance Company for \$495,000

Letter of Credit Number 3015404 to Metropolitan Airports Commission for \$2,245,947

Letter of Credit Number LASB 226265 to Wichita Airport Authority for \$300,000

Letter of Credit Number 3050357 to Zurich American Insurance Company for \$1,800,000

Letter of Credit Number 3056568 to Illinois Industrial Commission for \$275,000

Letter of Credit Number 3061674 to Minnesota Pollution Control Agency for \$15,000

Letter of Credit Number 3060651 to Ace American Insurance Company and Indemnity Insurance Company of North America for \$21,500,000

Letter of Credit Number 3072155 to Ace American Insurance Company and Indemnity Insurance Company of North America for \$20,000,000

Letter of Credit Number 3061489 to Cheryl Forbes for \$7,000,000

COMMITMENTS
AND PRO RATA SHARES

Lender	Commitment	Pro Rata Share
Bank of America, N.A.	\$ 70,000,000	23.3333333333%
KeyBank National Association	\$ 45,000,000	15.0000000000%
U.S. Bank National Association	\$ 45,000,000	15.0000000000%
BNP Paribas	\$ 45,000,000	15.0000000000%
LaSalle Bank National Association	\$ 35,000,000	11.6666666667%
JPMorgan Chase Bank, N.A.	\$ 30,000,000	10.0000000000%
Wachovia Bank, National Association	\$ 30,000,000	10.0000000000%
Total	\$ 300,000,000	100.0000000000%

**EURODOLLAR AND DOMESTIC LENDING OFFICES,
ADDRESSES FOR NOTICES**

ABM INDUSTRIES INCORPORATED

160 Pacific Avenue, Suite 222
San Francisco, CA 94111-1428

Attn: George B. Sundby

Executive Vice President and Chief Financial Officer

Telephone: 415-733-4018

Facsimile: 415-733-5123

Electronic Mail: gsundby@abm.com

With a copy to:

ABM Industries Incorporated

160 Pacific Avenue, Suite 222

San Francisco, CA 94111-1428

Attn: Linda S. Auwers, General Counsel

Telephone: 415-733-4013

Facsimile: 415-733-7333

BANK OF AMERICA

Administrative Agent's Office and Bank of America's Lending Office:

Bank of America, N.A.

Commercial Agency Management

800 Fifth Avenue, Floor 37

Mail Code: WA1-501-37-20

Seattle, WA 98104

Attn: Ken Puro

Telephone: 206-358-0138

Facsimile: 206-358-0971

Email: ken.puro@bankofamerica.com

Requests for Credit Extensions:

Bank of America, N.A.

Credit Services

CA4-706-05-09

1820 Gateway Blvd.

Concord CA 94520-3282

Attn: Leroy Granby

Telephone: 925-675-8368

Facsimile: 888-969-2419

Email: leroy.granby@bankofamerica.com

Bank of America, N.A. Dallas TX
ABA 111000012
Acct. Name: Corporate FTA
Acct #: 3750836479
Attn: Leroy Granby
Ref: ABM Industries Inc.

L/C Issuer:

Bank of America, N.A.
Trade Operations-Los Angeles #22621
333 S. Beaudry Avenue, 19th Floor
Mail Code: CA9-703-19-23
Los Angeles, CA 90017-1466
Attn: Sandra Leon
Telephone: 213-345-5231
Facsimile: 213-345-6694
Email: Sandra.Leon@bankofamerica.com

Other Notices as a Lender:

Bank of America, N.A.
345 Montgomery Street
San Francisco, CA 94104-1898
Attn: Ron Drobny
Telephone: 415-953-9023
Facsimile: 415-622-1878
Email: Ronald.Drobny@bankofamerica.com

FORM OF REVOLVING LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Credit Agreement dated as of May 25, 2005 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement;" the terms defined therein being used herein as therein defined) among ABM Industries Incorporated, a Delaware corporation (the "Company"), the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests (select one):

- A Borrowing of Revolving Loans
- A conversion or continuation of Loans

1. On _____ (a Business Day).
2. In the amount of \$ _____.
3. Comprised of _____.

[Type of Revolving Loan requested]

4. For Eurodollar Rate Loans: with an Interest Period of _____ months.

[The Revolving Borrowing requested herein complies with the proviso to the first sentence of Section 2.1 of the Agreement.]

ABM INDUSTRIES INCORPORATED

By: _____
 Name: _____
 Title: _____

FORM OF SWING LINE LOAN NOTICE

Date: _____, _____

To: Bank of America, N.A., as Swing Line Lender
Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of May 25, 2005 amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement;" the terms defined therein being used herein as therein defined), among ABM Industries Incorporated, a Delaware corporation (the "Company"), the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests:

- A Swing Line Loan
- A conversion or continuation of a Swing Line Loan

1. On _____(a Business Day).

2. In the amount of \$ _____.

Such Swing Line Loan shall be [a Base Rate Loan][an IBOR Rate Loan with an Interest Period of ___days].

The Swing Line Borrowing requested herein complies with the requirements of the provisos to the first sentence of Section 2.4(a) of the Agreement.

ABM INDUSTRIES INCORPORATED

By: _____
Name: _____
Title: _____

FORM OF NOTE

_____ , _____

FOR VALUE RECEIVED, the undersigned (the "Company"), hereby promises to pay to the order of _____ (the "Lender"), on the Maturity Date (as defined in the Credit Agreement referred to below) the principal amount of all Revolving Loans (as defined in such Credit Agreement) made by the Lender to the Company under the Credit Agreement dated as of May 25, 2005 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement;" terms defined therein being used herein as therein defined) among the Company, the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The Company promises to pay interest on the unpaid principal amount of each Revolving Loan from the date of such Revolving Loan until such principal amount is paid in full, at such interest rates and at such times as are specified in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is one of the Notes referred to in the Agreement, is entitled to the benefits thereof and is subject to prepayment in whole or in part as provided therein. This Note is also entitled to the benefits of the Guaranty. Upon the occurrence of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable, all as provided in the Agreement. Revolving Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Revolving Loans and payments with respect thereto.

The Company, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

ABM INDUSTRIES INCORPORATED

By: _____
Name: _____
Title: _____

Form of Note
C-2

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: _____,

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to the Credit Agreement, dated as of May 25, 2005 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement," the terms defined therein being used herein as therein defined), among ABM Industries Incorporated, a Delaware corporation (the "Company"), the Lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned Responsible Officer hereby certifies as of the date hereof that he/she is the _____ of the Company, and that, as such, he/she is authorized to execute and deliver this Certificate to the Administrative Agent on the behalf of the Company, and that:

[Use following for fiscal year-end financial statements]

1. Attached hereto as Schedule 1 are the year-end audited financial statements required by Section 6.1(a) of the Agreement for the fiscal year ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

[Use following for fiscal quarter-end financial statements]

1. Attached hereto as Schedule 1 are the unaudited financial statements required by Section 6.1(b) of the Agreement for the fiscal quarter ended as of the above date. Such financial statements fairly present the financial condition, results of operations and cash flows of the Company and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end adjustments and the absence of footnotes.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Company during the accounting period covered by the attached financial statements.

3. A review of the activities of the Company during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Company performed and observed all its Obligations under the Loan Documents, and

[select one:]

[to the best knowledge of the undersigned during such fiscal period, the Company performed and observed each covenant and condition of the Loan Documents applicable to it.]

—or—

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default or Event of Default and its nature and status:]

4. The financial covenant analyses and information set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of ____, ____.

ABM INDUSTRIES INCORPORATED

By: _____

Name: _____

Title: _____

Form of Compliance Certificate

D-2

For the Quarter/Year ended _____ (“Statement Date”)

Form of Compliance Certificate
D-3

SCHEDULE 2
to the Compliance Certificate
(\$ in 000's)

Date: _____
For the Fiscal Quarter / Year
Ended: _____

Section 7.11(a) Consolidated Net Worth

NET WORTH

Total Consolidated Assets:	\$ —
minus	
Total Consolidated Liabilities:	\$ —
equals	<u>\$ —</u>

MINIMUM REQUIRED

the sum of -

Base Amount:	\$ 341,941
plus	
0.50 times quarterly Net Income earned after Effective Time (without deductions for losses)	\$ —
plus	
Increases in Shareholders' Equity after the Effective Time resulting from the issuance and sale of capital stock or other equity interests of the Company or any Subsidiary (including upon any conversion of debt securities)	\$ —
equals	<u>\$ -</u>

Section 7.11(b) Fixed Charge Coverage Ratio

Adjusted Consolidated EBITDAR (rolling four quarter basis)

Net Income:	\$ —
plus	
Extraordinary/non-cash/non-recurring loss:	\$ —
minus	
Extraordinary/non-recurring gain or income (other than non-recurring income arising from settlements of business interruption insurance claims):	\$ —
plus	
Consolidated Interest Charges:	\$ —
plus	
Federal/state/local/foreign income taxes:	\$ —
plus	
Depreciation & Amortization:	\$ —
Adjusted Consolidated EBITDA	\$ —
(pro forma for qualified Acquisitions/Dispositions)	
plus	
Rent Expense:	\$ —

Total: \$ —

divided by

Consolidated Interest Charges \$ —

plus

Rent Expense \$ —

plus

Scheduled principal payments of long-term Indebtedness \$ —

Total: \$ —

equals (expressed as a ratio) to 1.00

MINIMUM REQUIRED: 1.50 to 1.00

Section 7.11(c) Leverage Ratio

FUNDED INDEBTEDNESS

Indebtedness Outstanding: \$ —

less

Contingent obligations under commercial letters of credit and Guarantees \$ —

less

Obligations under Swap Contracts \$ —

less

Intercompany Indebtedness \$ —

Total: \$ -

Adjusted Consolidated EBITDA \$ —

equals (expressed as a ratio) to 1.00

MAXIMUM ALLOWED: 3.25 to 1.00

Form of Compliance Certificate

D-5

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the "Assignor") and [Insert name of Assignee] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the respective facilities identified below (including, without limitation, Letters of Credit and Swing Line Loans included in such facilities and, to the extent permitted to be assigned under applicable law, all claims (including, without limitation, contract claims, tort claims, malpractice claims and all other claims at law or in equity, including claims under any law governing the purchase and sale of securities or governing indentures pursuant to which securities are issued), suits, causes of action and any other right of the Assignor against any other Person) (the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

- 1. Assignor: _____
- 2. Assignee: _____ [and is an Affiliate/Approved Fund of [identify Lender]¹]
- 3. Company: ABM Industries Incorporated
- 4. Administrative Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement
- 5. Credit Agreement: The Credit Agreement dated as of May 25, 2005 among ABM Industries Incorporated, the Lenders parties thereto and Bank of America, N.A., as Administrative Agent

¹ Select as applicable.

6. Assigned Interest:

Facility Assigned	Aggregate Amount of Commitment/Loans for all Lenders*	Amount of Commitment/Loans Assigned*	Percentage Assigned of Commitment/Loans ²
_____3	\$ _____	\$ _____	_____ %
_____	\$ _____	\$ _____	_____ %
_____	\$ _____	\$ _____	_____ %

[7. Trade Date: _____]4

Effective Date: _____, 20____[TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title:

-
- * Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.
 - 2 Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.
 - 3 Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Revolving Credit Commitment", "Term Loan Commitment", etc.).
 - 4 To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

Consented to and Accepted:

BANK OF AMERICA, N.A., as
Administrative Agent

By: _____
Title:

[Consented to:]⁵
ABM INDUSTRIES INCORPORATED

By: _____
Title:

⁵ To be added only if the consent of the Company and/or other parties (e.g. Swing Line Lender, L/C Issuer) is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 6.1 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

1.3 Assignee's Address for Notices, etc. Attached hereto as Schedule 1 is all contact information, address, account and other administrative information relating to the Assignee.

Form of Assignment and Assumption

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to or on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of California.

Form of Assignment and Assumption

E-5

ADMINISTRATIVE DETAILS

*(Assignee to list names of credit contacts, addresses, phone and facsimile numbers,
electronic mail addresses and account and payment information)*

Form of Assignment and Assumption

FORM OF GUARANTY

GUARANTY

THIS GUARANTY dated as of May 25, 2005 is executed in favor of BANK OF AMERICA, N.A. ("Bank of America"), as Administrative Agent (as defined below), and the Lenders (as defined below).

WITNESSETH:

WHEREAS, ABM Industries Incorporated (the "Company"), various financial institutions (together with their respective successors and assigns, the "Lenders") and Bank of America, as administrative agent (in such capacity, the "Administrative Agent"), have entered into a Credit Agreement dated as of May 25, 2005 (as amended, restated or otherwise modified from time to time, the "Credit Agreement"; capitalized terms used but not defined herein have the respective meanings ascribed thereto in the Credit Agreement); and

WHEREAS, each of the undersigned will benefit from the making of loans and the issuance of letters of credit pursuant to the Credit Agreement and is willing to guarantee the Liabilities (as defined below) as hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the undersigned hereto agrees as follows:

Each of the undersigned hereby jointly and severally, unconditionally and irrevocably, as primary obligor and not merely as surety, guarantees the full and prompt payment when due, whether by acceleration or otherwise, and at all times thereafter, of (a) all obligations of the Company, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, which arise out of or in connection with the Credit Agreement or any other Loan Document, as the same may be amended, modified, extended or renewed from time to time, and (b) all reasonable costs and expenses paid or incurred by the Administrative Agent or any Lender in enforcing this Guaranty or any other applicable Loan Document against such undersigned (all such obligations being herein collectively called the "Liabilities"); provided that the liability of each of the undersigned hereunder shall be limited to the maximum amount of the Liabilities which such undersigned may guaranty without rendering the obligations of such undersigned hereunder void or voidable under any fraudulent conveyance or fraudulent transfer law.

Each of the undersigned agrees that, in the event of the occurrence of any Event of Default under Section 8.1(f) of the Credit Agreement with respect to the Company, and if such event shall occur at a time when any of the Liabilities may not then be due and payable, such undersigned will pay to the Administrative Agent for the account of the Lenders forthwith the full amount which would be payable hereunder by such undersigned if all Liabilities were then due and payable.

To secure all obligations of each of the undersigned hereunder, the Administrative Agent and each Lender shall have a lien on and security interest in (and may, without demand or notice of any kind, at any time and from time to time when any amount shall be due and payable by such undersigned hereunder, appropriate and apply toward the payment of such amount, in such

order of application as the Administrative Agent or the Lenders may elect, in accordance with the Credit Agreement, if then in effect) any and all balances, credits, deposits, accounts or moneys of or in the name of such undersigned now or hereafter with the Administrative Agent or such Lender and any and all property of every kind or description of or in the name of such undersigned now or hereafter, for any reason or purpose whatsoever, in the possession or control of, or in transit to, the Administrative Agent or such Lender or any agent or bailee for the Administrative Agent or such Lender.

This Guaranty shall in all respects be a continuing, irrevocable, absolute and unconditional guaranty of payment and performance and not only collectibility, and shall remain in full force and effect (notwithstanding, without limitation, the dissolution of any of the undersigned, that at any time or from time to time no Liabilities are outstanding or any other circumstance) until all Commitments have terminated and all Liabilities have been paid in full.

The undersigned further agree that if at any time all or any part of any payment theretofore applied by the Administrative Agent or any Lender to any of the Liabilities is or must be rescinded or returned by the Administrative Agent or such Lender for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of the Company or any of the undersigned), such Liabilities shall, for the purposes of this Guaranty, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Administrative Agent or such Lender, and this Guaranty shall continue to be effective or be reinstated, as the case may be, as to such Liabilities, all as though such application by the Administrative Agent or such Lender had not been made.

The Administrative Agent or any Lender may, from time to time, at its sole discretion and without notice to the undersigned (or any of them), take any or all of the following actions without affecting the liability of the undersigned hereunder: (a) retain or obtain a security interest in any property to secure any of the Liabilities or any obligation hereunder, (b) retain or obtain the primary or secondary obligation of any obligor or obligors, in addition to the undersigned, with respect to any of the Liabilities, (c) extend or renew any of the Liabilities for one or more periods (whether or not longer than the original period), alter or exchange any of the Liabilities, or release or compromise any obligation of any of the undersigned hereunder or any obligation of any nature of any other obligor with respect to any of the Liabilities, (d) release its security interest in, or surrender, release or permit any substitution or exchange for, all or any part of any property securing any of the Liabilities or any obligation hereunder, or extend or renew for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any obligor with respect to any such property, and (e) resort to the undersigned (or any of them) for payment of any of the Liabilities when due, whether or not the Administrative Agent or such Lender shall have resorted to any property securing any of the Liabilities or any obligation hereunder or shall have proceeded against any other of the undersigned or any other obligor primarily or secondarily obligated with respect to any of the Liabilities.

Any amounts received by the Administrative Agent or any Lender from whatever source on account of the Liabilities may be applied by it toward the payment of the Liabilities in accordance with the Credit Agreement; and, notwithstanding any payments made by or for the account of any of the undersigned pursuant to this Guaranty, the undersigned shall not be

subrogated to any rights of the Administrative Agent or any Lender until such time as this Guaranty shall have been discontinued as to all of the undersigned and the Administrative Agent and the Lenders shall have received payment of the full amount of all Liabilities.

The undersigned hereby expressly waive: (a) notice of the acceptance by the Administrative Agent or any Lender of this Guaranty, (b) notice of the existence or creation or non-payment of all or any of the Liabilities, (c) presentment, demand, notice of dishonor, protest, and all other notices whatsoever, and (d) all diligence in collection or protection of or realization upon any Liabilities or any security for or guaranty of any Liabilities.

The creation or existence from time to time of additional Liabilities to the Administrative Agent or any Lender or any of them is hereby authorized, without notice to the undersigned (or any of them), and shall in no way affect or impair the rights of the Administrative Agent or any Lender or the obligations of the undersigned under this Guaranty.

The Administrative Agent and any Lender may from time to time, without notice to the undersigned (or any of them), assign or transfer any or all of the Liabilities or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Liabilities shall be and remain Liabilities for the purposes of this Guaranty, and each and every immediate and successive assignee or transferee of any of the Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Liabilities, be entitled to the benefits of this Guaranty to the same extent as if such assignee or transferee were a Lender.

No delay on the part of the Administrative Agent or any Lender in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Administrative Agent or any Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any provision of this Guaranty be binding upon the Administrative Agent or any Lender except as expressly set forth in a writing duly signed and delivered on behalf of the Administrative Agent (or, if at any time there is no Administrative Agent, the Required Lenders or, if required pursuant to Section 10.1 of the Credit Agreement, all Lenders). No action of the Administrative Agent or any Lender permitted hereunder shall in any way affect or impair the rights of the Administrative Agent or any Lender or the obligations of the undersigned under this Guaranty. For purposes of this Guaranty, Liabilities shall include all obligations of the Company to the Administrative Agent or any Lender arising under or in connection with any Loan Document, notwithstanding any right or power of the Company or anyone else to assert any claim or defense as to the invalidity or unenforceability of any obligation, and no such claim or defense shall affect or impair the obligations of the undersigned hereunder.

Pursuant to the Credit Agreement, (a) this Guaranty has been delivered to the Administrative Agent and (b) the Administrative Agent has been authorized to enforce this Guaranty on behalf of itself and each of the Lenders. All payments by the undersigned pursuant to this Guaranty shall be made to the Administrative Agent for application as set forth in the Credit Agreement or, if there is no Administrative Agent, to the Lenders for their ratable benefit.

This Guaranty shall be binding upon the undersigned and the successors and assigns of the undersigned; and to the extent that the Company or any of the undersigned is either a partnership, corporation, limited liability company or other entity, all references herein to the Company and to the undersigned, respectively, shall be deemed to include any successor or successors, whether immediate or remote, to such entity. The term “undersigned” as used herein shall mean all parties executing this Guaranty and each of them, and all such parties shall be jointly and severally obligated hereunder.

This Guaranty shall be construed in accordance with and governed by the internal laws of the State of California. Wherever possible each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

This Guaranty may be executed in any number of counterparts and by the different parties hereto on separate counterparts, and each such counterpart shall be deemed to be an original but all such counterparts shall together constitute one and the same Guaranty. At any time after the date of this Guaranty, one or more additional persons or entities may become parties hereto by executing and delivering to the Administrative Agent a counterpart of this Guaranty. Immediately upon such execution and delivery (and without any further action), each such additional person or entity will become a party to, and will be bound by all of the terms of, this Guaranty.

Notwithstanding any other provision of this Guaranty, any of the undersigned may be released from its obligations hereunder by the Administrative Agent in accordance with Section 9.10 of the Credit Agreement. No such release shall affect the obligations of any of the other undersigned, or impair the rights or remedies of the Administrative Agent or any Lender, hereunder.

Each of the undersigned waives: (i) any defense to the recovery by the Lenders against such undersigned of any deficiency or otherwise to the enforcement of this Guaranty or any security for this Guaranty based upon the election of any remedy by the Administrative Agent against any of the undersigned or the Company, including the defense to enforcement of this Guaranty (the so-called “Gradsky” defense) which, absent this waiver, such undersigned would have by virtue of an election by the Administrative Agent to conduct a non-judicial foreclosure sale (also known as a “trustee’s sale”) of any real property security for the Liabilities, it being understood by such undersigned that any such non-judicial foreclosure sale will destroy, by operation of California Code of Civil Procedure Section 580d, all rights of any party to a deficiency judgment against the Company and, as a consequence, will destroy all rights which such undersigned would otherwise have (including the right of subrogation, the right of reimbursement, and the right of contribution) to proceed against the Company; (ii) any defense or benefits that may be derived from California Code of Civil Procedure Sections 580a, 580d or 726, or comparable provisions of the laws of any other jurisdiction and all other anti-deficiency and one form of action defenses under the laws of California and any other jurisdiction; (iii) any right to a fair value hearing under California Code of Civil Procedure Section 580a, or any other similar law, to determine the size of any deficiency owing (for which such undersigned would be

liable hereunder) following a non-judicial foreclosure sale; (iv) any defense or benefits that may be derived from California Civil Code Sections 2808, 2809, 2810, 2819, 2845, 2849 or 2850 or comparable provisions of the laws of any other jurisdiction, and all other suretyship defenses such undersigned would otherwise have under the laws of California or any other jurisdiction.

Without limiting the foregoing, or anything else contained in this Guaranty, each of the undersigned waives all rights and defenses that such undersigned may have because any of the Liabilities are at any time secured by real property. This means, among other things:

(a) that the Lenders may collect from any of the undersigned without first foreclosing on any real or personal property collateral pledged by the Company; and

(b) if the Administrative Agent forecloses on any real property collateral pledged by the Company: (i) the amount of the Liabilities may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and (ii) the Administrative Agent may collect from any of the undersigned even if the Administrative Agent, by foreclosing on the real property collateral, has destroyed any right such undersigned may have to collect from the Company.

The foregoing is an unconditional and irrevocable waiver of any rights and defenses that any of the undersigned may have because the Liabilities are secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Sections 580a, 580b, 580d, or 726 of the California Code of Civil Procedure or comparable provisions of the laws of any other jurisdiction.

Each of the undersigned waives its rights of subrogation and reimbursement and any other rights and defenses available to it by reason of Sections 2787 and 2855, inclusive, of the California Civil Code, or comparable provisions of the laws of any other jurisdiction, including (i) any defenses it may have by reason of an election of remedies by the Administrative Agent and (ii) any rights or defenses it may have by reason of protection afforded to the Company with respect to the Liabilities pursuant to the anti-deficiency or other laws of California limiting or discharging the obligations of the Company, including Sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure or comparable provisions of the laws of any other jurisdiction.

ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT, SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF CALIFORNIA OR IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA; PROVIDED THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT THE ADMINISTRATIVE AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH OF THE UNDERSIGNED HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF CALIFORNIA AND OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR THE

PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE. EACH OF THE UNDERSIGNED FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, TO THE ADDRESS SET FORTH UNDER ITS NAME ON THE RELEVANT SIGNATURE PAGE HEREOF (OR SUCH OTHER ADDRESS AS IT SHALL HAVE SPECIFIED IN WRITING TO THE ADMINISTRATIVE AGENT AS ITS ADDRESS FOR NOTICES HEREUNDER) OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF CALIFORNIA. EACH OF THE UNDERSIGNED HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

EACH OF THE UNDERSIGNED, AND (BY ACCEPTING THE BENEFITS HEREOF) EACH OF THE ADMINISTRATIVE AGENT AND EACH LENDER, HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY, OR ANY OTHER LOAN DOCUMENT AND ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Guaranty has been duly executed and delivered as of the day and year first above written.

ABM CO. OF BOSTON
ABM ENGINEERING SERVICES COMPANY
ABM FACILITY SERVICES COMPANY
ABM GLOBAL FACILITY SERVICES
ABM JANITORIAL SERVICES — NORTHERN CALIFORNIA
ABM JANITORIAL NORTHEAST, INC.
ABM JANITORIAL SERVICES, INC.
ABM MID-ATLANTIC, INC.
ABM SECURITY SERVICES, INC.
ABM SUPPLY COMPANY
ABMI SECURITY SERVICES, INC.
ALLIED MAINTENANCE SERVICES, INC.
AMERICAN BUILDING MAINTENANCE CO.
AMERICAN BUILDING MAINTENANCE CO. — WEST
AMERICAN BUILDING MAINTENANCE CO. OF GEORGIA
AMERICAN BUILDING MAINTENANCE CO. OF HAWAII
AMERICAN BUILDING MAINTENANCE CO. OF KENTUCKY
AMERICAN BUILDING MAINTENANCE CO. OF NEW YORK
AMERICAN BUILDING MAINTENANCE CO. OF NEW YORK — MANHATTAN
AMERICAN COMMERCIAL SECURITY SERVICES OF NEW YORK, INC.
AMERICAN COMMERCIAL SECURITY SERVICES, INC.
AMERICAN PUBLIC SERVICES
AMERICAN SECURITY & INVESTIGATIVE SERVICE, INC.
AMPCO SYSTEM PARKING
AMTECH LIGHTING & ELECTRICAL SERVICES
AMTECH LIGHTING SERVICES
AMTECH LIGHTING SERVICES OF THE MIDWEST
BONDED MAINTENANCE COMPANY
BRADFORD BUILDING SERVICES, INC.
COMMAIR MECHANICAL SERVICES
ELITE SECURITY, INC.
SERVALL SERVICES INC.
SSA SECURITY, INC.
SYSTEM PARKING, INC.

By: _____
Name: _____
Title: _____

160 Pacific Avenue, Suite 222
San Francisco, CA 94111-1428
Attention: George B. Sundby
Facsimile: (415) 733-5123

Signature page for the Guaranty dated as of May 25, 2005 issued by various subsidiaries of ABM Industries Incorporated (the "Company") in favor of Bank of America, N.A., as Administrative Agent, under the Credit Agreement dated as of May 25, 2005 with the Company and various other parties, and the Lenders referred to in such Guaranty.

The undersigned is executing a counterpart hereof for purposes of becoming a party hereto:

[SUBSIDIARY]

By: _____
Name Printed: _____
Title: _____

Address:

EXHIBIT I
FORM OF
INCREASE REQUEST

_____, 20_____

Bank of America, N.A., as Administrative Agent
under the Credit Agreement referred to below

Ladies/Gentlemen:

Please refer to the Credit Agreement dated as of May 25, 2005 among ABM Industries Incorporated (the "Company"), various financial institutions and Bank of America, N.A., as Administrative Agent (as amended, modified, extended or restated from time to time, the "Credit Agreement"). Capitalized terms used but not defined herein have the respective meanings set forth in the Credit Agreement.

In accordance with Section 2.14 of the Credit Agreement, the Company hereby requests an increase in the Aggregate Commitments from \$_____ to \$_____. Such increase shall be made by [increasing the Commitment of _____ from \$_____ to \$_____] [adding _____ & nbsp;_____ as a Lender under the Credit Agreement with a Commitment of \$_____] as set forth in the letter attached hereto. Such increase shall be effective three Business Days after the date that the Administrative Agent accepts the letter attached hereto or such other date as is agreed among the Company, the Administrative Agent and the [increasing] [new] Lender.

Very truly yours,

ABM INDUSTRIES INCORPORATED

By: _____

Name: _____

Title: _____

ANNEX 1 TO EXHIBIT I

[Date]

Bank of America, N.A., as Administrative Agent
under the Credit Agreement referred to below

Ladies/Gentlemen:

Please refer to the letter dated _____, 20_____ from ABM Industries Incorporated (the "Company") requesting an increase in the Aggregate Commitments from \$_____ to \$_____ pursuant to Section 2.14 of the Credit Agreement dated as of May 25, 2005 among the Company, various financial institutions and Bank of America, N.A., as Administrative Agent (as amended, modified, extended or restated from time to time, the "Credit Agreement"). Capitalized terms used but not defined herein have the respective meanings set forth in the Credit Agreement.

The undersigned hereby confirms that it has agreed to increase its Commitment under the Credit Agreement from \$_____ to \$_____ effective on the date which is three Business Days after the acceptance hereof by the Administrative Agent or on such other date as may be agreed among the Company, the Administrative Agent and the undersigned.

Very truly yours,

[NAME OF INCREASING LENDER]

By: _____
Title: _____

Accepted as of _____, _____

BANK OF AMERICA, N.A., as
Administrative Agent

By: _____
Name: _____
Title: _____

ANNEX 2 TO EXHIBIT I

[Date]

Bank of America, N.A., as Administrative Agent
under the Credit Agreement referred to below

Ladies/Gentlemen:

Please refer to the letter dated _____, 20____ from ABM Industries Incorporated (the "Company") requesting an increase in the Aggregate Commitments from \$ _____ to \$ _____ pursuant to Section 2.14 of the Credit Agreement dated as of May 25, 2005 among the Company, various financial institutions and Bank of America, N.A., as Administrative Agent (as amended, modified, extended or restated from time to time, the "Credit Agreement"). Capitalized terms used but not defined herein have the respective meanings set forth in the Credit Agreement.

The undersigned hereby confirms that it has agreed to become a Lender under the Credit Agreement with a Commitment of \$ _____ effective on the date which is three Business Days after the acceptance hereof, and consent hereto, by the Administrative Agent or on such other date as may be agreed among the Company, the Administrative Agent and the undersigned.

The undersigned (a) acknowledges that it has received a copy of the Credit Agreement and the Schedules and Exhibits thereto, together with copies of the most recent financial statements delivered by the Company pursuant to the Credit Agreement, and such other documents and information as it has deemed appropriate to make its own credit and legal analysis and decision to become a Lender under the Credit Agreement; and (b) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit and legal decisions in taking or not taking action under the Credit Agreement.

The undersigned represents and warrants that (i) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this letter and to become a Lender under the Credit Agreement; and (ii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution and delivery of this letter and the performance of its obligations as a Lender under the Credit Agreement.

The undersigned agrees to execute and deliver such other instruments, and take such other actions, as the Administrative Agent may reasonably request in connection with the transactions contemplated by this letter.

(A) Notice Address:

Legal name: _____
Address: _____

Attention: _____
Telephone: (____) _____
Facsimile: (____) _____

(B) Payment Instructions:

Account No.: _____
At: _____
Reference: _____
Attention: _____

The undersigned acknowledges and agrees that, on the date on which the undersigned becomes a Lender under the Credit Agreement as set forth in the second paragraph hereof, the undersigned will be bound by the terms of the Credit Agreement as fully and to the same extent as if the undersigned were an original Lender under the Credit Agreement.

Very truly yours,

[NAME OF ADDITIONAL LENDER]

By: _____
Title: _____

Accepted and consented to as of
_____, 20__

BANK OF AMERICA, N.A.,
as Administrative Agent

By: _____
Name: _____
Title: _____

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(a) OR 15d-14(a)**

I, Henrik C. Slipsager, certify that:

1. I have reviewed this quarterly report on Form 10-Q of ABM Industries Incorporated;
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)) 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) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) 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.

June 8, 2005

/s/ Henrik C. Slipsager
Henrik C. Slipsager
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(a) OR 15d-14(a)**

I, George B. Sundby, certify that:

1. I have reviewed this quarterly report on Form 10-Q of ABM Industries Incorporated;
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)) 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) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) 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.

June 8, 2005

/s/ George B. Sundby
George B. Sundby
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATIONS PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(b) OR 15d-14(b) AND
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of ABM Industries Incorporated (the "Company") on Form 10-Q for the period ended April 30, 2005, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Henrik C. Slipsager, Chief Executive Officer of the Company, and George B. Sundby, Chief Financial Officer of the Company, each certifies for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code, that:

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

June 8, 2005

/s/ Henrik C. Slipsager
Henrik C. Slipsager
Chief Executive Officer
(Principal Executive Officer)

June 8, 2005

/s/ George B. Sundby
George B. Sundby
Chief Financial Officer
(Principal Financial Officer)